

TRANSPORT AND THE ENVIRONMENT COMMITTEE

Wednesday 22 November 2000
(Morning)

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TRANSPORT AND THE ENVIRONMENT COMMITTEE 28th Meeting 2000, Session 1

CONVENER

*Mr Andy Kerr (East Kilbride) (Lab)

DEPUTY CONVENER

*Nora Radcliffe (Gordon) LD)

COMMITTEE MEMBERS

*Bruce Crawford (Mid Scotland and Fife) (SNP)
*Helen Eadie (Dunfermline East) (Lab)
*Donald Gorrie (Central Scotland) (LD)
Robin Harper (Lothians) (Green)
*Janis Hughes (Glasgow Rutherglen) (Lab)
*Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab)
*Fiona McLeod (West of Scotland) (SNP)
*Des McNulty (Clydebank and Milngavie) (Lab)
*Mr Murray Tosh (South of Scotland) (Con)

*attended

THE FOLLOWING ALSO ATTENDED:

Sarah Boyack (Minister for Transport)

CLERK TO THE COMMITTEE

Shelagh McKinlay

SENIOR ASSISTANT CLERK

Richard Walsh

ASSISTANT CLERK

Alastair Macfie

LOCATION

Committee Room 2

Scottish Parliament

Transport and the Environment Committee

Wednesday 22 November 2000

(Morning)

[THE CONVENER opened the meeting at 10:08]

Transport (Scotland) Bill: Stage 2

The Convener (Mr Andy Kerr): I begin the 28th meeting this year of the Transport and the Environment Committee by welcoming members, the Minister for Transport, press and public alike to our meeting. As you will know, it is hoped that we will conclude our discussions on the Transport (Scotland) Bill today. It is the only item of business, so I will go straight to it and call the minister to discuss an issue that she wishes to raise with the committee.

The Minister for Transport (Sarah Boyack): I wish to make a brief apology to the committee. Some of you may have noticed that the Executive has not lodged the amendment on redetermination orders of footways, as we promised at the beginning of stage 2. We have run out of time at stage 2, so I will consider the matter further before stage 3, when I may introduce the relevant power.

The Convener: Minister, you can rest assured that we had all spotted that and we were awaiting your announcement.

After section 68

The Convener: We come to amendment 283, in the name of Helen Eadie, which is in a group of its own.

Helen Eadie (Dunfermline East) (Lab): I will not reiterate everything that I said in moving one of my amendments last week. This is déjà vu for me. It is the third time that I have raised this issue—will it be third time lucky for the Labour-led campaign in Fife? The campaign has aroused strong emotions; 90,000 petitioners signed a petition to the Scottish Parliament. I will concentrate only on those issues that were raised last week about finance being redirected from front-line services.

How perverse is our society that we allow free out-of-town retail parking yet charge for parking in hospitals, where there is pain and suffering? There should be free access, without barriers of any sort, to allow us to alleviate that pain and suffering. Colleagues in the committee mentioned Dundee,

Aberdeen and other major cities in Scotland, and asked what would happen where there already are car parking charges. The amendment states:

“It shall no longer be lawful for charges to be imposed in respect of the use of car parking spaces at hospital premises”.

That says nothing about what has already happened; there are city centre car parks throughout Scotland. We are dealing with a situation that no other mechanism seems able to address. This is a serious issue for people in Fife.

I will deal with two points that have been raised by colleagues. First, who is supporting the campaign? As members will know, the Labour party has been strong on this issue and has campaigned ferociously in Fife. Unions in Fife are supporting the campaign, as are community councils and petitioners from the general public.

Secondly, what allowances will be made for smaller hospitals, which might want to put in place secure car parking to protect the safety and welfare of staff? The amendment does not detract from that. Already in supermarket car parks and council car parks, we are providing more and better secure car parking facilities. It is to the credit of the Labour Government that it has made the provision of Government funding for secure parking a priority. If we can provide secure car parking for town centres and other areas, I believe that the Labour party would want to provide it in hospital car parks. I ask for the support of committee members.

I move amendment 283.

Mr Murray Tosh (South of Scotland) (Con): I came to this matter with an entirely open mind and did not react to the party political speech that was just made. The retail comparison is entirely flawed, because retail car parking is provided by shops and stores, which charge their customers and pay for the parking that way. There is no mechanism for health boards and health trusts to fund car parking on that basis. I listened carefully to what the minister said on this matter last week. I found her position to be entirely convincing—the charges are permitted only where they relate to the provision and security of car parking. If a health authority feels that it must provide security at its car parks, it should have the mechanism to do so and should not have to choose between charging and taking money out of the front-line health budgets. I am not convinced by the amendment and will oppose it.

10:15

Janis Hughes (Glasgow Rutherglen) (Lab): As I said last week when Helen Eadie moved a similar amendment, I sympathise with her position. I have opposed car parking charges at Glasgow

royal infirmary. However, I certainly do not feel that the matter should have been brought to a parliamentary committee for discussion. Although I understand Helen Eadie's frustrations, the Transport (Scotland) Bill is not the place for legislation on hospital car park charges.

Anything that relates to this matter can be discussed—and I know that Helen Eadie has discussed it with many people. However, the most important way of reaching a conclusion is through negotiation with the health sector and the people in the hospitals concerned. With all due respect to Fife, we should not be legislating for a particular issue in a particular area in a transport bill.

I sympathise with Murray Tosh's response to Helen Eadie's remarks about out-of-town retail parks. As we said last week, large hospitals have major traffic management problems. We must be careful about where the money for traffic management comes from. I would not want the money to come out of front-line health budgets. As car park charging schemes at hospitals are not profit making, we must be careful about the legislation that we pass. I cannot support the amendment.

Bruce Crawford (Mid Scotland and Fife) (SNP): I have not come to this amendment with an open mind; I have come with the same mind as I had last time. The committee process should be used to undo any wrongs that we can find; this is a wrong and we must find ways to put it right. It should then be up to the Executive to respond in a manner that befits the feeling of the committee.

I have some doubts about Helen Eadie's amendment. I am not sure that the inclusion of the phrase

"It shall no longer be lawful"

will retrospectively remove existing car parking charges. I would be interested to hear whether all hospital car parking charges would disappear if the Parliament passed the bill or whether the legislation will apply only to car parks that are built on or after the date that the legislation is given royal assent.

Helen Eadie seems to have the knack of securing defeat from the jaws of victory. I wanted to support her before I heard her speak to the amendment; I do not want to reflect too much on her party political statement, but she talked a lot about the Labour-led campaign. That is a hell of a contradiction when, on the opposite side of that campaign, the Scottish Executive is allowing hospitals to put these measures in place. In future, members trying to find support for their amendments might find it more helpful to use language that brings other people on board.

Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab): I have some sympathy with what Helen Eadie is trying to achieve, as I do not have any wish to see unnecessary charges imposed on people attending hospital appointments. However, many of the arguments were rehearsed last week. Is this the correct place to be dealing with the matter? Not all health authorities take—or will want to take—this action. Although I appreciate the fact that there has been a campaign that has involved many members of the public, the people who should put the situation right are those in the local health authority. I understand that the minister and others have been working behind the scenes to apply some pressure for a future review.

I agree with Bruce Crawford. If the amendment, with the wording

"It shall no longer be lawful",

were accepted, the bill could be open to challenge and interpretation. I do not think that it would prevent charges from being imposed. We could get into all sorts of difficulty if the amendment were agreed to.

I urge caution, and I ask Helen Eadie, in view of the comments that have been made, not to press the amendment. People are with her in wanting to find a solution to the problem, but the amendment is not the best way to do it. Because of the wording that she proposes, I have no option but to oppose amendment 283.

Des McNulty (Clydebank and Milngavie) (Lab): I endorse what Cathy Jamieson has said. Amendment 283 deals with a management issue for health boards rather than with a transport issue. The wording is significantly flawed, so I echo Cathy Jamieson's point that the amendment is not the best way of achieving the goal that Helen Eadie has set out to achieve.

Sarah Boyack: I have noted Helen Eadie's comments and I understand her concerns. However, this is not a case of *déjà vu*; we are debating not last week's amendments, but this week's. Amendment 283 has wider-reaching implications than Helen Eadie's previous amendment had.

