

RURAL AFFAIRS COMMITTEE

Friday 16 June 2000
(Morning)

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RURAL AFFAIRS COMMITTEE

18th 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)

Mr Jamie McGrigor (Highlands and Islands) (Con)

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

Committee Room 1

Scottish Parliament

Rural Affairs Committee

Friday 16 June 2000

(Morning)

[THE CONVENER *opened the meeting at 09:36*]

National Parks (Scotland) Bill: Stage 2

The Convener (Alex Johnstone): Ladies and gentlemen, it is my pleasure to welcome you here this morning to continue with stage 2 of the National Parks (Scotland) Bill. I have received apologies from Alasdair Morgan. Do members know of any other apologies that have been received?

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): John Farquhar Munro will not be here.

The Convener: Thank you.

Section 8—General purpose and functions

The Convener: We will continue with consideration of amendments to section 8 of the bill, starting with amendment 16, which was debated on Wednesday last week.

Amendment 16 moved—[Sarah Boyack]—and agreed to.

The Convener: We come to amendment 78, in the name of Fergus Ewing, on inclusiveness and participation, which is grouped with amendment 50 and manuscript amendment 130A, paper copies of which have been circulated to members.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): Amendment 78 is simple but important. I am indebted to the clerks for their assistance in finding an appropriate place for it in the bill. The amendment seeks to add to section 8 a reference to application of the general purposes of the national parks to “people of all abilities”.

The aim of the amendment is perfectly clear: to recognise from the outset—as we create national parks in Scotland—that it is essential that the needs of people with disabilities should be respected. There is, of course, detailed legislation that protects people with disabilities from discrimination. I imagine that the Executive might say that that legislation deals with access and such practical matters in more detail. I do not demur from that, but in establishing our national

parks, agreeing to the amendment would be an important signal to people with disabilities that their needs are being recognised in Scotland's national parks.

The amendment was suggested to me by Andrew MacKenzie, who runs a respite centre for children with disabilities near Glen More. He pointed out that if we do not recognise the needs of people with disabilities at the inception of national parks, it might take years to achieve that recognition.

As I am sure members of all parties will agree, it is particularly important to signal our regard for people with disabilities. I understand that the aims of the national parks have been amended to include recreation. It would seem most unfair if we did not respect the recreational needs of people with disabilities.

I move amendment 78.

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

The Minister for Transport and the Environment (Sarah Boyack): I share Fergus Ewing's concern that we should have an inclusive approach to national parks that ensures equal opportunities. That is in line with the Executive's intentions. However, it is important to say—and Fergus Ewing almost pre-empted me on this—that his amendment to section 8(1) is unnecessary because the Disability Discrimination Act 1995 applies to all public bodies and organisations. The national park authorities will be subject to that legislation and I want to ensure that members of the national park authorities are aware of that. The national park authorities will be no different from other public bodies; they will have to meet the Disability Discrimination Act 1995.

The national park authorities will also be subject to other anti-discrimination laws, such as the Sex Discrimination Act 1986, the Race Relations Act 1976, and employment legislation acts, such as the Equal Pay Act 1970. I am grateful to Fergus Ewing for raising the matter. It is important that we take this opportunity to assert the fact that national parks will be open and inclusive and that all functions and activities that are undertaken by the parks will have to meet the raft of equal opportunities legislation. We do not need to amend the bill to do that. I hope that Fergus is satisfied with that commitment and that interpretation and that what I have said will persuade him to withdraw his amendment, now that he has made his points during the stage 2 debate.

I will also comment on amendments 50 and 130A. We have had a lengthy discussion on including “participation” or “participatory” in the bill. Adding those words, as the amendments suggest,

could open up to challenge everything the national park authorities do if it is not done in a participatory way. We want the national park authorities to involve all their partners and we have had extensive discussions on how to do that.

The park plans already include a raft of statutory consultation and we have provided for advisory groups. I have made it clear on a number of occasions that we expect the statutory guidance to include detail that will help to identify best practice and ways in which the national parks can operate in a participatory way, but amendments 50 and 130A would imply that every action of a national park authority had to be participatory. I do not think that we want to open up to challenge everything that a national park authority does—staff interviews, for example.

Everyone around this table will agree with the sentiments behind the amendments, but I have given a commitment to ensure that our advisory guidance identifies such issues, including issues of best practice and planning. We might also want to give guidance on other things as they develop over time. I support the sentiment behind amendment 130A, but the words “and sustainability” do not have to be in the bill. We have already amended the aims—as we all agreed we had to—to include issues of sustainability, economics and the community. It is important that we stick with the wording that we already have, which incorporates the intention of Robin Harper’s amendment. I agree that it is important to raise such issues at this stage, but I hope that I have given him the assurance that he seeks.

Robin Harper (Lothians) (Green): It is important at least to air the sentiments in the amendments. Amendment 130A adds to Des McNulty’s amendment 130, but I support Des’s good and well-worded amendment. The argument for including participation is that doing so would place a responsibility on the national park authority to work with the full participation of all the interests in the national park area. However, the amendment does not lay down prescriptive guidelines for how the national park authorities should be participatory, in the same way as it does not describe how the authority should be co-ordinated. In line with the Executive’s recommendations, the bill sets down in black and white the fact that the authority will be judged on its efforts to achieve participation.

Because of the size restriction on the national park authorities, they will need to examine new ways of ensuring that there is equitable participation in decision-making. That is especially important during the development of a national park plan, because that plan will be at the core of the success or failure of a park. If the national

parks are not participatory, local communities will feel that they are being excluded from development of the plan. They will have no opportunity to put their case on how they think parks should be managed and their commitment to the parks and plans will be low. As is the case in the English national parks—or as was the case, because things are getting better—conflicts will arise.

That is the case for including “participation” in the bill.

The Convener: If no one else wishes to comment, I will give the minister an opportunity to comment on what she has heard, and then Fergus Ewing will wind up.

Sarah Boyack: I have nothing further to add.

Fergus Ewing: I am conscious that this is not a party political issue. At this stage, it would be best for the committee to consider the arguments that the minister has made before deciding whether it will be appropriate to continue the debate at stage 3. I therefore seek leave to withdraw the amendment.

Amendment 78, by agreement, withdrawn.

09:45

The Convener: We move to amendment 130, in the name of Des McNulty, on the Sandford principle. The amendment is grouped with amendments 118, 131 and 84.

Robin Harper: Convener, I know that I did not move my amendment, but I was not given the opportunity to ask whether I should.

The Convener: We have not come to that stage yet. We are going through the amendments in the order on the marshalled list.

Des McNulty (Clydebank and Milngavie) (Lab): The intention behind amendment 130 is to highlight what makes national parks distinctive and to separate them from other structures and locations in Scotland. The amendment seeks to emphasise the purpose of national parks and national park authorities. The conditions for having national parks are listed in section 1(2); amendment 130 is a deliberate attempt to refer back to those conditions by highlighting the need to preserve and protect the

“distinctive and outstanding heritage characteristics of the National Park”,

which is a primary purpose of the authority.

If agreed to, the amendment would also ensure that the responsibility of park authorities to maintain high standards of environmental stewardship and sustainability was made absolutely explicit. Again, the context is the

preservation and protection of the

"distinctive and outstanding heritage characteristics of the National Park".

The wording of the amendment is meant to supplement the balance struck by the aims of the park. The underlying conditions of a national park, which will lead to its designation, must become central to the purpose of the park authority. The amendment underlines what makes a national park distinctive and separate from the operational, planning and other functions of other areas of Scotland, which might not benefit from national park designation but for which the aims that are laid down in the bill might be no different in practice.

I move amendment 130.

Sarah Boyack: We have come to the heart of the bill. Getting this part of it right will be critical to the success of the bill. At the heart of the Sandford principle are concerns about safeguards and balance. We debated the aims of national parks last week. Those aims have been the subject of intense discussion in the potential national park authority areas. Local community groups and other interested groups have gone over every single word with a fine-toothed comb. It is right that that has happened—getting the aims of the parks right is critical. We have clarified and strengthened the aims and we are much clearer about what they will mean in practice. However, one of the critical elements of the aims is that they must operate together in a co-ordinated and integrated way. We do not regard the aims as polar opposites. One of the challenges of the national parks is to integrate those important aims and we must reach agreement in a co-ordinated way.

I agree with the sentiment behind Des McNulty's amendment. It reflects the Executive's aspirations for Scotland and it certainly reflects Ross Finnie's aspirations as Minister for Rural Affairs to boost agri-environment schemes. It also reflects my aspirations as Minister for Transport and the Environment in respect of special areas of conservation, sites of special scientific interest and forthcoming proposals for nature conservation.

Principles such as those that are behind amendment 130 need to be applied throughout Scotland, but the committee last week supported a better expression of the aims and conditions. One of the conditions is

"that the area is of outstanding national importance because of its natural heritage or the combination of its natural and cultural heritage".

That must be combined with recognition of the area's recreational characteristics. We have highlighted how the areas that have been proposed for national park designation meet those

critical conditions.

I am aware that we must get the balance right; that is our job. However, we must not rely on the old-style system in which economic development was weighed up against nature conservation. We have lived with that approach for years. In the national park areas, the challenge is integration. It underpins the objective of national parks and that is why people have been campaigning for national parks for years in Scotland. It comes from an aspiration to do better and to make the most of the opportunities provided by our natural areas.

The legislation must stand the test of time. It must ensure that the reasons for designating an area as a national park are not destroyed or damaged by virtue of the designation. Our high-quality environment is a vital asset for Scotland and for the communities in the national park areas. National parks offer us the chance to manage our resources better and in a sustainable way.