It might be helpful if I were to restate the Executive's long-standing policy on the matter, which has evolved out of past experience around the country. Earlier this year, we wrote to health boards to reiterate that car parking charges should not be introduced to generate income, that the decision to introduce charges for car parking at national health service hospitals is a matter for local determination—taking full account of local circumstances, including the needs of patients, visitors and staff—and that car parking charges should be introduced only to cover the cost of

providing expanded or improved parking facilities, for reasons of security or for better management of existing facilities, by discouraging fly parking, for example.

I mentioned the cost of policing and improving security facilities for car parking. Few hospitals have sufficient space to cope with the demand, and what space they have is at a premium. The shortage of car parking spaces can lead to double parking, parking on yellow lines, pavement parking, non-disabled use of disabled bays and unsafe access to main entrances at peak times. All those things can create hazards for the staff, the patients, the visitors and the ambulance crews at hospitals. In addition, hospitals are encouraged to be crime conscious, because parked cars in hospital car parks could be easy targets. Increased security must be provided to deal with those problems, but that means increased costs for trusts, which would have to be met from within their budgets.

Helen Eadie's interpretation of amendment 283 is not the same as ours. Our strict legal interpretation is that, from the date of the bill's enactment, the phrase

"It shall no longer be lawful for charges to be imposed in respect of the use of car parking spaces at hospital premises"

would not mean that the parking would disappear, but it would certainly mean that the charges would disappear. That is something that Bruce Crawford was asking about, and we think that it would have major implications for the trusts that have gone down that route.

Let me give some examples of charges. The Yorkhill NHS Trust charges staff for car parking, and the provision of facilities for staff car parking is cost neutral. If the trust were not to charge, it would have to find £52,000 every year from elsewhere in its budget. At Grampian University Hospitals NHS Trust, car parking facilities last year cost £167,000. Again, if no charges were levied, that money would have to come from somewhere else. In the Highlands, car parking facilities cost in the region of £272,000. Those are year-on-year costs.

Helen Eadie has mentioned Ninewells hospital in Dundee, whose multi-storey car park was introduced to cope with the increased demand for car space at the hospital. To pay for that multi-storey car park, the trust agreed a 30-year contract. The last thing that I would want is for the Transport (Scotland) Bill to present those difficult choices all over again to health boards that have done the consultation work.

I spoke to Susan Deacon on this matter yesterday. She is absolutely determined to ensure that problems surrounding public consultation,

such as people feeling powerless or excluded and unable to participate fully in the decision-making process, are addressed. That is something that she is committed to dealing with through the Scottish health plan, in which she will introduce proposals for the involvement of the public in an open and inclusive consultation process. Wherever possible, she wants to use existing public involvement structures—for example, those that local authorities use. She is keen to see community-based planning processes, which will provide local communities with the information and support that they need to influence the strategic development of services that they use.

We want to improve aspects of the consultation process. I can give Helen Eadie the comfort of knowing that the health department is aware of the need for health trusts to consult. Its guidelines provide a robust framework for decisions by health boards and trusts. However, it must be for them to make those decisions; they must be responsible, as Janis Hughes said. This is about local consultation and local decision making.

The amendment would force trusts to fund improvements to car parking facilities from money that would be better used to provide services for patients or to decide against improving their car parking facilities, which would have the safety implications that I outlined.

I urge Helen Eadie to withdraw the amendment. If she presses it to a vote, I strongly urge the committee to reject it.

The Convener: I now ask Helen Eadie to sum up and indicate whether she wishes to press or withdraw the amendment.

Helen Eadie: The bottom line, for me and everybody else in Fife, is whether there is political will. Despite what has been said today, that is the key question. If we have the political will to acknowledge that there is a problem—a different problem for rural and semi-rural areas from the one in cities—we will overcome all the difficulties that my colleagues have outlined.

I will respond to some of the points that have been raised. Murray Tosh made a fair point about out-of-town retail centres. Many of those out-of-town car parking facilities are privately owned and they are paid for by the shops and the retail centres. However, councils own many of them. For example, when the City of Edinburgh Council built the Gyle centre, the car park was provided free for people who wanted to use it.

I can think of many instances when the Scottish Executive has provided loans for Fife Council to provide free parking, such as at the new Ferrytoll interchange and at railway stations throughout Fife. Local authorities can provide free parking in many situations.

The Government and the Labour party—I take Bruce Crawford's point, as I know that he has been active in this campaign—believe that, where there is a problem, it should not be down to one department or service, or the Minister for Health and Community Care and the Minister for Transport, to solve it. Problems should be attacked on a cross-cutting basis. If there is political will, the problems will be tackled.

Like many people from my area, I think that it is wrong to put up a barrier to prevent free access to hospitals. Charging is fine if people have a decent income, but I reiterate the point that Fife has the second-highest level of unemployment in Scotland; it has major disadvantages compared with other areas of Scotland. Like many rural areas, it requires special consideration.

I have no intention of withdrawing my amendment. I will press it to a vote. I hear what committee members are saying, but we must hear what the people of Fife are saying.

The Convener: The question is, that amendment 283 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Crawford, Bruce (Mid Scotland and Fife) (SNP)
Eadie, Helen (Dunfermline East) (Lab)

AGAINST

Gorrie, Donald (Central Scotland) (LD)
Hughes, Janis (Glasgow Rutherglen) (Lab)
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
Kerr, Mr Andy (East Kilbride) (Lab)
McNulty, Des (Clydebank and Milngavie) (Lab)
Radcliffe, Nora (Gordon) (LD)
Tosh, Mr Murray (South of Scotland) (Con)

ABSTENTIONS

McLeod, Fiona (West of Scotland) (SNP)

The Convener: The result of the division is: For 2, Against 7, Abstentions 1.

Amendment 283 disagreed to.

Section 69—Joint boards for management, maintenance etc of certain bridges

10:30

The Convener: We now come to amendment 273, in the name of Bruce Crawford, which is grouped with amendments 274, 275, 276 and 280, also in the name of Bruce Crawford.

Bruce Crawford: In speaking to amendments 273 to 276 and 280, I will deal with the principle of why the Scottish National Party lodged them, while Fiona McLeod will cover the detail of what they are designed to achieve. The same process will apply

when we come to amendments 281 and 282.

To put it bluntly, the amendments in the group are designed to give powers to the Scottish ministers—whether the present Minister for Transport or a future minister—to remove the tolls from the Skye bridge.

As we are too well aware, the tolls on the Skye bridge have been a matter of great controversy for almost a decade. Since 1995, the tolls have been resisted bravely by the whole community of Skye and by people from further afield. Indeed, a number of pending court cases will challenge the legality of the tolls—those cases are being discussed in the courts at present.

I dare anyone to suggest that those tolls have been anything other than divisive or economically damaging to the Isle of Skye. For example, this year alone the number of tourists on Skye has dropped by 20 per cent. I could go on—as could others at the table, I am sure—to catalogue the reasons why the tolls should be removed. However, I stress that the primary purpose behind the amendments is to give the Scottish ministers the power to remove those tolls at some point in the future and to provide the mechanisms that will allow compensation to be paid, if necessary and following negotiations, to the companies involved in collecting the tolls.

Perhaps the minister will like these enabling amendments, as I know she likes enabling legislation.

I hope that the issue of costs is not raised during the debate because, frankly, costs are a red herring at this stage. The amendments only give the Scottish ministers the power to remove the tolls at some point in the future, if the ministers at that time believe that that would be the right thing to do.

Abolishing the tolls has been SNP policy for many a long year now—since the tolls were put in place—although I realise that my amendments will not achieve that today. I believe that abolishing the tolls is also Liberal Democrat policy.

It is right and proper for the Transport and the Environment Committee to put in place a mechanism today that will allow a great wrong to be sorted out and, at some point in the future, the people of Skye to feel that justice has been done in relation to their long campaign to abolish the tolls. We cannot do that unless a mechanism to allow the Scottish ministers to exercise that power is contained in the bill. That is the purpose of the amendments.

I move amendment 273.

Fiona McLeod (West of Scotland) (SNP): I will deal with each amendment in turn in order to explain the reasoning behind them.

Amendment 273 inserts the phrase “including a concessionaire” in section 69(1)(a). The body responsible for the management and maintenance of a bridge is not always easily identifiable, as we know from the long and tortuous negotiations that were held with a variety of different bodies when people tried to find out which body was responsible for the Skye bridge tolls.