Des McNulty's amendment would put less emphasis on collective achievement and co-ordinated aims, which are fundamental to what will be different about national parks in Scotland. I agree with his objective, but I do not think that the wording of the amendment adds to the bill. It might, in fact, detract from it.

I know that amendment 118, in the name of Fergus Ewing, stems from people fearing the worst—that national parks will stifle development, prevent progress or preserve in aspic areas that we already regard as attractive. Nothing could be further from the truth. The amendment on the aims—to which we all agreed last week—clarified the importance of communities and sustainable economic development.

I ask members to consider whether recent history and the status quo offer a model that we want to live with. National parks will give us the opportunity to do something different. Every time I go to the Cairngorm area and talk to people about their views on controversial proposals—as the minister responsible for planning, I will not mention any specific proposals, but members all know to what I refer—everybody agrees that we are embedded in conflict. Everybody agrees that the energy generated by discussion of developments has led to immense dissatisfaction, which has set communities against one another and interest groups against communities.

I am always told that, if more time had been spent at an early stage on having a debate to identify people's concerns and if there had been conflict resolution, a more acceptable and appropriate proposal with higher design quality would have resulted. That tends not to happen. We have a chance to do better with the bill; that is the prize in front of us. The first priority for the

national park authorities must be to address the four aims in a collective and co-ordinated way.

The bill provides a range of tools for the national park authority. The national park plan must be prepared in consultation with communities in a participatory way and using best practice. There must be management agreements so that the park authorities can work with landowners and interest groups. There must also be advisory groups that will be involved with the national park authority to tackle key issues that need wider reflection. The authorities must build on the work that has been done by the Loch Lomond and Trossachs interim committee and by the Cairngorms Partnership.

There must be a more focused opportunity for people to be involved in managing the change. People must not simply be asked, "Do you want change?"—they must be involved in it. Guidance from the Scottish Executive will set out a range of issues, such as zoning, participation and consultation, best practice and ideas on conflict resolution, but it will be up to the national park authorities to get all those right. There must be consultation with all those who have an interest in the area, to realise the vision and exert positive leadership. The national parks provide an opportunity for those who live and work in them and for Scotland as a whole. It is critical that we do not wreck that opportunity with amendment 118.

I urge Rhoda Grant not to move amendment 131. She is right to highlight the importance of the management plan, but there are mechanisms other than the national park plans, such as management agreements. However often we decide the national park plan should be reviewed, the reviews might become out of date and might not cover every issue. The plan will not solve all the problems and the national park authority must, in addressing that, take on board all the issues that I mentioned. The sentiment behind the amendment is right, but the proposed wording would not solve the problems that Rhoda Grant identifies.

Murray Tosh has lodged amendment 84. We have a cast-iron commitment to the importance of zoning and there will be ministerial guidance on that. It would be a mistake to single out zoning in the bill when we have discussed how Gaelic and other linguistic issues will be addressed through guidance. I know what Murray Tosh seeks to achieve and I can assure him that zoning will be a critical part of national park plans. Our guidance will identify best practice, which the authorities must have regard to. I hope that I have persuaded Murray Tosh that the amendment is unnecessary.

The wording of the bill is right. I appreciate what Des McNulty, Rhoda Grant and Murray Tosh are trying to do with their amendments, but I hope that they will not press them. I strongly urge the

committee to reject amendment 118, in the name of Fergus Ewing, as it would destroy the balance that underpins the purpose of national parks. If communities in national park areas are to have confidence in the parks, we must ensure that we stick to that carefully crafted balance, which includes consultation with local communities and other groups.

Fergus Ewing: Amendment 118 seeks to remove the Sandford principle from section 8. I think that the Sandford principle, as it applies to the bill, is well intentioned. We all share the aspirations that the minister has set out about the need for safeguards and balance, but a number of arguments show that her aims will not be achieved if the Sandford principle remains in the bill.

The safeguards of existing designation must be considered. The day before a national park is created and the day after it is created, the area will still be subject to the same designations, whether they be SSSIs, SACs, Ramsar sites or sites subject to any of the other designations that exist. The argument that national park designation in itself is a form of protective designation is therefore fundamentally flawed. The designation of a national park allows proper management, so that the existing designations that apply to areas such as Ben Lomond or Cairngorm can be applied in a proper, managed way, which has not been achieved before. Many of the areas that are candidates for national park status are already subject to the stringent conditions of SSSIs, for example. We must take that into account; it would be wrong to ignore it.

There must be balance between the aims but, if one aim is to be preferred when there is a conflict, there will be imbalance. That raises the technical objection of how conflict is defined—or, perhaps, ill defined. The bill simply states that, if it appears to the national park authority that there is a conflict, the first aim of conservation must take precedence.

10:00

A senior official in Highland Council pointed out to me that that could mean that, for example, if one or two bodies objected to a particular development, that might per se create a conflict. Let me be candid. In the area that I represent, and speaking as a constituency MSP, there are concerns that certain environmental bodies would object to many developments that local people would consider to be in keeping with all four aims in the bill. If such objections occurred, would that constitute a conflict? We do not know. The bill does not say. The bill is flawed in that respect.

Surely if we are setting up a park authority, we should trust that authority to be able to use its

good sense and judgment in order to achieve the fulfilment of all the aims and to take a decision on each case based on its merits. If, as we do, we all support devolution, up to a point, we must accept that devolution should not end in Edinburgh. We must devolve responsibility to the park authorities, otherwise we are providing a ligature in the bill that governs their every act.

There are concerns, which have been expressed by Highland Council and others, that the legislation has been drafted with the particular position and needs of Loch Lomond and the Trossachs in mind. Concerns have been expressed by Highland Council that the problems that are faced in the Highlands might not be taken into account, especially if section 8 is not amended.

There is grave concern about the economic and social plight of many people in the Cairngorm area. The average income of farmers in the Highlands at the moment is £1,750 a year. That is less than an MSP takes home each month. If there are to be further threats to the economy of the area, and if national parks contribute to those threats—the bill would create that possibility—national parks will rapidly become unpopular. I do not want that to happen. For that reason, amendment 118 would allow a proper balance, to allow each of the four aims to be considered as appropriate in each case.

The second aim is that we must

“promote sustainable use of the natural resources”.

If that was in conflict with conservation, I do not see why we would need to jettison the importance, as Robin Harper would recognise, of promoting the sustainable use of natural resources.

There is a feeling in the Highlands that the species most under threat is the lesser-spotted securely employed person. That is a real fear. The birds, flora and fauna are well protected, thank you very much. That is right and proper, but let us not forget the people whom we were elected to serve.

Rhoda Grant (Highlands and Islands) (Lab): Amendment 131 seeks to create another layer before we reach the Sandford principle. There are concerns that organisations will have an upper hand and be able to play a trump card, so that at any sign of conflict they can say, “If you don’t agree with me, we will invoke the Sandford principle.” That takes away from what the minister described as her aim for the bill, which was that everyone would get round the table and work together to meet the four aims.

The bill gives people the right to make the first aim the priority from the start. I fear that some people might use that to not argue a point, not negotiate and not work together. There should be

a structure in the bill that forces people to the table before they reach the Sandford principle. Amendment 131 would force them to work as a board. By mentioning the park plan, I am not seeking to take anything away from the role of the board—I would want its role to be strengthened—but there is a fear that the phrase “greater weight” does not mean “greater weight”; it means “overrule”. To give somebody the power to overrule anything on the basis of the first aim would strengthen their hand when negotiating. It would mean that negotiations would not be carried out properly and people would not work together properly.

I need something in the bill that forces people back to the table and makes sure that they have satisfied certain criteria before they can invoke the Sandford principle. I would like clarification of what “greater weight” means. Does it mean “overall weight”, or does it mean that the park board can take two priorities and balance them? For example, does it mean that the board can look at the conservation issue and give it greater weight, but that that greater weight might not overrule the other priorities, depending on the case? It is important, so that parks work in the way in which the minister described, to make sure that nobody can overrule anybody else, and that people work together.

At the end of the day, the park plan is there to protect the area, but we need to protect people as well. In the Highlands, we have a history of people coming in and overruling local communities. They have not taken communities with them and given them ownership of any of these matters. I have spoken to people from Loch Lomond; the way in which bodies work in the Highlands seems to be totally different. People come in and veto what is happening. In the Highlands, there is huge mistrust of conservation because of that. It is not because people are anti-conservation—they have looked after the land for generations—but they need to know that their views will be taken into account and that people will not overrule what local people want to see, such as sensible developments in the parks. That is why we need another mechanism to pull people together, to make sure that one person cannot say, “No, I am not going to speak about this. I have the Sandford principle in my back pocket and you will follow on.”

On the other amendments, I do not agree with Fergus Ewing’s amendment 118 because it is important that a national park looks after an area, but I feel strongly that we need another mechanism to do so. I do not agree with Des McNulty’s amendment 130, because it skews the balance of the legislation that we are trying to achieve. It is important that local communities are given priority. It is not their aim to destroy their environment. The environment is why they live

where they do. We have to work with them and make sure that people from outside do not have a steamroller to come in and overrule everything that local people want to do.

Mr Murray Tosh (South of Scotland) (Con): The minister was right to say that this matter is at the heart of the bill. Fergus Ewing and Rhoda Grant articulated the concerns that national parks might stifle development. That was part of the concern that the Conservative group expressed when the principle of national parks was announced in the Executive's legislative programme before the summer. Many of our concerns at that stage were addressed immediately by the minister's adumbration of the four aims, particularly the inclusion of the fourth aim as part of a coherent group.

As the debate has gone on and evidence has been taken by the committee, it has become much clearer that the Executive has a positive approach towards social and economic development in the national park areas. For that reason, although I acknowledge the concerns that Fergus Ewing expressed, I cannot support his amendment 118 or encourage the committee to support it, because it strikes at the whole concept of national parks.

We all said that national parks are fundamentally a good thing. Many people got excited about that being a statement of what the Parliament could do for Scotland. Frankly, I do not see what the point of a national park would be unless one gave the greatest weighting, where it was critical, to the conservation principle. But of course one must have proper regard for social and economic development. That is what the minister has been at pains to speak about, not least in her opening remarks.

My own amendment 84 was designed to bolster the position of the minister, who has spoken in committee and in the Parliament about zoning as a mechanism for ensuring that the operation of the principles might vary in different areas of a park in accordance with local requirements.

I realise that my amendment picks out something that will be covered in guidance. The minister indicated that she felt that it was inappropriate to single out one area, but it is precisely because of the importance of this central issue—the perceived conflict between the aims, when it is so important that we make them work together—that I thought it pertinent to include a reference to zoning in the bill. I believe that zoning will be an important part of the Executive's and the Parliament's approach in the designation orders to any terrestrial national park that is created. My amendment, therefore, is meant to assist in clarifying the Executive's intentions and to strengthen its hand.

I listened carefully to what the minister said. I will move the amendment at this stage, but will reconsider once I have seen what happens to the other amendments.

The Convener: You are not required to move the amendment yet.

I invite the minister to comment on what she has heard, and will then call Des McNulty to wind up on this group of amendments.

Mr Rumbles: Do we not get to say anything? It is our committee, after all.

The Convener: I am terribly sorry. The ministers should consider themselves well warned.

Dr Sylvia Jackson (Stirling) (Lab): I will restrict most of my remarks to amendment 130. I agree with the minister that the aims have been pored over, and I believe that they are improved. I also agree that the four aims are important and with what has been said about integration, particularly by Murray Tosh in relation to the fourth aim. Rhoda Grant's points about integrating the aims and resolving conflict were very helpful. I can see that there are issues about the term "greater weight". However, the key phrase in amendment 130 is

"high standards of environmental stewardship",

taking "environmental" in its widest possible sense. We want to ensure that areas of outstanding beauty will be looked after properly and appropriately to a high standard.

I take on board what Fergus Ewing said about the particular issues in his area. As he said, the issues in Loch Lomond and the Trossachs are different. The issue for us is to ensure that Loch Lomond and the Trossachs are maintained to a high standard, given that there will be, as there are already, a large number of people within the park.

Will the minister think about that phrase

"high standards of environmental stewardship"

for the next stage and comment on its appropriateness in section 8? The phrase should perhaps go elsewhere, or might even be better left until the designation stage, although I tend to think that it is of such importance that it should be in the bill.

Mr Rumbles: Last week, we discussed the aims, which are fundamental to the bill. We are now considering their application. Fergus Ewing and Des McNulty are coming at that from opposite ends of the spectrum. I do not think that it would be appropriate to back either amendment. Section 8(1), which Fergus's amendment seeks to amend, states:

"The general purpose of a National Park authority is to ensure that the aims set out in section 1(3) are collectively

achieved”.

They must be achieved collectively.

Des McNulty and Sylvia Jackson are talking about a greater emphasis on environmental protection. When we considered the aims of the bill, I said that I thought—and still do—that the Executive had got the balance between the two extremes dead right. However, having heard Rhoda Grant explain what her amendment is all about, I think that it is a good idea to have such a mechanism in the bill, and I hope that the minister will take that on board. Rhoda makes an important point about people being able to say, “We do not need to talk about things, because we have the Sandford principle.” There should be a mechanism in the bill.

10:15

Dr Elaine Murray (Dumfries) (Lab): Like others, I think that this is one of the most important parts of the bill. It demonstrates the need to get the balance in the right place. Like Mike Rumbles, I tend to think that the Executive has got it correct. I do not represent either of the areas that are likely to be included in a national park in the near future, but when I have talked to people from both areas, it has been made clear to me that the potential areas of conflict are different for different national parks. In Loch Lomond, the concern is about environmental interests being promoted and sustained in the way that they should be. In the Cairngorms, the issue is whether the aspirations of local people are properly represented and ensuring that they are not overruled.

We need to consider the current wording. Section 6 talks about the functions of the national park authority, not external interests, which could crash in, saying that they have the Sandford principle on their side and that the authority must succumb to their views. The authority must act to accomplish the park's purposes, which are mentioned as being recreation, the environment and sustainable economic development. All the issues are mentioned. All the Sandford principle says is that if, once all those issues have been taken into account, there is still a problem, the environmental considerations must be given greater weight. It does not say that they must prevail, as the original Sandford principle said; just that they must be given greater weight. That gets the equilibrium in the right place.

Therefore, I am not inclined to support either Fergus Ewing's amendment or Des McNulty's amendment. I am not absolutely certain that Rhoda Grant's amendment is necessary either. I am quite tempted by Murray Tosh's concept of zoning. It is important that zoning is included. However, we must recognise that this is enabling

legislation for every park. There might be some parks where zoning is not an issue, so it might not be necessary to mention zoning in the bill. It might not be appropriate to every national park that could be created in Scotland.

Cathy Peattie (Falkirk East) (Lab): Elaine Murray has said what I was going to say. I have great sympathy with what Rhoda Grant said. When the committee visited the north to take evidence, we heard tales of local people's plans being scuppered by non-governmental organisations. There is a real fear of external bodies, which are not necessarily located in the area, being able to make great decisions about the future of the area. As Rhoda said, the people have taken care of the land for generations. There is no suggestion of their having other ideas in their mind. The minister needs to consider what happens if things go wrong. I do not agree with Des McNulty's amendment at all, but I have great sympathy with Rhoda Grant's.

Robin Harper: I want to speak to the amendments lodged by Des McNulty and Fergus Ewing.

The national park must have an overriding vision. The Sandford principle is an integral part of that vision. Without it, the vision goes. Fergus Ewing's comments made it seem as if the Sandford principle is owned only by environmental organisations. The whole point of the legislation is that the principle can and will come into the ownership of every organisation, individual, farmer and hotelier within a national park. Listening to the debate, I remain keen on the idea of including the word “participation” in the bill, because it underlines the idea of the principles being owned by everybody in the park.

Des McNulty's amendment reinforces rather than detracts from the vision of the bill that the minister has put to us so eloquently this morning.

The Convener: If there are no further comments from members, we will go back to where we were a few moments ago and invite the minister to address the issues raised in the debate.

Sarah Boyack: First, I will address the points that Fergus Ewing kicked off with. I mentioned special areas of conservation and areas that already have nature conservation designations because this is about learning from experience. It is about aspiring to standards in a managed way. That is the critical aspect of the National Parks (Scotland) Bill. It is about integration between the aims.

The first port of call must be integration, co-ordination and addressing the aims in as collective a way as possible. That is the challenge that faces the national park board.

The points that Rhoda Grant made were right, in the sense that people are looking for reassurances on the matter. She was very articulate in stating that the Sandford principle is not a tool for people's back pockets. It is a fundamental principle in the bill.

I will take members back to the wording of the legislation as it is, unamended, because the wording is critical. It puts the weight on the authority—it does not put the weight on any organisation in Scotland and does not give any organisation particular rights of interpretation. If it appears to the authority that there is conflict, the authority must give “greater weight” to the first aim. This is about putting the responsibility of judgment on the shoulders of the authority. That is an important responsibility. It is an important judgment that it will have to exercise.

We do not state in the bill that the national park board will have to overrule or will have to ensure that the first aim takes precedence. The phrase that we use is “greater weight”, because this is about judgment. It will not be an easy decision for a national park board to make. It will have to weigh up how the aims integrate with each other. We need that backstop. The purpose of designating a national park is to protect the conditions that were found there when it was designated. We must be clear that the responsibility is with the board. That is why I do not think that amendment 131 is appropriate.

Several members have referred to that issue. I can clarify for the committee that the reason why we have not used other terms in the bill, such as “overrule” or “take precedence”, is specifically that we acknowledge the concerns that members have raised. That is why the phrase “greater weight” is there; it is a judgment for the board to make. We must trust its judgment; that responsibility is given to it in the bill. I hope that Rhoda Grant finds that clarification helpful.

The aims in the bill

“(a) to conserve and enhance the natural and cultural heritage of the area,

(b) to promote sustainable use of the natural resources of the area”

meet the aspirations that both Sylvia Jackson and Des McNulty have identified. The place where we begin to address environmental stewardship is in the action plans, the national park plan and the management arrangements that will be struck between the national park board, local landowners, local interest groups and local organisations when they focus on how the management of land will be carried out in practice. That is when agri-environment schemes and other mechanisms that are being put in place across the Executive become important.

I am grateful for the comments that Murray Tosh made. Zoning is important to the debate. We must acknowledge that while the conditions for an area as a whole might be met, it does not mean that the area is uniform. It does not mean that there are not urban areas in a national park, where different types of development will be much more appropriate than at, for example, the top of a mountain, where there are important environmental considerations.

This is about sensitivity, which can be achieved through the national park plan, on which local community organisations, business interests and environmental organisations are all consulted. The concept of zoning means that there is not a blanket approach in an authority. The national park plan gives the opportunity to decide on the priorities in different areas of the national park plan. In combination with the Sandford principle, it is about getting the mechanisms in place and not putting all the weight on one mechanism—they must act in concert.

Robin Harper's point about ownership by every organisation is critical. It comes back to the concept of people having a stake in the national parks. They are national parks, so we must all have a stake in them: local community organisations, business groups, environmental organisations and the people of Scotland. It is not only that some of us will live in national parks, but some of us will want to visit and enjoy the national parks, perhaps spend some money when we are there and try not to destroy them. They are national parks for all of us.