Therefore, it is important that the proposal in amendment 273 be included in the bill. The method of assignation used in relation to the Skye bridge was that of a concessionaire and that is why we lodged amendment 273.

Amendment 274 adds to section 69(1)(a) the phrase:

“or pursuant to any enactment”.

Understanding how a body was established or how a management stream was put in place is not always straightforward. Skye Bridge Ltd was not created by a Skye bridge act, as the company was put in place by orders pursuant to the New Roads and Street Works Act 1991.

Amendment 275 adds the phrase:

“or remove certain powers from the body”.

Bruce Crawford said that the SNP is arguing that the Scottish ministers should have the power to do something about the Skye bridge; however, we are not arguing that the Scottish ministers should have the power to dissolve a private company. The ministers must be able to take into account the democratic wishes of the people in the control of what is happening with the tolls on the Skye bridge. In proposing to remove certain powers from the body, we are saying not that the ministers should be able to dissolve a company, but that they should be able to remove certain powers that are not being used in the public interest—as in the case that we have been discussing.

Amendment 276 is along the same lines. Its aim is to

“allow the Scottish Ministers to pay compensation to any relevant body whose powers are removed under subsection (1)”.

It is for the Scottish Executive to decide whether a private company would be financially penalised by a change to the 1991 Government policy that allowed Skye Bridge Ltd to set and collect tolls.

Bruce Crawford said that we should not get caught up in numbers when we are talking about these amendments, which address the issue of the Skye bridge. Nevertheless, I would like to put it on record that, although amendment 276 is about compensation, it does not necessarily mean that Skye Bridge Ltd would come out of such a deal with compensation due. The financial position over the Skye bridge must be reviewed with extreme

caution.

Enormous amounts of money have gone into the Skye bridge. To date, at least £30 million of public money has been channelled through Highland Council into the Skye bridge. About £10 million of European Community money has also been allocated to the project, and much of that money has come through the Scottish Executive. If the Executive ever came to discuss removing Skye Bridge Ltd's powers and compensating it, we would have to take into account the many millions of pounds of public money that that company has received. It should be remembered that, way back in the 1980s, when the Skye bridge was first costed, the price was estimated at £10 million. The company has subsequently received plenty of money from the public purse.

Amendment 280 seeks to add to the definitions at the end of section 69, to explain what the term concessionaire—which I included in amendment 273—means in law.

Mr Tosh: The case that has been made is that the Executive requires these powers to change its existing policy and its contract with the operators of the Skye bridge. I do not think that anyone would want the Parliament, the Executive or the body politic of Scotland not to be in a position to renegotiate contracts. However, I would have thought that the Executive would have had the ability—as exercised in the decision of a couple of years ago to renegotiate the financial arrangements and to take into account discounts and so on—to renegotiate the contract and buy it out if it so wished. I cannot understand what these proposed legislative powers would add to the process.

Nor can I understand how the introduction of a compensation clause could establish a basis for compensation at less than that which exists under the present contractual arrangements. That would be a denial of the rights of that organisation to achieve the agreed level of compensation in the event of the contract being dissolved. I am therefore not aware of the reason why that should be pursued legislatively, as I understand that legally, politically and financially it could be done if the Scottish Executive so wished.

I read in *The Herald*, last Wednesday, that these amendments had failed, so it might be that lodging them is more a political ploy than a legal one. I should be interested to hear the minister discuss the legal position as it stands.

I appreciate the fact that Bruce Crawford did not want to talk statistics, but he introduced one himself when he said that the tourist trade had declined by 20 per cent in Skye this year. We have to be careful when we bandy about such figures. I was in Skye this summer and the one before. This

summer was not particularly good—the weather was rotten and everything was against Skye. When I was there the year before, there was not a bed left on the island. Of course, the same tolls applied in both years. Whatever we attribute the level of tourism to in Skye, it would be folly to attribute it to the level of tolls. Skye booms in the right conditions and suffers—along with the rest of the Highlands and Scotland—in the wrong conditions. If Bruce Crawford wants to make a case based on the fact that the tourist trade is down 20 per cent this year, he will have to show that there is a different level of toll this year from last, otherwise there is no logic in what he is saying.

Access to Skye has improved enormously as a result of the bridge and the secular trends of access across that bridge have been upwards. The committee has played a constructive role in the pursuit of a number of issues relating to concessions and discounts, to create a sense of greater fairness in Skye about the existence of the bridge. I am not convinced that there is any substantive reason behind the amendments that have been proposed today.

Donald Gorrie (Central Scotland) (LD): My point is the same as Murray Tosh's. If the minister can demonstrate that the Executive has the necessary powers to change the situation with regard to the Skye bridge without this group of amendments, I could be persuaded to stay with the minister. If the amendments contribute usefully to the power of the Executive, I would be inclined to support them.

The deal for the Skye bridge that was struck by the Conservative Government was quite exceptionally bad. The Liberal Democrats have campaigned to end the tolls on the bridge. During the negotiations to set up the coalition, a compromise was made: because of the high cost of removing the tolls, they would instead be frozen and would decrease in real terms. If it were possible to end the tolls in the future, we would be keen to do so—in a situation in which Skye became Scotland's Florida, and a few votes either way would swing the election, an Executive of whatever colour might find the necessary millions to end the tolls on the Skye bridge.

If the amendments would help the Executive to negotiate away the tolls, I would support them. If the minister demonstrates that she already has the power to do so, we can do without them.

Des McNulty: Like Murray Tosh and Donald Gorrie, I am not sure that the amendments are required to achieve the end that Bruce Crawford talked about.

I was interested in the fact that Fiona McLeod's comments were all about the Skye bridge. I

remind her that there are a number of other bridges in Scotland, including the Erskine bridge, which connects my constituency to Paisley, which is in her area. What would be the impact of the amendments on other bridges? She did not mention that.

Bruce Crawford said that he is talking about enabling legislation. His predecessor, Kenny MacAskill, made transport commitments worth—at the last count—about £900 million. Where does the current proposal sit in the SNP's order of priority? I would like him to make a statement on that, if he could.

Sarah Boyack: We believe that the amendments are completely unnecessary because current concessionary arrangements are already governed by contract—Murray Tosh, Des McNulty and Donald Gorrie are absolutely correct. That includes a provision for the termination of the concession. We do not need the bill to give us further powers to enable us to terminate the concession agreements. There is no reason to duplicate the existing contractual rights and obligations in the bill.

This Labour/Liberal Democrat coalition has already delivered on our partnership commitment on tolling for the Skye bridge. The tolls are now frozen at the 1999 levels for the remainder of the concession, with the Executive picking up the costs of that. We have also said that VAT will not be passed on to motorists. Those are practical, affordable responses to the high levels of tolling that were inherited in 1997. The reductions are clearly welcomed by the vast majority of bridge users.

Fiona McLeod has asked for the power to do something about the Skye bridge. I believe that I have just demonstrated that we have those powers and use them. I urge the committee to reject the amendments.

The Convener: I ask Bruce Crawford to sum up and to indicate whether he wishes to press or withdraw amendment 273.

Bruce Crawford: I am not sure whether I can sum up or ask the minister a further question. Although she told us about the existence of the powers of termination, we were given no indication of what those powers were, of how they could be used, of the circumstances in which they could be used or of the end results. That makes it rather difficult to understand fully what is going on with regard to the available powers.

What is meant on outputs? We do not know at this stage. As far as Murray Tosh's bad weather in Skye goes, I know of plenty of other people who did not get bad weather in Skye—perhaps the clouds are following Murray around this morning.

Mr Tosh: I made all sorts of bad choices.

10:45

Bruce Crawford: This is not about renegotiating the existing contract. We would not want the existing contract to be renegotiated to allow a different level of toll to be set. Our intention is quite clear: it is about giving ministers the enabling power effectively to dissolve the current arrangements on Skye.

On Des McNulty's point, I made it quite plain that that is also a matter of an enabling process—allowing the minister to have powers that are clear and that are defined in law. They will be in an act, not just in a contract.

Future Scottish Executives would need to make a judgment on whether they had the wherewithal to remove the Skye bridge tolls. We want to send a clear message that the tolls must go, and that our mechanism is the one that will permit that. That will avoid our being tied up in a contractual wrangle. Instead, the position will be clearly defined in law. That is the purpose of the amendments.

Had the minister told us more about the powers of termination, about what exactly those mean and about what the outcomes and outputs would be, we might have been clearer about whether we would get something as defined as what is contained in the amendments.