We must learn from experience elsewhere. We must learn from where tensions have been identified in the national parks in England. We must also examine best practice. In France, when farmers sell their produce, it is branded as national park produce. There are major opportunities. We must lift our heads above fears and identify the prizes. We must consider the opportunities.

I will leave the committee with one thought, as we debate the heart of the bill. I am not aware of anywhere in the world—and almost everywhere bar us has national parks—where once there is a national park designation in place, people have said, “Take this away; it is a disaster.” This is about looking to the future; it is about managing, integrating and looking to the four aims and the conditions of the parks. It is about asking whether we can do better and aspiring to do better than we are at the moment. That is what Sandford is about. It is about knowing why we have designated the parks in the first place, then setting up the mechanisms to deliver on the aims in the bill.

Des McNulty: I agree with Robin Harper's comments about vision being important. The history of national parks, from John Muir onwards,

is about people with vision and the process of identifying what is special about those areas and why they are separated out as being special.

That is why I strongly oppose the thrust of Fergus Ewing's argument, because in a sense he was reducing national parks to a different kind of planning regime, which would not be especially different from that which might apply in other areas. If we are to create national parks, we must make them special. It is important that we do that.

I agree with the minister that the trick is to strike the balance between the interests. I am sympathetic to Rhoda Grant's point that we must ensure that the process does not give any external group a veto over what happens. We are talking about how the park boards should be constructed and how they should operate. We must ensure that all elements are taken into account and that what is done is in the interest of the park as a whole and of all the people who have a particular interest in it.

I am sympathetic to Murray Tosh's points about the importance of zoning. That proposal came through the Transport and the Environment Committee and was strongly supported by it. I note that the minister is taking that up and examining how it can be done in other ways.

On my amendment 130, the important phrase in it is "high standards". We must ensure the highest possible standards in the administration and management of the parks and the protection of what makes them special. If the minister is saying that high standards and the protection of what is special will be dealt with in the process of designation, that gives me considerable reassurance.

It is important that we come out of the debate, not with Fergus Ewing's idea that national parks are an alternative planning regime, but with the idea that we are creating something with distinctive characteristics, which is applied only in special circumstances. National parks should be for the benefit of people who live in the area, whose livelihoods and interests must be protected, but also for the interests of the country as a whole. That balance must be sustained. If that can be sustained through the way in which the aims are taken forward, I will be content with that. However, it is important at this stage to raise the issue about the protection of the environment and the need for high standards, to ensure that those considerations are properly addressed.

10:30

The Convener: Do you wish to press amendment 130 to a vote?

Des McNulty: In view of the reassurances that I

have received, I ask to withdraw the amendment.

Amendment 130, by agreement, withdrawn.

The Convener: With the withdrawal of amendment 130, manuscript amendment 130A falls, because it is pre-empted.

Does Robin Harper wish to move amendment 50?

Robin Harper: Given that I have been working away at this issue for three weeks with two previous amendments, I would like to move amendment 50.

The Convener: The question is, that amendment 50 be agreed to. Are we all agreed?

Mr Rumbles: No.

Fergus Ewing: It is nice to hear a member of the Liberal Democrats expressing an opinion.

The Convener: There will be a division.

AGAINST

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

ABSTENTIONS

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

The Convener: The result of the division is: For 0, Against 8, Abstentions 1.

Amendment 50 disagreed to.

The Convener: Would Fergus Ewing like to move amendment 118?

Fergus Ewing: May I wind up, just as Des McNulty did?

The Convener: Not really. I am simply asking you whether you wish to move your amendment.

Fergus Ewing: It appears that there is not as much support for this amendment as I hoped for. Although I think that that is a mistake and hope that the fears that I have expressed prove to be ill founded, in the light of the interesting, well-informed and mature debate that we have had, it would not be sensible for me to move the amendment.

Amendment 118 not moved.

The Convener: Does Rhoda Grant wish to move amendment 131?

Rhoda Grant: No.

Richard Lochhead (North-East Scotland) (SNP): I move amendment 131.

The Convener: The question is, that amendment 131 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

Mr Jamie McGrigor (Highlands and Islands) (Con): Will you confirm that only members of the Rural Affairs Committee are entitled to vote?

The Convener: Yes.

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)
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 2, Against 6, Abstentions 1.

Amendment 131 disagreed to.

Amendment 17 moved—[Sarah Boyack]—and agreed to.

The Convener: Members are very quiet this morning.

Does Murray Tosh wish to move amendment 84?

Mr Tosh: It is clear from the discussion that amendment 84 was a rare example of gallantry on my part. As it has not been appreciated, which disappoints me, I will not move the amendment.

Amendment 84 not moved.

Section 8, as amended, agreed to.

Schedule 2

GENERAL POWERS OF NATIONAL PARK AUTHORITIES

The Convener: Amendment 129, in the name of Jamie McGrigor, opens up the matter of competition with businesses and is grouped with amendments 132 and 136. I call Jamie McGrigor to move amendment 129 and to speak to the other amendments in the group.

Mr McGrigor: Before I do so, I would like to declare an interest. I have a hill farm in the Highlands and Islands, albeit not in an area that is being considered for designation as a national park.

I agree with what Fergus Ewing, Rhoda Grant and others have said about the bad times that

people in such areas have experienced recently. When Fergus Ewing said that hill farmers' incomes were only £1,750, a note came down from the official report. It read:

"You said that the average income of a farmer was £1,750. Should that be £17,500?"

Fergus wrote back:

"No. It is £1,750. But, yes, it should be £17,500".

The only reason that I make that point is to make members aware that people in rural areas need to be helped. I would hate to see existing businesses in those areas being hampered by the national parks, which are meant to help them.

One of the intentions of the bill is to promote social and economic development. That should lead to identifiable economic additionality. In other words, existing businesses in national park areas should do better and not be hampered by unfair competition. Although the park must be adequately funded by Scottish ministers to enable it to carry out its tasks and responsibilities, that funding must not be given to support commercial activity that should properly be carried out by local businesses in furtherance of the fourth aim of the bill:

"to promote economic and social development of the area."

Although I accept that it is necessary for the park authority to levy charges for car parks and other facilities that the authority provides as part of the infrastructure of the park, it would be invidious for park authorities to compete directly with local businesses by trading, or to charge for goods and services that could be provided by local businesses on a commercial basis. Area tourist boards compete with members by selling gifts to cover the cost of providing information. By so doing, they alienate many of the businesses that would otherwise support them as members. That is rather contradictory.

My amendment 129 is similar to amendments 132 and 136, in the name of Rhoda Grant. However, I like the use of the phrase "unfair competition" in amendment 129, which can be dealt with by the national park advisory group. Rhoda Grant's amendment 132 states that a national park authority may charge for goods, services and facilities

"only to the extent that it does not compete with the commercial provision of goods and services".

It does not say who will decide what is and is not unfair, whereas amendment 129 suggests that a competent group within the area should do that. I agree with what Fergus Ewing said earlier—that it should be decided locally what does and does not constitute unfair competition. That is why I prefer amendment 129 to the other two amendments in the group.

I move amendment 129.

The Convener: I invite the minister to speak to this group of amendments.

The Deputy Minister for Enterprise and Lifelong Learning (Nicol Stephen): I would like to start by referring back to Sarah Boyack's comments on national parks in other parts in the world, specifically in France. There farmers have used the national park designation as a marketing advantage and the national park brand has helped them promote their products. National parks should be about not only creating new opportunities for existing businesses, but creating new businesses in the national park area. There is a real prospect of growing and adding value to that market through the special character of national parks, which will create new and special opportunities for businesses.

We need balance in these amendments. No one is suggesting that a national park authority should compete with local businesses in all areas, and we will need to introduce some guidance on that.

Paragraph 1 of schedule 2 allows a national park authority to

"fix and recover charges for goods, services and facilities provided in the course of carrying out its functions",

while paragraph 15 allows a national park authority to

"carry on any business or undertaking".

I agree that, in that context, we do not want a national park's commercial activity to disadvantage local communities. On the contrary, we expect the opposite to take place, as it is intended that any such activities by the park authority should help local employment. In any event, while I do not envisage that national park authorities will engage in large-scale commercial activity, reference has been made to the selling of branded souvenirs in information centres. I find it hard to believe that a national park authority would not provide some sort of retail opportunity if a new development were to attract new people to the area. It would be wrong to exclude such activity altogether.

One of the aims of the national park is

"to promote economic and social development of the area."

Commercial activities that would disadvantage local businesses and communities would not be in keeping with that aim. However, I totally agree that guidance should be developed to address the issue of what constitutes appropriate commercial activity for a national park authority to undertake.

On the specific wording of Jamie McGrigor's amendment, I question whether it is appropriate to give the lead responsibility in this area to an advisory group. The very nature of such groups is

that they should be advisory and therefore they should not have final decision-making powers in this area.

Given that reassurance—in other words, that there must be balance, that guidance should be issued and that the national park should not be unfettered in this area—I hope that Jamie McGrigor and Rhoda Grant are prepared to withdraw their amendments.

The Convener: I invite Rhoda Grant to speak to both her amendments in this group.

Rhoda Grant: Jamie McGrigor and I are trying to achieve the same aim, and I say to Jamie that my amendment is better than his. We are concerned about situations such as those that have arisen in the Highlands on numerous occasions, where a Government agency sets up a business in direct competition with one that is close by, and which then disappears. I do not want the park authorities to be unable to set up businesses where they might be required, or to provide and charge for facilities. However, I really do not want park authorities, in setting up those concerns, to put local people out of business.

I heard the minister's comments on issuing guidance to park authorities, but I feel quite strongly that there should be some reference to this issue in the bill, to ensure that it is recognised. That would ease the worries of many people in the local communities that the park authority will not come in and simply overrule their wishes. While I do not think that a park authority would do that, given its make-up, we must provide a lot of reassurance to people on this point. I ask the minister to consider an appropriate form of words that would give people that reassurance and that would ensure that the park authority could not do anything to damage an existing business.

Dr Murray: I understand where both Jamie McGrigor and Rhoda Grant are coming from in relation to the anxiety that exists about threats to local businesses. However, the bill already has safeguards. Section 14, on directions and guidance, says that ministers may give directions or guidance to the national park authorities, and section 14(4) says that the

"authority must have regard to any guidance applicable to it."

That guidance will be laid before Parliament for 40 days and will be subject to negative procedure. Therefore, before each park is set up, the guidance will be available to Parliament to debate.

10:45

The authority is bound to act in accordance with the aims of the national park, which include sustainable social and economic development.

There is nothing sustainable in a national park authority putting existing concerns out of business. Any action taken by the authority that appears to be in conflict with existing business could be challenged.

Richard Lochhead: I have some questions to put to the minister, as I fully support both amendments. It is imperative that the bill gives a positive signal to local businesses about the powers of the national park authorities.

The minister said that perhaps farmers who work in a national park area could benefit from park status by gaining a premium on their produce. While that is perfectly correct, surely all businesses—for example, small post offices or newsagents that sell maps—should gain that premium. The national park authorities should not compete against those businesses, which should also benefit from park status, and that should be included in the bill.

This issue is not about whether businesses should get a premium; it is about whether the national park authorities should be able to compete against those businesses. Therefore, I ask the minister what harm he thinks would be caused by including such a provision in the bill.

The Convener: I will give the minister the opportunity to reply at the winding-up stage of the debate on this group of amendments.

Fergus Ewing: I support the points made eloquently by Jamie McGrigor and Rhoda Grant on the real concern that exists about the displacement of existing businesses, even if the business or commercial activities of the national park are of a limited nature, as the minister indicated and as one might expect.

The minister gave the specific example of an information centre. In my experience, information centres tend to grow like Topsy. I will give the parallel analogy of the visitor centre in Glencoe, which local people wish to be a place of pilgrimage, not profit. However, the National Trust for Scotland is seeking to expand the visitor centre to include a 66-seater restaurant and a large shop. The newly appointed chairman of the NTS said that the effect of the new and enhanced commercial centre on local businesses is rather like the effect of a new Sainsbury supermarket on small businesses. In practice, when the Government supports an information centre—as it may support the plans for Glencoe for which the NTS is seeking up to £400,000 in various ways—it is inevitable that businesses will be displaced.

Rhoda Grant's amendment is slightly to be preferred to that of Jamie Stone, for a technical reason: given that the national parks will be substantially state funded, it follows logically that any competition is bound to be unfair, because

local businesses are not state funded. Rhoda's amendment offers members an excellent opportunity to insert the principle in the bill, where it should be, rather than members relying on a limited opportunity for parliamentary scrutiny of directions that are to be issued at a later date.

Mr Rumbles: I understand the points that have been made and the reasoning behind the amendments. However, we are raising fears, and we must allay those fears right now.

Let us put the situation into perspective. Just the other day, we decided that 20 per cent of the national park authorities will be elected by local people. A further 40 per cent will be nominated by local authorities. I stress the word "local"—local people will be involved in running a park authority, which will not be a body that is foisted upon the local community.

It is important that we listen to the minister's comments about the guidance that is to be issued to the park authorities on this point, and we are in danger of being far too restrictive and too conservative—with a small "c"—in our approach to this issue. I suggest that the members should withdraw their amendments. It is important that the issues be raised, but I do not think that it would serve any purpose to amend the bill.

Richard Lochhead: What harm would it do to have the principle in the bill?

Mr Rumbles: If we enshrine that principle in the bill, any individual whose business has not worked out for whatever reason can use the legislation to bring action against the board. That would be inappropriate.

Nicol Stephen: Few would suggest that there should be no retail element to a national park's visitor centre, a facility that would be key to developing momentum in a national park. The retail element could be of a small and appropriate size and might even point visitors to other commercial facilities in the area.

Fergus Ewing's concern was about inappropriate scale and inappropriate—or, to use Jamie McGrigor's word, unfair—competition. Rhoda Grant is concerned about any competition with commercial provision of goods and services by local businesses. I am sure that the committee does not want to go as far as that. The issue is about balance and appropriateness. Different national parks or different parts of the same park will have differing balances. The advisory group will have a role to play in that, but the decision should be for each national park, based on the guidance. We will have opportunities to return to the matter and consult on it in an attempt to achieve balance.

The matter almost comes back to the arguments

relating to the Sandford principle. The point is that there must be balance and appropriate guidance and I therefore resist the amendments. I assure the committee that that guidance will seek to balance the important issues in a way that encourages and stimulates commercial success for local businesses. Our aim is to promote the economic and social development of the area's communities. If we get the balance wrong, we will contravene that aim and be in breach of the statute.

Mr McGrigor: The national parks are more likely to work if they are not unpopular. Fergus Ewing's example of Glencoe is a good one as there are many alienated people there. If that happens in the new national parks, they will get off to a bad start. Rhoda Grant's amendments and mine seek to do the same thing. I do not mind which one goes in the bill, but something in the bill should protect people with existing businesses—even part-time businesses, which a lot of people in national park areas have. I am in no way trying to stop inward investment that would employ local people, but there is no point in creating new jobs in an area if the ones that are already there will be lost as a consequence. The bill should make people feel secure about the future of their jobs and businesses. Rhoda Grant's amendments and mine would ensure that.

The Convener: To clarify the procedure, could you confirm that you moved your amendment earlier?

Mr McGrigor: I am slightly at a loss as to whether to support my amendment or Rhoda Grant's, as they say virtually the same thing.

The Convener: You used a form of words that more or less moved it, but I would like you to clarify that.

Mr McGrigor: I clarify the point that I moved my amendment.

The Convener: The question is, that amendment 129 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)

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

4, Against 5, Abstentions 0.

Amendment 129 disagreed to.

The Convener: We now come to amendment 132, in the name of Rhoda Grant. Do you wish to move the amendment, Rhoda?

Rhoda Grant: No.

Alex Fergusson: I want to move it.

Amendment 132 moved—[Alex Fergusson].

The Convener: The question is, that amendment 132 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)

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 4, Against 5, Abstentions 0.

Amendment 132 disagreed to.

The Convener: I call the minister to move amendment 85.

Nicol Stephen: I will try to be brief, as I am aware of the need to make progress.

This simple technical amendment excludes a national park authority from being able to acquire Crown land by the use of a compulsory purchase order. It is standard for bodies such as national park authorities not to be able to do so. The amendment does not exclude national park authorities from purchasing Crown land.

I move amendment 85.

Amendment 85 agreed to.

The Convener: We now move to amendment 133, in the name of Michael Russell, which opens up the matter of definition and application of cultural heritage, and is grouped with amendments 137, 89 and 89A.

I call Irene McGugan to move the amendment on behalf of Michael Russell.

11:00

Irene McGugan (North-East Scotland) (SNP): This amendment, along with amendment 89A, seeks to make certain that the definition of cultural

and linguistic heritage includes the Scots and Gaelic languages. We should acknowledge that they are Scotland's indigenous languages. It would not be difficult to mention them in the bill.

Amendment 137 is slightly different, in that it would require information, educational services and material that is produced in English also be made available in Gaelic. It tries to ensure that Gaelic is included in the operation, management and interpretation of national parks. Mike Russell has said that the last thing Gaelic needs is more monoglot English-language institutions in Gaelic-speaking or former Gaelic-speaking areas. Mainstreaming is vital if Gaelic is to be part of our daily lives. Gaelic should be part of the national parks. The amendment offers a clear way in which to ensure that we accept the claims of the language. That is not difficult to achieve by translating material into Gaelic and ensuring that it is available to people. I hope that the minister can support the amendment.

I move amendment 133.

Nicol Stephen: Amendment 89 is a good amendment that covers all the concerns that have been expressed on this issue. I will explain how.

Amendment 89 makes clear that cultural heritage—which it would be hard to argue does not cover the Gaelic language or other issues about which concern has been expressed—includes

“structures and other remains resulting from human activity of all periods, language, traditions, ways of life and the historic, artistic and literary associations of people, places and landscapes”.

That wording clearly includes Gaelic and Scots, but it would also include other Celtic languages, Norse and the new languages that are influencing Scotland. Scotland is now a multicultural nation and many ethnic-minority languages are spoken here. A wide range of languages other than English are important to our cultural heritage. I cannot believe that there is any way in which anyone could interpret amendment 89 as excluding Gaelic or Scots. It is clearly intended to ensure, in an inclusive way, that those languages are fully covered.

I hope that, by lodging the amendment, we have removed the concerns that were expressed at an earlier stage that the lack of a definition of cultural heritage could create weakness or uncertainty. The amendment gives a strong, positive and inclusive definition, which clearly covers all the issues that members have raised. I ask for support for the Executive's amendment and suggest that the amendments in the name of Mike Russell are not necessary, as our amendment has covered the concerns that gave rise to his amendments.

Richard Lochhead: I cannot understand why

the minister rejects amendment 89A, which is an amendment to the Executive's amendment. Surely he will accept that although there are many languages and cultures in Scotland, Gaelic and Scots have a particular place in Scottish culture and life. Mike Russell's amendment refers to the Gaelic and Scots languages “in particular”. There is a special case for Gaelic and Scots to be mentioned explicitly in the National Parks (Scotland) Bill, particular given the likely locations of the national parks in Scotland.