I intend to press amendment 273 to a vote.

The Convener: The question is, that amendment 273 be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

FOR

Crawford, Bruce (Mid Scotland and Fife) (SNP)
McLeod, Fiona (West of Scotland) (SNP)

AGAINST

Eadie, Helen (Dunfermline East) (Lab)
Gorrie, Donald (Central Scotland) (LD)
Hughes, Janis (Glasgow Rutherglen) (Lab)
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
Kerr, Mr Andy (East Kilbride) (Lab)
McNulty, Des (Clydebank and Milngavie) (Lab)
Radcliffe, Nora (Gordon) (LD)
Tosh, Mr Murray (South of Scotland) (Con)

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

Amendment 273 disagreed to.

Amendment 274 moved—[Bruce Crawford].

The Convener: The question is, that amendment 274 be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

FOR

Crawford, Bruce (Mid Scotland and Fife) (SNP)
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AGAINST

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

Amendment 274 disagreed to.

Amendment 275 moved—[Bruce Crawford].

The Convener: The question is, that amendment 275 be agreed to. Are we all agreed?

Members: No.

The Convener: There will be a division.

FOR

Crawford, Bruce (Mid Scotland and Fife) (SNP)
McLeod, Fiona (West of Scotland) (SNP)

AGAINST

Eadie, Helen (Dunfermline East) (Lab)
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McNulty, Des (Clydebank and Milngavie) (Lab)
Radcliffe, Nora (Gordon) (LD)
Tosh, Mr Murray (South of Scotland) (Con)

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

Amendment 275 disagreed to.

Amendment 276 not moved.

The Convener: We now come to amendment 277, in the name of Murray Tosh, which is grouped with amendment 279, also in the name of Murray Tosh.

Mr Tosh: This took a bit of thought and I am not sure that I have got the detail right. The intention behind the amendment is not to upset the existing arrangements for managing and tolling the Forth bridge. Nor is it to impede any changes that the Executive may intend to make to those arrangements—in particular, to increase the responsibility and remit of the local authorities—other than in the single respect of additional toll payments.

I do not claim to speak for anyone in Fife. I think

that it is reasonable that the bridge should be tolled as it currently is to pay for the capital and revenue costs of maintaining the bridge, but that it is unreasonable to seek to impose further tolling to cover works such as upgrading the A8000, which has been mentioned frequently in the Parliament. I believe that upgrading such roads, including roads that are not, but manifestly should be, trunked, should be a legitimate charge on the Scottish Executive's budget.

On a pragmatic basis, a case can be made for charging people for using a specific road. During the debate on the bill, I have argued against the introduction of road user charges. That debate has been specifically on road user charging in and around Edinburgh, through a partnership of the relevant local authorities. To introduce road user charging, the local authorities will have to justify their programmes in their transport strategies and, obviously, the upgrading of these roads will be part of their transport strategies. If there has to be a tolling mechanism to pay for the A8000—which I stress that I do not support—it would be reasonable for such a charge to come under the auspices of the scheme among the relevant local authorities to levy city entry charges. It would be unreasonable to ask for a further tolling mechanism. In effect, that would impose on the users of the bridge who are travelling to Edinburgh from Fife, who comprise a considerable portion of users of the bridge, the existing toll, a new toll and a city entry charge, if that is the option that City of Edinburgh Council and the other local authorities decide to take. That would be oppressive.

I propose these amendments with the express purpose of deleting the facility to impose additional charges beyond those that are currently levied for purposes that have long been established and are well understood.

I move amendment 277.

Helen Eadie: It is interesting that there are only two Conservative councillors on Fife Council and that both think that we should continue to levy, and increase, tolls in Fife. Clearly, there is a split in Murray Tosh's party on this issue.

The Forth road bridge was paid for some time ago. Murray Tosh says that there needs to be funding to make the improvements on the Forth road bridge that are needed. Although many of us aspire to having no tolls on bridges in Scotland, in Fife we are saying that the funding that can be derived from existing tolls and any small increases that may occur in the future can be used to make improvements to that vital estuary crossing. Every driver across the central belt has said that improving the A8000 is imperative. Forth road bridge board members and all the local authorities in surrounding areas have asked why the board should not be given the powers to make additional

improvements to facilitate more convenient crossing across that estuary.

I am a former bridge board member. In my experience, although there were many improvements that the bridge board was allowed to make, it was constrained to a specific area around the Forth bridge. All that the board is asking for is that those powers should be extended to take in a wider area, so that it can make key improvements in this bottleneck. One can come up smoothly to Scotland from the midlands and then hit delays of an hour at a time there.

I welcome the minister's proposal this morning and will support her amendments.

Donald Gorrie: One of the most amusing documents that I have ever dealt with in my time in politics was on the Forth road bridge, when the board had some money to spend and was looking at making the piers safe against being hit by boats. It was a catalogue of all the disasters in the world when bridges had been hit. There were bridges in Tennessee, I think it was, that were always being struck by drunken American riverboat captains.

That is irrelevant except in that the Forth road bridge board, once the bridge had paid its way, is one of the few bodies I have ever been on that actually had some money. I think that it is reasonable to use that money to improve the surrounding roads. Going back a long time—even before my time—to when the agreement was made between the local authorities and the then Government, because the councils were in a weak position, the Government paid only for the bridge and the surrounding roads were paid for by the councils. That is partly why the road from Edinburgh to the bridge is not a motorway. There is the issue of the A8000 creating a huge blockage. It is an anomaly because it is part of the main trunk road system, yet it is officially not part of that system.

It is reasonable for the users of the bridge to pay a little bit more to improve the roads connecting to the bridge. The bridge is the body of the spider and the roads around it are the legs—the body is not much use without the legs. We have to look at it as a whole. As I understand it, the increased powers of the new bridge board are a slightly sneaky way to create a south-east of Scotland transport plan, without the Executive actually saying that. Sneakiness is legitimate in government sometimes. I can see where Murray Tosh is coming from, but he is mistaken. We should support the Executive's intention.

The Convener: I wonder whether Donald Gorrie intends to mention every state in America at this meeting.

Bruce Crawford: I support Murray Tosh's amendments because they are about the principle of how we pay for the road network in Scotland. This is a defining moment for how the Transport and the Environment Committee sees the future funding of transport.

At the end of the day, the argument is about the A8000—that is where the money will go. There is no doubt that it is one of Scotland's vital links, so it should not just be left to the local authority to pick up the tab for upgrading it. Here we are, with some of the highest fuel taxes in Europe and road fund licence problems, and the Fife driver is getting no payback on the A8000. We will be asking the small number of people who use the bridge to stump up extra cash to pay for the upgrading of the A8000, rather than spreading the cost through the fuel tax levy or the road fund licence. That cannot be right. I support Murray Tosh.

Sarah Boyack: I encourage the committee to reject the amendments. The amendments should be set in the context of section 69. The enabling powers will apply to both the Forth and Tay road bridge joint boards, but the urgent need for action is at the Forth bridge. Congestion on the Forth road bridge is worsening every year. The average growth over the years 1997 to 1999 was 3.7 per cent. We expect that growth to continue.

It is vital that we encourage a much more integrated approach to the strategic transportation planning of the road bridge, the traffic using the bridge, public transport alternatives and related road traffic routes across the Forth. The Ferrytoll bus park-and-ride system, which opened a couple of weeks ago, is part of the process of improving choices and opportunities for commuters. It comes on the back of increased rail capacity through extra seats, which the committee studied through the special grant procedure last year.

There is widespread consensus that we must do a great deal more. The problem is not static, it is increasing, and that is why action is needed. Donald Gorrie brings useful experience from his work as a councillor in Edinburgh. We consider that the proposals work with the grain of the local authorities in the area. The new joint board will have wider strategic and funding powers to tackle worsening congestion. That will provide a more integrated approach to strategic transport planning at the bridge. It will let us deliver better traffic management and improve the road infrastructure, to address traffic congestion. We all consider the A8000 to be a critical part of that agenda, but not the only part.

11:00

We intend to improve the availability and quality of transport provision, to make it easier for

motorists to change their ways of reaching work by moving to different modes of travel, whether they are bus, rail or a mix of bus and rail. Murray Tosh's amendments would undermine all those intentions and consign motorists to continued and escalating delays, with no hope of practical relief.

Amendment 277 would restrict the new board's powers to the immediate environs of the bridge and prevent it from planning in the round for travel across the estuary by all relevant modes. That is not sensible and is not what people in the area are asking for.

We are open and up front. The Forth transport infrastructure partnership mechanism, the discussions between local authorities—which the Executive supports—and the south-east Scotland transport partnership are ways of bringing the local authorities together to tackle the problems. Our intention is not to supplant the local authority responsibilities for local roads and bus services, but to enable the board to work with and support the local authorities.

The key issue is planning in the round. Amendment 279 would restrict the means of funding available to the new board. The new board should have access to the charging powers in part 3 to help manage traffic growth and fund improved road and public transport facilities. The use of the powers will be subject to firm guarantees on consultation and hypothecation. We have made commitments that there will still be access to public transport funds, and it will still be open to local authorities to bid on a year-by-year basis.

The amendments would constrain the new board and prevent it from tackling the key problems that it is intended to meet, before the board is even up and running. For those reasons, I urge the committee to reject the amendments.

Mr Tosh: I had hoped that the minister might propose a compromise and agree to drop city entry charges to save the current section. I wish to make it clear that I am not trying to undermine attempts to improve the management of cross-estuary traffic flows. The bill has already established a funding mechanism for that. The committee has approved part 3, which provides for the local authorities to obtain a substantial income stream that would apply to all the purposes. My objection is to the imposition of the additional charge. I do not wish to prevent joint working among authorities or the funding of the A8000, although I appreciate that that is only part of the global strategy of improving transport on a multi-modal basis.

I agree with Bruce Crawford. The A8000 is a legitimate charge on the Executive's budget. If the Executive cannot or will not fund it, the A8000 is a legitimate charge on the road user charging

project that is to be developed in Edinburgh. I oppose the additional charge. I understand the arguments that have been made against my point of view, and I do not propose to indulge in bandying about what councillors in one or another part of the country have said. A legitimate difference of opinion exists. I have expressed my view, and I will press my amendment.

The Convener: The question is, that amendment 277 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Crawford, Bruce (Mid Scotland and Fife) (SNP)
McLeod, Fiona (West of Scotland) (SNP)
Tosh, Mr Murray (South of Scotland) (Con)

AGAINST

Eadie, Helen (Dunfermline East) (Lab)
Gorrie, Donald (Central Scotland) (LD)
Hughes, Janis (Glasgow Rutherglen) (Lab)
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
Kerr, Mr Andy (East Kilbride) (Lab)
McNulty, Des (Clydebank and Milngavie) (Lab)
Radcliffe, Nora (Gordon) (LD)

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

Amendment 277 disagreed to.

The Convener: I call amendment 278, in the name of the minister.

Sarah Boyack: I will be brief. The amendment is entirely a drafting matter. The deleted words are rendered unnecessary by the generic provisions in section 75(2)(b). The change has no policy significance.

I move amendment 278.

Amendment 278 agreed to.

Amendment 279 moved—[Mr Tosh].

The Convener: The question is, that amendment 279 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Crawford, Bruce (Mid Scotland and Fife) (SNP)
McLeod, Fiona (West of Scotland) (SNP)
Tosh, Mr Murray (South of Scotland) (Con)

AGAINST

Eadie, Helen (Dunfermline East) (Lab)
Gorrie, Donald (Central Scotland) (LD)
Hughes, Janis (Glasgow Rutherglen) (Lab)
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
Kerr, Mr Andy (East Kilbride) (Lab)
McNulty, Des (Clydebank and Milngavie) (Lab)
Radcliffe, Nora (Gordon) (LD)

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

Amendment 279 disagreed to.

Amendment 280 not moved.

The Convener: I call amendment 281 in the name of Bruce Crawford.

Bruce Crawford: I move amendment 281. Fiona McLeod will speak to the amendment.

Fiona McLeod: I hope that members take the amendment in the appropriate spirit. The amendment inserts the words "requiring publication" because, for the purpose of the section, an enactment is described as

"a local and personal or private Act".

As the minister and everyone else will be aware, there is a great issue around whether the orders setting up the toll regime for the Skye bridge were properly published. I hope that the amendment will ensure that such a situation does not happen again.

Sarah Boyack: We believe that amendment 281 serves no purpose. It merely restricts the definition of "enactment". I do not understand what would be achieved by amending the bill in such a way.

Fiona McLeod raises the issue of the Skye bridge. It is important to note that the Invergarry-Kyle of Lochalsh Trunk Road (A87) Extension (Skye Bridge Crossing) Toll Order 1992 was classified as a local order in terms of regulation 4(1) of the Statutory Instruments Regulations 1947. By virtue of the provisions of regulation 5 of those regulations and section 8(1)(c) of the Statutory Instruments Act 1946, that order was exempt from the requirements of printing and sale. Under the same legislation a public notice procedure was required for the proposed order and assignation statement. Public notices were published in October and November 1991 in appropriate local newspapers before the order was published. Those notices identified locations where the documents could be inspected during business hours. They also set out the procedure for submitting objections.

I know that the matter has a long history, but I do not see how the amendment will take us any further forward. I suggest that the issue is a diversion from the work of the bill.

The Convener: I thank the minister for her response and I look forward to its appearance in the edited highlights of the committee's work.

Amendment 281, by agreement, withdrawn.

The Convener: I call amendment 282, in the name of Bruce Crawford.

Bruce Crawford: Amendment 282 might have something to do with the Skye bridge, but it also might not. It is about requiring the bill to be constructed to ensure that all existing and future circumstances are taken into account. I am not sure that the Skye bridge would be described as crossing an estuary, and we might construct other bridges in Scotland that do not span estuaries but span navigable water or sea crossings. We must ensure that the bill takes into account all circumstances and that we adopt a more holistic approach to issues relating to bridges.

I move amendment 282.

Sarah Boyack: This amendment would extend section 69 of the bill to cover sea crossings. However, section 69 is intended to cover the particular circumstances of the Forth and, potentially, the Tay road bridges. As previously discussed, we do not intend to apply section 69 powers to the Skye bridge. We cannot identify any other significant crossing to which section 69 powers could apply as a result of this amendment. We do not see any need for the amendment, so I urge the committee to reject it.

The Convener: Bruce, do you wish to press the amendment?

Bruce Crawford: This amendment was originally drawn up because of issues relating to the Skye bridge, but it goes way beyond that. The minister mentioned the Forth and the Tay road bridges, but at the moment the Erskine bridge, which is over an estuary, is also tolled. We may build other bridges that cross sea or navigable water and that will require the involvement of a joint board. I have not heard anything that undermines my arguments for the amendment, so I will press on with it.

The Convener: The question is, that amendment 282 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Crawford, Bruce (Mid Scotland and Fife) (SNP)
Gorrie, Donald (Central Scotland) (LD)
McLeod, Fiona (West of Scotland) (SNP)
Radcliffe, Nora (Gordon) (LD)

AGAINST

Eadie, Helen (Dunfermline East) (Lab)
Hughes, Janis (Glasgow Rutherglen) (Lab)
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
Kerr, Mr Andy (East Kilbride) (Lab)
McNulty, Des (Clydebank and Milngavie) (Lab)
Tosh, Mr Murray (South of Scotland) (Con)

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

Amendment 282 disagreed to.

Section 69, as amended, agreed to.

After section 69

The Convener: Amendment 286, in the name of the minister, is grouped with amendment 287.

Sarah Boyack: Amendments 286 and 287 provide Scottish ministers with new powers to pay grant to support a range of transport initiatives across Scotland. As I will explain, we need two separate powers.

At present there are few legislative avenues that would allow Scottish ministers to make specific grants for transport-related purposes. Those that do exist are constraining in one way or another. In some cases, that has meant that worthwhile projects could not be funded. For example, the Transport Act 1919 provides ministers with relatively wide powers to pay grant, but each grant has a ceiling of £1 million. In 1919 that was a considerable sum, but today it is not. This Parliament gives us the opportunity to update those powers or, if appropriate, to put new powers in place.

In bringing forward these two amendments, we have been guided by one overarching principle—transparency. Where we can be specific—in amendment 287, for example, regarding the freight facilities grant—we have been. Where being specific would get in the way of practical policy making—in amendment 286, for example—we have built in a reporting stage, so that Parliament can see what the Executive is doing with public money.