Mr Rumbles: I congratulate the Executive on its amendment, which interprets cultural heritage in the widest possible terms and addresses all the activities that are involved in cultural heritage. The Executive has responded to the concerns that were raised. It is not necessary to pick out any particular parts of the definition. The amendment is to be commended for encouraging an all-inclusive approach

Nicol Stephen: I will respond briefly. I am happy to tell the committee that the definition includes

“in particular, the Gaelic and Scots languages”,

but I am unwilling to put unnecessary words into a bill. As Mike Rumbles said, it is quite clear from the new definition that Gaelic and Scots are included, but we have tried to take as wide and inclusive an approach to the definition as possible. We would not want to suggest that languages that were not mentioned specifically were to be excluded. We do not want to be limiting. I give members the absolute assurance that those languages are included and that it was never intended that they should be excluded. I am happy to use the words of Mike Russell's amendment so that they are on the record.

Irene McGugan: This is not about Gaelic and Scots competing with, or trying to take precedence over, any other, newer languages in Scotland. The difference between Scots and Gaelic and the older languages the minister mentioned is that Scots and Gaelic are in current use. Some recognition in the bill of Scotland's national languages would be more than appropriate for Scotland's national parks.

The Convener: I will put the question on amendment 133. The question is, that amendment 133 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)
McNulty, Des (Clydebank and Milngavie) (Lab)
Murray, Dr Elaine (Dumfries) (Lab)

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

ABSTENTIONS

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

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

Amendment 133 disagreed to.

The Convener: We now come to amendment 134, in the name of Des McNulty, on the scope of byelaws, which is grouped with amendments 122, in the name of the minister, and 135, also in the name of Des McNulty.

Des McNulty: Amendment 134 is intended to correct an omission. The bill was originally written purely for land-based parks. As we are now considering the possibility of marine parks, schedule 2 requires some modification. In any Scottish national park a considerable amount of territory would, almost inevitably, be covered by water. In that context, it seems to me that it would be relevant and useful to include a specific reference to water.

Secondly, I was anxious that we should do more than refer to damage to the land, and consider mechanisms to prohibit unsafe and dangerous practices in national park areas. That would be a matter for the national park authority to decide. The aim of amendment 134 is to give the park authority the capacity to prevent activities that are unsafe and dangerous.

Thirdly, I felt that it was appropriate that the byelaws to be produced by the national park authority should ensure the effective management of the park. It is customary in other planning authorities to give the authority scope to ensure that it can promote regulations that are consistent with its efficient business. I felt that there was an opportunity in schedule 2 to extend the definition of the byelaws to give the authority broader competence to ensure effective management of the park.

I move amendment 134.

Nicol Stephen: It is widely recognised that areas such as Loch Lomond face particular pressures from water-based activities such as the use of jet-skis and other craft. Everyone is concerned that the national park authorities should have adequate powers to address those issues.

We want to ensure that management of competing activities and interests is appropriately achieved: we do not want simply to ban certain activities. That is why we have lodged a series of amendments—122, 123 and 124—to ensure that national park authorities can create byelaws that enable them to manage the area in the most

appropriate way.

Amendment 122 proposes to give the national park authorities an additional power to regulate recreational activities. Such activities were probably covered by the previous wording, but we wanted to make the point absolutely clear. The amendment would make it possible for national park authorities to address water-based activities such as the use of jet-skis. In law, the word “land”, which is used throughout the bill, includes areas of land that are covered by water, so the regulation of activities on water is dealt with. We do not believe that extra words making that clear are required.

Where a marine park is envisaged, amendment 143 allows for modification of byelaw powers to tailor them to the particular needs of byelaws that relate to water. For that reason, we believe that amendment 134 is unnecessary.

Given the amendments to the byelaw provisions, amendment 135 is also unnecessary and creates certain potential difficulties. The regulation of aircraft and hovercraft, for example, is a reserved matter, so our ability to grant powers in that area could be questioned.

I hope that, in the light of those explanations, Des McNulty will be prepared to withdraw or not to move his amendments. Everything that he is attempting to achieve through his amendments will be achieved under the powers that are now envisaged under the bill and the amendments that the Executive has proposed.

The Convener: Would any other member like to speak on the amendments in this group?

11:15

Dr Sylvia Jackson: I take on board what the minister says about jet-skis, but I need further reassurance. We must ensure that the powers of the national park authority to make byelaws will override the public right of navigation for powered watercraft on Loch Lomond. Would that be the case?

Nicol Stephen: It might help committee members if I explain the public right of navigation. Public rights of navigation are just that: rights that must be respected. It is not appropriate to override those traditional rights, but byelaws can manage them without overriding them: the two issues are therefore not mutually exclusive. We do not want to remove the existing rights, but we want them to be exercised in an appropriate, well-managed and safe way. The exercise of a right of navigation—going from one end of the loch to the other—is one thing; it is quite different from the many recreational pursuits that are undertaken there. There are subtle differences and important issues

to be resolved and the amendment allows us to control recreational activities. Paragraph 8(1)(c) concerns byelaws for

“securing the public’s enjoyment of, and safety in, the National Park.”

Dr Jackson: This is a complex issue. The minister mentioned reserved matters relating to low-flying private helicopters, but float planes are also an issue on Loch Lomond. How might we get over those problems? If the matter is reserved, we can do nothing about it, but can we be more constructive and try to determine how we might overcome those difficulties in future?

Des McNulty mentioned noise problems. Can the minister assure us that his amendments cover the great problem caused by the noise of jet-skis and how such recreational activities are to be managed?

Nicol Stephen: Noise can spoil people’s enjoyment of a national park. It can also be a nuisance, a danger and a safety issue, depending on the level, so it must be regulated. I will write to Dr Jackson about aircraft and hovercraft and send a copy to the convener. If anything further can sensibly be done during consideration of the bill—although I doubt it—we shall certainly do it. We may want to raise that point with the UK Government.

The Convener: We must make a decision on that today.

Nicol Stephen: I am not suggesting that we delay our progress of the bill. We still urge committee members to agree to our amendments, as we think that there are difficulties with the wording of Des McNulty’s amendment, which deals with reserved matters. We will let you know whether there is any way of making progress on such problems as low-flying helicopters. Is that acceptable?

Dr Jackson *indicated agreement.*

Dr Murray: Amendment 122 is very important for the regulation of recreational activities. I am pleased that we have had clarification of the legal definition of land as including water that is encompassed by land. If that were not the case, there would be a serious omission, particularly for Loch Lomond.

On amendment 134, the prevention of unsafe and dangerous practices, such as dangerous driving, is surely covered by existing legislation. Also, the second part of the amendment restates what we have already said, and the bill says, are the functions and aims of the national park authority. The bill says that the national park authority is to act in accordance with section 8(6). Given that that is an overriding part of the bill, I do not think that the second part of the amendment is

necessary.

On amendment 135, there is often a problem with legislation if one starts to exclude or include particular subsections. We discussed yesterday with the clerks the problems that arise with another bill, in which people have included or excluded specific animals as types of mammal. Problems could arise if particular vehicles were mentioned—for example, questions about whether other vehicles would be excluded would arise. I would also be interested to know whether the vehicles that are mentioned in amendment 135 are included in the legal definition of a vehicle.

The Convener: Minister, do you wish to comment on what you have heard before I ask Des McNulty to wind up on this group of amendments?

Nicol Stephen: I think that I have said all that I want to say on this group of amendments. I will just emphasise that paragraph 8(1)(c) of schedule 2 talks about

“securing the public’s enjoyment of, and safety in, the National Park”,

which confers very significant powers in this area. We have strengthened those powers by making it clear that recreational activity, such as jet-skiing, is covered.

Des McNulty: I am reassured that the definition of land includes water—on the face of it, there seemed to be a strange omission. I am also reassured if the minister is saying that the danger and noise pollution that jet-skis cause can be managed effectively under paragraph 8(1)(c).

I am slightly confused as to the minister’s attitude to the part of my amendment that refers to the

“effective management of the Park”,

as he did not address that issue. There are many different kinds of recreational activity, such as mountain biking or paragliding, that could pose regulatory problems. I am content because the Executive has introduced amendment 122, which would insert:

“to regulate the exercise of recreational activities”.

Therefore, I seek leave to withdraw amendment 134 and will not move amendment 135.

Amendment 134, by agreement, withdrawn.

Amendment 122 moved—[Nicol Stephen]—and agreed to.

Amendment 135 not moved.

The Convener: We now come to amendment 123, in the name of the minister. It is grouped with amendment 124, which is also in the name of the minister.

Nicol Stephen: As I have said, amendments 123 and 124 are amendments to the byelaw-making powers under paragraph 8 of schedule 2. The amendments seek to streamline, clarify and strengthen the arrangements and to remove the reliance on section 121 of the Civic Government (Scotland) Act 1982. We propose to have a single byelaw-making power under paragraph 8, rather than the two different processes that are required currently.

Des McNulty raised some concerns during the previous debate, but members will see that the byelaw-making powers in paragraph 8 are quite wide-ranging. They state that the national park authorities can make byelaws for

“protecting the natural and cultural heritage . . . preventing damage to the land”

and

“securing the public's enjoyment of, and safety in, the National Park.”

Those issues are fundamental to the effective management of national parks. It is important and appropriate to have a single byelaw-making power.