The main purpose of amendment 286 is to give the Scottish ministers a flexible power to make grants under the new integrated transport fund that I announced in Parliament in September. The integrated transport fund will support initiatives that are founded in well-prepared and widely accepted local and regional transport strategies; contribute clearly to our vision of a modern, safe, reliable and integrated transport system; enable the leveraging in of private investment; and pave the way for the introduction of congestion charging.

The integrated transport fund is not intended as simply another challenge fund to which local authorities can make bids. Rather, it will be a fund that the Executive, often working in partnership with local authorities and the private sector, can use to respond to pressures as they arise. An example of those pressures might be the outcome of the multi-modal study work that we are doing on the A8, A80 and M74 corridors. It is right that the Scottish ministers should have the ability to make grants to push forward such developments.

The new power also has other uses. Let us take the examples of the rural transport fund or funding for the Scottish Passenger Transport Authority's

rail services. In both cases, the legislative constraints I referred to earlier mean that the grant can be paid only annually by the special grant report mechanism. Local authorities and the Association of Transport Co-ordinating Officers have said that that restricts authorities from achieving best value in the tendering of services. The new power will enable the Executive to make three-year funding awards to local authorities for rural transport services and allow authorities to award contracts over a three-year period. That will enable authorities to benefit, as is not possible at present, from more integrated tendering procedures, together with longer-term contracts.

Given the general nature of the new power and in recognition of the legitimate interest of the committee, and indeed of the Parliament, in new transport projects and in the costs associated with such projects, I believe that it is only appropriate that Scottish ministers should be required to lay before the Parliament a report on the grants made in any given financial year. The report will include details of the amount of the grant, the person to whom it has been paid and the purpose for which it has been paid. I am sure that that new, flexible, grant-making power will be welcomed by local authorities and others involved in trying to improve Scotland's transport system.

11:15

I turn to amendment 287, which relates directly to the extension of an existing specific power to make grants to encourage the transfer of freight from road to more environmentally friendly modes of transport. The amendment complements a similar amendment to the Transport Bill that has been agreed to at Westminster.

The current freight facilities grant scheme covers railways and inland waterways. This amendment will give Scottish ministers powers to extend the scheme to include coastal and short-sea shipping routes that begin and end in Scotland. That is a long-standing policy commitment that will increase the opportunities for transferring freight from lorries to ships.

Section 140 of the Railways Act 1993 gives ministers powers to award freight facilities grants in relation to inland waterway movements. This amendment will give powers to Scottish ministers to award grants in relation to movements by sea as well as by inland waterway. That is a major step forward for Scotland. The amendment will repeal section 140 of the Railways Act 1993. The powers governing the award of freight facilities grants to freight on the railways are unaffected. Apart from extending the scheme to include types of shipping movements that are currently excluded, by allowing the payment of grant for non-capital as well as capital costs, the

amendment will give us greater flexibility in how the scheme is operated.

A similar amendment has been agreed to the Transport Bill at Westminster. It will pave the way for an order under section 63 of the Scotland Act 1998 that will enable Scottish ministers to award freight facilities grants for services that only start or end in Scotland, thereby complementing the provisions in this bill. There are different grant powers for different purposes. Together, they significantly advance Scottish ministers' powers to support worthwhile transport initiatives.

I move amendment 286.

Mr Tosh: I am distinctly uneasy about ministers lodging fairly detailed and substantial amendments so late in the day—that is a point of principle. However, on this occasion, I welcome what is proposed. I am delighted that the minister is expanding the scope of the 1919 Transport Act, which was one of the major legislative achievements of the Liberal-Conservative coalition of 1918 to 1922. When I first saw amendment 286, I thought that it was a device to bring forward funding for Montrose harbour bridge, which is a matter that a number of my colleagues have been pursuing with the minister.

On a more serious note, I want to support amendment 287. I daresay that it may have come about as a result of the detailed negotiations on the payment of freight facilities grant for work at Ayr harbour. The Executive was able to use existing powers of inland waterways freight facilities grant only because of the fortunate circumstance that there happened to be a definable inland waterway, if you stretch the definition. It makes good sense to reappraise that and indeed to expand it. It would have been lamentable if that investment had not proceeded because the wording could not be made to fit. It is sensible that we should do as much as we can to take freight, especially timber freight, off pressured rural roads and to find better ways to get it to railheads. I am especially happy with amendment 287.

Bruce Crawford: I have some questions for the minister. I am quite happy with the amendments, although I share some of Murray Tosh's concerns about why they have come to the committee so late. The minister intends to take wide-ranging powers in relation to grants for transport-related purposes, which is probably the right thing to do, as it gives a lot of flexibility in what can and cannot be paid. Will that give the minister the power to support community bus services and to offer special support for disabled groups, as I tried to secure in earlier amendments? If so, I will be delighted, although at the time I was told that there were no resources and that such proposals should not be introduced in that way. It will be interesting

to discover the thinking on that.

The minister used an interesting phrase when she talked about financial assistance for inland waterways and, in particular, sea freight. She talked about sea shipping routes which

“begin and end in Scotland”.

In future, what will the mechanism for the payment of any freight facilities grant be—for instance, to the Euro-ferry at Rosyth—if it is not payable through the Scottish Executive? Will grants continue to be paid through the Department of the Environment, Transport and the Regions? Is it within the competence of the minister, this committee or the Parliament to lodge an amendment to allow Scottish ministers to pay grants for sea freight journeys from Scotland to other places on the continent? The minister's answer will help me to decide what I want to do at stage 3.

Helen Eadie: I share the concern about the scenario at Rosyth, although I warmly welcome both the amendments. If I dare be political, the amendments are one of the great success stories of Labour in Scotland. As I understand it, when Labour came to power in 1997, we had the first freight facilities grants for nearly 20 years, which is a commendation for our party. Labour tried to move freight from road to rail and to sea and inland waterways. I warmly applaud the amendments and endorse the hope that amendment 286 will lead to more and better awards for rural and community transport.

The Convener: As no other member has indicated that they want to speak, I will ask the minister to respond.

Sarah Boyack: I want to respond to four key issues. First, I say to Murray Tosh that we indicated in the proposals document in February that we intended to introduce an extension of freight facilities grant and that we would consult on that. The decision on wider powers to make grants was made partly in response to views expressed by the Convention of Scottish Local Authorities and the Association of Transport Co-ordinating Officers, who said that they believed that Scottish ministers needed wider powers to enable them to support more effectively some of the work that happens now, but is restricted.

This summer's spending review also resulted in a real-terms uplift in Scottish Executive expenditure of 45 per cent. It became apparent to me that I needed to make sure that I had the powers in this bill to ensure that that money can be used to best effect. Those are the reasons why we lodged amendments 286 and 287. I hope that Mr Tosh is reassured that we have consulted.

Bruce Crawford asked about community

transport grants. We have the rural transport fund and the opportunity to support buses in the way that Bruce Crawford suggests. Amendment 286 gives us more flexible and wider powers. On the question of competence, as I said earlier in relation to the combination of the amendments to the Transport (Scotland) Bill and to the Transport Bill at Westminster, amendment 286 will pave the way for an order under section 63 of the Scotland Act 1998 and will enable Scottish ministers to award freight facilities grants only for services that only start or end in Scotland, thereby complementing the provisions in the Scottish bill.

The amendments to both bills will allow executive devolution to Scottish ministers to pay for cross-border projects that are part of a funding package with the DETR, have the DETR's approval and meet the criteria for freight facilities grants. Amendment 286 therefore does not open the door to the automatic award of grants, but it does open the door to more grants being made than are at the moment. I hope that that answers Bruce Crawford's questions.

Amendment 286 agreed to.

Amendment 287 moved—[Sarah Boyack]—and agreed to.

The Convener: We will take a short break.

11:23

Meeting adjourned.

11:33

On resuming—

Section 70—Badges for display on motor vehicles used by disabled persons: enforcement

The Convener: The next amendment for debate is amendment 289, in the name of the minister, which is grouped with amendments 290, 288 and 291, also in the name of the minister, and amendment 296, in the name of Fiona McLeod.

Sarah Boyack: As members will have noted, section 70 of the bill amends section 21 of the Chronically Sick and Disabled Persons Act 1970. The Executive amendments in this group amend that section further.

Before I speak on the Executive amendments, I will respond to Fiona McLeod's amendment, which seeks to delete section 70. I was surprised to see that amendment, not least because Capability Scotland has not previously raised any concerns directly with the Executive. Had it done so, we would have been happy to have sat down and discussed those concerns, explaining in detail why we think that the powers under section 70 are

needed. In February, we raised the fact that we intended to take the powers in our proposals document, in which we set out the broad thrust of the bill.

The committee did not raise the issue at stage 1, so we did not consider the matter at that point. I know that Capability Scotland raised a number of issues in the briefing note that it sent to committee members yesterday, not least some that related to the European convention on human rights. I am confident that what we are proposing complies with the ECHR. I will be happy to respond to the points raised by Capability Scotland before stage 3, if that would be helpful to members. I will copy the response to the committee.

I stress that section 70 does not seek to discriminate against disabled people. Far from it. It intends to provide enforcement powers to ensure that people with disabilities obtain their entitlements, so that the scheme is not brought into disrepute. It is important that the scheme retains its integrity and that we enable the important enforcement provisions to be brought into play.

Over recent years, there has been increasing concern about the abuse and misuse of disabled badges, which undermine the value of the scheme. I know from my ministerial postbag that one of the things that most annoys people with disabilities is the selfish and thoughtless behaviour of people who abuse the blue badge scheme. I have letters from people and groups throughout Scotland—including Motherwell, Ayr and rural Perthshire—calling for tougher enforcement of the rules of the scheme. Nothing annoys people more than arriving at a parking space and not being able to use it because the system is being abused.

On the basis of its contacts with the various police forces, highway authorities and organisations representing people with disabilities, the Disabled Persons Transport Advisory Committee, the Government's statutory advisers at a UK level, has recommended that legislation allowing badges to be checked should be introduced as soon as possible. That is the reasoning behind our amendments. DPTAC has asked for the powers and we seek to deliver them not to discriminate, but to ensure that the blue badge scheme benefits the people at whom it is targeted and meets its original purpose. I therefore ask the committee not to support amendment 296.

The Executive's amendments are important. Section 70 already provides the police, traffic wardens and local authority parking attendants with powers to inspect badges issued under the scheme. In the normal course of events, we would not wish badges issued under the scheme to be surrendered automatically if the rules are infringed, which could deprive the disabled person

of the use of the badge.

However, we consider it important to have the powers for other situations. Regrettably, blue or orange badges are sometimes tampered with, in some cases when the badge has expired but has not been returned to the issuing authority. There is also a trading system, under which people will purchase stolen or lost badges in order to gain the parking concession unfairly.

When the constable who is inspecting the badge suspects that that is the case, I think it only right that action be taken against the person in connection with the offence and that the badge be immediately taken away from them to ensure that the offence cannot be repeated. It is also right for people to know that that power exists. That will deter people from abusing the system. The measure is not just about action being taken, but about the power for it to be taken.

Amendment 289 extends the powers in section 70 to enable a constable to confiscate the badge where there are reasonable grounds for considering that the person may not be entitled to use it and is therefore committing a criminal offence. There have to be grounds for the enforcement provisions to be used.

Amendment 288 is technical. There has been doubt about whether the powers in section 21 of the Chronically Sick and Disabled Persons Act 1970 are adequate for enabling regulations to be drawn up for an appeals process. Proposed subsection (7CA) under amendment 288 removes that doubt.

Proposed subsection (7F) enables disabled persons' parking badges issued in Northern Ireland and in European Union member states other than the UK to be recognised in Scotland, in the same way that badges issued in Scotland are recognised in those countries. Section 21 of the 1970 act currently allows for recognition of Scottish, English and Welsh badges only. To omit section 70 would remove the opportunity to ensure that the badges of people from Northern Ireland and other European countries outside Great Britain can now be recognised in Scotland. That would be a retrograde step. I am sure that Fiona McLeod has inadvertently failed to consider that point, so I hope that she will consider it today.

Subsection (7G) ensures that any regulations made under the previous subsections will be subject to negative resolution procedure by the Parliament. Amendments 290 and 291 are technical and consequential amendments.

I move amendment 289.

The Convener: I ask Fiona McLeod to speak to amendment 296.

Fiona McLeod: Amendment 296 would delete the whole of section 70. I will first make a general statement and then respond to some of the minister's remarks on the amendments.

Why have these measures been introduced? Only two weeks ago, when I proposed amendments based on the Chronically Sick and Disabled Persons Act 1970, the minister said that the orange badge scheme should not be tackled in the bill, as the issue was under review. I do not understand why her position has changed. She says that the amendment was lodged because there is evidence of abuse of the existing orange and blue badge scheme. However, the committee should have been given that evidence in order to make its decisions. What is the source of the evidence?

I refer the minister to Capability Scotland's briefing, which provides evidence of abuse of disabled parking spaces by able-bodied car users rather than abuse of the badge scheme. Indeed, in reference to Helen Eadie's amendment on parking at hospitals, the minister said that it is often the case that disabled parking spaces are abused. I take it that she means that the spaces are abused by non-badge holders, not by disabled badge holders, which goes against the grain of section 70. She mentioned that DPTAC is concerned by the evidence of abuse. However, I suggest that the organisation is concerned by the evidence of abuse of designated parking spaces by non-badge holders rather than by abuse of the badge scheme by existing badge holders.

The issue is discrimination, because the powers that the police will receive under section 70 will mean that they are judge and jury on a disabled badge holder; they will be able to judge the offence and to remove the badge from the holder there and then, if they so decide. A right of appeal is all very well, but an appeal 21 days or two months down the road is completely irrelevant to a disabled badge holder whose badge is removed immediately. It is completely unacceptable for a police constable, traffic warden or parking attendant to be judge and jury. Few other drivers are put in the position that badge holders will be in, although I read in yesterday's press that some legislation in connection with able-bodied drivers and the Human Rights Act 1998 is already under review. Yesterday, Margaret Brown was successful in her appeal at the appeal court, when it was decided that the police had acted as judge and jury over her in a driving matter. I urge the minister to take that point seriously.

Amendment 289 makes a pretty poor attempt at defining an offence. For example, proposed subsection (4BC) says that

"Where a constable has reasonable grounds for suspecting"

that an offence might have been committed, the constable will demand that the badge be surrendered and that the name and address of the badge holder be supplied. Subsection (4BD) of the amendment says:

"A person who fails to comply with a requirement . . . shall be guilty of an offence."

We are coming close to saying that there is anecdotal evidence of abuse of the orange and blue badge scheme. The minister should return to the position that she took two weeks ago and say that the scheme is under review in light of the benefits for the disabled car user. Amendment 289 simply benefits the able-bodied driving public and I urge the minister to withdraw it, to support my amendment to delete the whole section and to wait for next year's review of the badge scheme.

11:45

Janis Hughes: I am concerned that we are discussing an amendment that deletes a whole section. As far as I know, before yesterday, I had not received any correspondence from groups with concerns about section 70. Every committee member has now received information from Capability Scotland—I got the e-mail at 4.58 pm yesterday—and the organisation has said that it has recently spent much time examining the section. I am concerned that we are given such information at 5 o'clock the night before we are due to debate the relevant amendment.

I welcome the minister's comments on this issue and her commitment to consider the points that have been raised as we go into stage 3. However, the committee cannot be pushed into making a decision on amendment 296 today, as we have had no time to consider the information from Capability Scotland. For that reason, I will not support Fiona McLeod's amendment.

Bruce Crawford: I hope that Janis Hughes's logic also applies to amendment 289, in the minister's name. The whole intent behind section 70 and the granting of powers to the police has become clear only with the lodging of Fiona McLeod's amendment; perhaps Capability Scotland's view has been focused in the same way.

Amendment 289, in particular, is fundamentally flawed. Although Fiona McLeod rightly talked about the police being judge and jury, the issue concerns far more than that—in effect, the draconian measure uses a hammer to crack a nut. I have always been told that discrimination happens where one group is treated differently from another, which is exactly what will happen if constables are given the power to demand badges using their own evidence without recourse to a court of appeal or other appeals mechanisms. If

amendment 289 had suggested that the constable report the matter to the authority that handed out the badge and that the authority then consider the evidence, that would have been a far more robust and sensible process. It cannot be right for a constable to arrive on the spot and, on the evidence available at the time, to stop a person using their badge for a given period before they can have recourse to an appeals mechanism. The process should be the opposite way round.