We are also introducing a new procedure that national park authorities must follow, which I think reflects the importance that committee members have given to the consultation procedures that are provided for throughout the bill. The amendments would make it a statutory duty of the national park authorities to publicise any proposed byelaw and to make copies of such byelaws available for public inspection for a minimum of 12 weeks. The authorities would be obliged to consult a wide range of people and organisations, taking account of any views and comments that were received during both the consultation period and the period during which the byelaws were available for public inspection. The authorities may then adjust the proposed byelaws in the light of those views and comments.

That might seem only sensible and straightforward. However, there are no such requirements in relation to many byelaws that are made at the moment, so the amendments represent a positive step forward in the development of appropriate byelaws.

I move amendment 123.

Amendment 123 agreed to.

Amendment 124 moved—[Nicol Stephen]—and agreed to.

The Convener: Amendment 136, in the name of Rhoda Grant, has already been debated with amendment 129, on competition with businesses. Does Rhoda wish to move that amendment?

Rhoda Grant: No.

Richard Lochhead: May I move it?

The Convener: Yes, you are free to do so.

Amendment 136 moved—[Richard Lochhead].

The Convener: The question is, that amendment 136 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)

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 4, Against 5, Abstentions 0.

Amendment 136 disagreed to.

The Convener: Amendment 86 stands on its own.

Nicol Stephen: Amendment 86 is a simple amendment that adds “or contributions” to schedule 2, but it has one important consequence. We want the national park authorities, like many other public bodies, to be able to apply for and receive lottery funding. Under the bill, the national parks would be allowed to accept gifts. We are told that lottery funding is classed not as a gift, but as a contribution. The amendment therefore seeks to change the schedule to allow national park authorities to apply for and receive lottery funding.

I move amendment 86.

Amendment 86 agreed to.

Schedule 2, as amended, agreed to.

Schedule 3

MISCELLANEOUS FUNCTIONS

Amendment 137 moved—[Irene McGugan].

11:30

The Convener: The question is, that amendment 137 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)
 Murray, Dr Elaine (Dumfries) (Lab)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine)
 (LD)

ABSTENTIONS

Fergusson, Alex (South of Scotland) (Con)
 Johnstone, Alex (North-East Scotland) (Con)
 Peattie, Cathy (Falkirk East) (Lab)

The Convener: The result of the division is: For 2, Against 3, Abstentions 3.

Amendment 137 disagreed to.

Schedule 3 agreed to.

Section 9—Planning functions

The Convener: We move to amendment 51, in the name of Murray Tosh, which opens the discussion of planning functions. The amendment is grouped with amendments 52, 53 and 54, which are all in the name of Murray Tosh.

Mr Tosh: The purpose of amendments 51, 52, 53 and 54 is to seek clarification on a number of issues that were raised by witnesses at the Transport and the Environment Committee and whose recommendations the amendments broadly follow, although I am responsible for the wording of the amendments and any deficiencies in them.

Amendment 51 seeks to delete section 9(1)(b) on page 6. The amendment follows substantial evidence taken by the Transport and the Environment Committee that it was unnecessary and unhelpful to set out the various formulations of specific planning powers to be given to national park authorities. That committee took evidence that suggested that only section 9(1)(c) should stand, which would leave the matter to be defined entirely in the designation order. However, the conclusion of the Transport and the Environment Committee was that we wanted the legislation to contain a marker that the expectation would be that the national park authority would be the planning authority for the national park, as section 9(1)(a) says. By leaving section 9(1)(c) to accompany section 9(1)(a), the Transport and the Environment Committee felt that we were putting forward the argument that ministers could vary the planning functions in the designation order if that conformed with local desires and requirements. The example is the Cairngorm area, where the desire, as I understand it, is for planning powers to remain with the local authorities.

Amendment 53 is consequential on amendment 51 being agreed to.

Amendment 52 seeks clarification. The discussion in the Transport and the Environment Committee related to the role of the national park authority as a planning authority in terms of its

ability to act as a development control authority or its power to draw up local plans. It appeared that there was not sufficient clarification of the role of the national park authority in the development of structure plans. If the minister is able to clarify the power that the national park authority will have in relation to structure planning, the amendment might be unnecessary, but I will judge that once I have heard the minister's response.

Amendment 54 is based on evidence that the Transport and the Environment Committee took from a number of quarters, not least the representatives of Cairngorms Partnership. They wanted it to be absolutely clear that if planning remained with the local authority, the partnership should have the right to refer applications to ministers in the event that the partnership did not agree with what local authorities were going to do. It is logical that that should also apply in reverse, so that where the national park authority has planning functions in relation to a local plan—or perhaps particularly in relation to a development control issue—the local authority will have a continuing interest in planning in the national park area, and will wish to have a call-in or referral mechanism to Scottish ministers.

It might be that the powers that ministers will confer in the designation orders will clarify those matters, but there appears to be sufficient weight in the concerns to justify raising them today and to suggest that they might appropriately be placed within the legislative framework, rather than in the guidance that will be given by ministers to park authorities. That is the basis for the amendments.

I move amendment 51.

Nicol Stephen: Based on what Murray Tosh said, some of my comments for resisting his amendments seem to follow some of the same arguments that he is putting forward for including them. I hope that we can achieve some sort of consensus.

Murray Tosh is trying to delete section 9(1)(b), which allows for the national park authority to be the planning authority only in respect of development plan preparation. The Executive's intention is that open and wide-ranging discussion on planning issues should take place at the designation stage. That subsection should not be deleted because such action would, at the statutory enactment stage, close off options for all parks in future, which would be inappropriate. The Executive believes that planning is a legitimate matter for consideration, but that it should be considered at the designation order stage. That is the theme of all my comments on the amendments.

Amendment 52 is about ensuring that the relevant local authorities prepare their structure

plan in partnership with the national park authority. Again, that would best be dealt with at local level and decided at the designation order stage. In response to Murray Tosh's specific questions on the structure plans, a national park authority under section 9(1)(c) could be the full planning authority for the area and could have responsibility for preparation of part of the structure plan. Because it is unlikely that the area of a national park authority would coincide with a full structure plan area, the authority would have to prepare the structure plan in conjunction with the other relevant planning authorities that made up the structure plan area.

However, at the end of the day Scottish ministers will have final responsibility for approving structure plans. When a local authority submits its plan, it must say what consultation it has undertaken and what consideration it has given to the views that it has received. If ministers were not satisfied, for example, that proper regard had been given to the park authority in preparing the structure plan, they could make modifications to the plan, or even reject it.

The inclusive approach that Murray Tosh suggests is the sort of approach that I hope would be followed if it was decided to give structure planning powers to a national park authority.

As Murray Tosh said, amendment 53 is consequential on amendment 51, so it would be necessary to agree to it only if amendment 51 was accepted, because section 9(1)(b) refers to the Town and Country Planning (Scotland) Act 1997. If that reference was removed, it would have to be added somewhere else. If amendment 51 is not accepted, there will be no need for amendment 53.

Amendment 54 is about ensuring that, if there is disagreement between a national park authority and a local authority—irrespective of who is responsible for the planning functions—the disagreement can be referred by the dissatisfied authority to the Scottish ministers. I will repeat what I said earlier on the wording of the current section 9(1)(c). It provides

"for a National Park authority . . . to have, in relation to the National Park, such functions in relation to planning as the order may specify."

The designation order stage is where we think it would be most appropriate to cover what Murray Tosh is trying to achieve with his amendments. The simple explanation that I give to reassure Murray Tosh in relation to his various amendments is that we appear to want to do exactly what he wants to do, but to do so by using different words in the bill.

Rhoda Grant: I agree with the minister. It is important that the planning functions are

addressed in the designation order. There are two proposed national park areas, which are very different, as is the emphasis that they want to place on the planning function. Anything that would prevent them from having that flexibility at the time of drawing up the designation order would be wrong. I urge the committee to stick with the status quo, so that we can deal with such matters at the time of the designation orders.

The Convener: If the minister does not want to make any further comments, I will invite Murray Tosh to wind up on this group.

Mr Tosh: I will start by clarifying—in case the minister misunderstood my intention—that I was not suggesting that section 9(1)(b) was an inappropriate option and I was not seeking to close it off. I was arguing that such specification is unnecessary. There was considerable evidence that the section does not provide a desirable model, because it involved splitting local planning and development control functions. All the evidence that the Transport and the Environment Committee took suggested that that would be unwise.

However, in seeking to delete section 9(1)(b), I was not seeking to close an option off. I was arguing that it was, in effect, subsumed within section 9(1)(c), which allows any formulation of powers to be conferred upon the park authority. On the minister's earlier comments, I seek to remove unnecessary wording from the bill, as it does not appear to be especially useful to include what is, essentially, declaratory wording.

That holds for section 9(1)(a) as well, but the Transport and the Environment Committee thought that it would be useful to keep in section 9(1)(a) as a statement of the expectation that, in ordinary circumstances, the national park authority would be the planning authority for the purposes of the planning acts.

The minister has made his position clear. There is nothing of substance that divides us on this, so I am happy to accept his assurances and will withdraw amendment 51 and not move amendment 53.

On amendment 52, I accept the explanation that section 9(1)(a), which confers planning powers, gives the park authorities sufficient power to be involved at all stages in the structure plan. We saw the national park authority more as a partner in the formation of the plan than a consultee, but there is scope in what the minister has said for the designation orders to be worded accordingly and appropriately. I am therefore happy not to move amendment 52.

I am less confident about amendment 54, because I thought that it was logical, if one was conferring powers on local authorities, to require

Scottish ministers to call in planning proposals by the national park authority for determination, or to give that power to the park authority. In other words, each authority should be able to call in, or provoke the calling-in of, the other's planning intentions. I would have thought that that power belongs logically in statute rather than in the wording of designation orders.

I am happy not to move amendment 54 at this stage, but I suggest that the minister and his advisers reflect on that issue—it is something that could be adjusted at stage 3 if appropriate.

Amendment 51, by agreement, withdrawn.

Amendments 52, 53 and 54 not moved.

Section 9 agreed to.

Section 10 agreed to.

Section 11—National Park Plans: procedure

11:45

The Convener: I call Rhoda Grant to speak to and move amendment 138, on consultation on national park plans, which is grouped with amendment 139, also in the name of Rhoda Grant.

Rhoda Grant: Amendment 138 would, if agreed to, bring section 11 of the bill into line with previously amended sections of the bill. It allows for a minimum period of consultation on the national park plan. When the matters that are raised by amendment 139 were discussed, the minister referred to such things as planning for real. I do not expect the minister to accept my amendments, but I want to flag up the need for public consultation on the national park plan along the lines of planning for real or other models that might supersede that model as best practice.

The national park plan will affect the lives of the people who live and work in park areas, so it is important that local communities and people who live and work in the parks have ownership of the park plan. For that reason, I have lodged an amendment that allows for comprehensive planning consultation at that stage. People should be able to put their views forward and have ownership of the park plan, which will guide planning in the park for years.

I move amendment 138.

Nicol Stephen: Without wanting to create a precedent, the Executive supports amendment 138. As Rhoda Grant says, we have already covered the ground that amendment 139 covers, so I do not want to spend a long time discussing it. There should be public consultation on the national park plan. The planning-for-real approach is an excellent example of how that might be done,

but we want to encourage the national park authority to examine new and innovative ways of planning—perhaps better ways than planning for real. We do not want to restrict the innovative approaches to public consultation that might be developed. The current wording of the bill allows us to encourage approaches that will have strength and meaning in local communities.

Cathy Peattie: We have covered consultation, which can mean all things to all people. I support Rhoda Grant's amendment; it is important to say that we are talking about consultation with local communities. Planning for real and other processes should involve local people at an early stage: the document should not just be produced and sent off to people. I accept that the park authorities will take that on board, but I would like a stronger commitment to involving communities.

We spoke earlier about not establishing a them-and-us situation or incurring resentment towards local parks. That will happen unless people feel that they are really involved, that they know what is happening and that their voices are being heard. Things such as future research conferences, planning for real, and some of the other processes that involve local people in planning can do that. It is easy to ignore such ways forward, and it is important that we do a bit of lateral thinking over how we consult communities.

The Convener: Would the minister like to comment further?

Nicol Stephen: I am happy to put on record that we will include in the statutory guidance a section on the preparation of the national park plans, to cover that issue and to ensure that there is adequate and meaningful public consultation with the local communities in national park areas. It is not necessary, however, to put that in the bill. I give that undertaking in the belief that that is the most effective way forward.

Rhoda Grant: I welcome the minister's comments and urge him to give the issue a great deal of emphasis. For the national park plan to work, the local people must be involved and there must be local ownership. I ask him to put a strong emphasis on that priority in the guidance.

The Convener: It has been brought to my attention that someone did not hear that we agreed to schedule 3. Are we agreed that we agreed to schedule 3?

Members indicated agreement.

Amendment 138 agreed to.

Amendment 139 not moved.

The Convener: Amendment 140, in the name of Des McNulty, opens up the matter of the review of national park plans and is grouped with

amendments 87, in the name of the minister, and 87A, in the name of Des McNulty.

Des McNulty: When we establish a national park plan, it is important that we also establish a clear requirement for review of the park plans. That needs to be done to ensure that there is a proper mechanism of accountability—a repeated process for assembling plans periodically, to ensure that the published plans reflect practice within the national park and that the Parliament and parliamentarians have the opportunity periodically to examine the plans that are produced. It would be helpful to the park authority to have a requirement for it periodically to review its activities and provide some information on the outcomes of its management, or custody, of the park over a period, and to set out its strategic objectives for the subsequent period. That would be good practice, good management and good political and social accountability. The whole thrust of the amendments is to introduce a review period and to demonstrate good practice.

Obviously, the minister accepts the notion of a review. The difference between my amendments and the ministerial amendment is that mine are more specific in making the requirement on the national park authority. The minister's proposal leaves it up to the national park authority. I would like some reassurance from the minister that there will be a clear requirement—not necessarily in statute, but in guidelines—for the authorities to produce plans within a reasonable period. The Transport and the Environment Committee thought that every five years would be reasonable.

I move amendment 140.

Nicol Stephen: I want to speak in favour of the Executive amendment. We want national park plans to be reviewed from time to time. As Des McNulty said, that should be a repeated process.

It could be argued that Des McNulty's amendment does not make absolutely clear that there should be continuing reviews; the terms of his amendment could be satisfied if there were one review within five years of the national park plan's being approved. Nobody wants the reviewing process to end. We are insufficiently confident about how often a national park plan will need to be reviewed to set the period in the legislation. Five years might be an appropriate period, but three years or seven years might turn out to be more appropriate.

We will undertake to include in the guidance an indication of time scale, as that will allow us better to respond to developing circumstances. We want to create momentum and do not want the national park plan to be set in stone. We think that it is important that a period be set, but we also want Scottish ministers to be able to issue a direction to

the national park authority, requiring a plan to be submitted if one has not been.

Dr Sylvia Jackson: You suggest that Scottish ministers might be able to demand that a review be made. Where might audits fit in to that? Will you give that some thought before stage 3, or might it be included in the guidance? I am concerned about accountability.

Nicol Stephen: I am being passed a note that will help me to answer your question.

Dr Jackson: I did not mean to put you on the spot.

The Convener: We are allowed to.

Nicol Stephen: The note tells me that the general powers of direction are contained in section 14(1) of the bill, but I do not think that that answers your question on audits. We want to ensure that the new national park authorities make good progress, but we would be slow to impose audits—at the level of the Scottish Executive—at too early a stage. I hope that national park authorities will conduct their own audits and monitoring and will feed that information back to the Scottish Executive, the Parliament and its committees, the general public and the local communities.

12:00

The emphasis is on giving the national park authorities real and effective powers. We would not want ministers to interfere or take an active role unless that was clearly required; we hope that that would not be required at an early stage. Over the first few years of Scotland's first national parks, we will want to ensure that there are mechanisms to monitor whether the parks are being appropriately audited and monitored.

Dr Murray: Section 24 covers information and annual reports. Paragraph 3 reads:

"As soon as practicable after the end of each financial year, a National Park authority must prepare a report on its activities during that year and send a copy of the report to the Scottish Ministers."

Does that address some of members' concerns about reporting back and so on?

Nicol Stephen: That is an appropriate section to which to draw our attention. Clearly, the annual report mechanism would be a good way in which to ensure that the auditing and monitoring is made known to the wider public, who would have access to those reports.

Cathy Peattie: I am interested in the word "review". Any good plan should include realistic targets, and opportunities to monitor and evaluate them. Good practice would mean involving stakeholders in any such evaluation, and I would

like some thought to be given to wider evaluation and the role of partners and stakeholders in that process. That should be on-going, to allow the park authorities to revisit their plans.

I do not think that a review is strong enough. We need to consider monitoring and evaluation at the start, rather than further down the line. We must ensure that all the bodies stay on track and have a clear understanding of where they want to go and how they are achieving that.

The Convener: Do you have any further comments, minister?

Nicol Stephen: The central question is whether such issues should be included in guidance or should follow Des McNulty's approach. I think that we need discretion, but I recognise that everyone is trying to reach the same end.

Des McNulty: This is an important matter. It is one thing to establish national parks, but it is quite another to ensure that they operate effectively. In my experience of working in public bodies, a regular review process is essential to ensuring that the body is doing what it is supposed to do. That process provides a useful management tool for those who run the body and a useful accountability tool for those who are affected by the body.

I agree with some of Cathy Peattie's comments about the wider aspect of evaluation. We should consider the way in which evaluation engages the various different interests in the park. That is particularly important given the emphasis that the minister and the committee have given to partnership working. A periodic review would be a key element in ensuring that partnership working was operating effectively. It would give the different partners an opportunity, every once in a while, to evaluate their role within the partnership and what they were contributing to—and getting out of—the process, and to decide in which direction the partnership should move.

I strongly encourage the ministers to consider the review plans carefully. The amendment that they have lodged is quite weak; basically, it says that, if the national park authority thinks fit, it may from time to time submit an amended national park plan. I do not think that that is adequate. The Executive must consider whether it could deliver something better.

I will not be prescriptive, and I do not propose to press my amendments. However, I hope that the ministers will take on board the fact that their amendment is, in my view—and, I suspect, the view of others—deficient. We would like something much more structured that would deliver a more effective management regime and more accountability. Those are important dimensions of what we want to achieve.

Amendment 140, by agreement, withdrawn.

Section 11, as amended, agreed to.

After section 11

Amendment 87 moved—[Nicol Stephen].

Amendment 87A not moved.

The Convener: The question is, that amendment 87 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)
Murray, Dr Elaine (Dumfries) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)

ABSTENTIONS

Lochhead, Richard (North-East Scotland) (SNP)
McGugan, Irene (North-East Scotland) (SNP)
McNulty, Des (Clydebank and Milngavie) (Lab)

The Convener: The result of the division is: For 6, Against 0, Abstentions 3.

Amendment 87 agreed to.

The Convener: That brings us to the end of this part of our business. There are two other items on the agenda, but they will be carried forward to Monday's agenda where, I suspect, they will begin to suffer from old age.

At our meeting on Monday, we may want to discuss lines of questioning to ministers before we meet them on Tuesday. Do members agree that we should conduct that discussion in private?

Members indicated agreement.

The Convener: That is agreed by those committee members who are left in the room.

Meeting closed at 12:09.

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