If there are real concerns, the constable should take the power to report the matter to someone; the regulating authority could then take evidence from both sides and make a decision. Perhaps the minister can let us know of any other circumstances in which a constable is empowered to take something from an individual, because I am not aware of any such case. As I have said, if there are no other such cases, the measure can only be discriminatory, as one section of the community will be treated differently from others.

Helen Eadie: I share Janis Hughes's concerns; I received my e-mail only late last night when I arrived home after a series of meetings. Lobbying organisations should bear that point in mind.

In speaking to the amendment, the minister talked sensitively about her views and about her relationships with disability organisations across Scotland. We should accept her word on that. I know that those relationships exist, because I have been involved with the Scottish Accessible Transport Alliance, which speaks highly of its relationship with the minister. It is interesting that that group has not raised the issue.

Capability Scotland is not the only disabled people's organisation in Scotland. Many other voluntary organisations represent disabled people. It is interesting that only Capability Scotland has raised the issue, but that does not diminish its concerns. However, I am reassured that the minister is willing to consider the matter further. If she has been persuaded, I have no doubt that she will take on board concerns at stage 3.

I will pick up Fiona McLeod's point. If people are looking for evidence, I can give some from my short time as a transportation spokesperson with Fife Council. The police, disabled people and councillors formed a working group in Dunfermline because of the major concern about abuse of badges in the town centre. The disabled people were not abusing the badges; the problem arose with people who were borrowing cars or taking badges. As I understand it, amendment 289 is targeted not at disabled people, but at those people who want to hoodwink the system by borrowing a badge. I refer the minister to Fife Council—the experience in Dunfermline provides all the evidence that she needs.

Nora Radcliffe (Gordon) (LD): I endorse what Helen Eadie said about the purpose of section 70. It should not be removed. Disabled people are not more or less honest or dishonest than any other member of the public. There are good and bad in every section of the population. There is evidence that blue badges are being abused. As Helen Eadie said, people may take them, or disabled people may offer them to neighbours to allow them to park in town.

I am bothered by proposed subsection (4BC)(a) in amendment 289, which requires someone to surrender a badge if there is any suspicion about it. What happened to the notion that someone is innocent until proved guilty? I have an aged aunt who has a blue badge, and if I took her out for a day's shopping only to have the badge removed at the first place at which I stopped because there was some concern about it, the rest of the day would be wiped out. That seems unfair and against natural justice, because the suspicion might subsequently be disproved.

We need section 70, but, like Fiona McLeod, I have concerns about requiring people to surrender a badge to a constable. That would allow one person to be judge and jury and could have onerous effects if the badge were taken away on a suspicion that was later shown to be unfounded.

Donald Gorrie: I would be inclined to vote against both Sarah Boyack's amendment 289 and Fiona McLeod's amendment 296, which would delete section 70. The section addresses the serious problem, certainly in Edinburgh, of the misuse of badges. A policing system must be set up, and section 70 as originally drafted is not unreasonable. I agree with Nora Radcliffe: amendment 289 is unreasonable and far too draconian. It would be a mistake to delete section 70. Amendment 288, to make the system Europe-wide, is sensible. I am inclined to oppose amendments 289 and 296. If there is any problem, the minister can lodge further amendments at stage 3.

Mr Tosh: The minister was concerned about Capability Scotland's reaction and was anxious to use the time between now and stage 3 to resolve matters. That is a sensible approach. It would be better if the amendments were not pressed. I understand that we will have a whole day to discuss stage 3. We will be looking for something to talk about then, so that might provide a useful opportunity to examine the issue thoroughly and address the matters in the round—we will all be fully in command of the information and will understand fully the points that are being made by the participants in the debate. I am unhappy about casting my vote definitively today.

Cathy Jamieson: I had concerns when I read Capability Scotland's document. Like other

members, I was a bit concerned that I received the information only late last night—if I had made different transport arrangements to come here this morning, I might not have received it at all.

The document refers to people with hidden disabilities or disabilities that might not be immediately apparent. A constable might judge that such a person was not entitled to hold the badge, which is worrying. I would be grateful if the minister gave an idea of how the provision will be applied.

I have some concern about the tone of this morning's debate. There is a danger of our saying that people with disabilities should not be treated differently. I take a different view. If we want to provide decent facilities to include people with disabilities, we must sometimes take positive action in favour of enforcing schemes that will aid people with disabilities to participate in society. As Murray Tosh suggested, we should take the opportunity to tidy up this issue and deal with some of the concerns that have been raised.

Fiona McLeod: I thank the convener for accepting my manuscript amendment. As other members said, the concerns are deep. I do not think that we should criticise a voluntary organisation for its time scale. Members do not always keep to timetables either.

The debate has been important. I was pleased to hear that, between now and stage 3, the minister will take seriously the organisation's concerns. It is only one voluntary organisation, but I think that it speaks on behalf of quite a few others. I will be more than happy not to move amendment 296 if the minister assures me that she will withdraw amendment 289. That amendment goes more than one step beyond what is reasonable in a just society. The minister has made a sincere commitment to lodge amendments to section 70 at stage 3. She says that she is trying to make the badge scheme work more effectively. I would like to see amendments that ensure that the power does not become one to stop and search badge holders. Instead, it should be as the minister described—a power to stop able-bodied folk abusing a system that is supposed to help vulnerable people in our society.

Sarah Boyack: I am aware of the concerns that committee members have expressed. I want to make it clear that the core purpose behind the amendments comes from DPTAC. I introduced the section and lodged amendments at stage 2 because I was encouraged to do so as soon as possible. The blue badge scheme is being reviewed as a whole but, once the bill has been passed, we will be able to deal with the enforcement of the scheme only by introducing further primary legislation. We will be able to review other elements of the scheme, but the bill

must deal with the core issue of ensuring that people can use their badges in Scotland.

I want to put it on record that there is no intention to exclude people with disabilities. This is about able-bodied people abusing the system. Members will know that an orange badge has the person's photograph on it. Like Nora Radcliffe, I drive someone around who has an orange badge, so I know that people need to have it with them and be able to display it. The person for whom the badge is held needs to be with the driver, because the only reason why someone is allowed to park in unusual places is to assist that person. We want to ensure that the scheme's credibility is enhanced and retained. That is why we included section 70 and lodged amendments to it.

12:00

In the light of the discussion, I want to press amendment 288, but I am prepared to reflect over the next couple of weeks on amendments 289, 290 and 291. I do not want to force those amendments through if the committee does not feel that we have good reason to do so. I am happy to take on board the points that have been raised by Capability Scotland, to respond to that organisation and the committee, to consider the issues and to argue the case one way or the other at stage 3. I do not think that amendment 288 should be dropped. If Fiona McLeod is willing to drop amendment 296, which seeks to remove the whole section, we may have found a sensible way forward. I seek leave to withdraw amendment 289.

Amendment 289, by agreement, withdrawn.

Amendment 290 not moved.

Amendment 288 moved—[Sarah Boyack]—and agreed to.

Amendments 291 and 296 not moved.

Section 70, as amended, agreed to.

After section 70

The Convener: I now call Donald Gorrie to move and speak to amendment 265. I should have said at the start of the meeting that Robin Harper sent his apologies. Members may wish to pick up his amendments.

Donald Gorrie: I am happy to move amendment 265, on home zones. This issue has been around for some time and I hope that we can agree that there should be a section on home zones in the bill. I first heard about home zones a couple of years ago in a seminar at Westminster that was given by the Joseph Rowntree Foundation. The matter arose in connection with its housing policy.

The argument was that home zones would

extend people's home beyond the front door so that the street became part of their collective home. It is about improving life in the community and restoring active community street life in a safe and attractive way. Although the aims are much wider than transport, they are achieved through a transport bill by controlling speed limits, changing the configuration of the street and so on.

Amendment 265 is similar to one that has recently been passed in the House of Lords. In the curious way in which things are done at Westminster, the Liberal Democrats introduced an amendment on home zones in committee in the House of Commons, but on a guarantee that the Government would introduce something in the House of Lords, they did not push it to a vote. The amendment that was passed was a Government amendment. My colleagues have some concerns about that amendment, because it says that the national Government "may" make regulations. If it does not, nothing happens at all. We need something stronger. This is a UK issue and not just a Scottish one.

There is a good chance of reaching a local consensus. This is not like the issue of getting commuters in and out of a city, which is controversial and something on which people have opposite views. I think that we could get the great majority of the people in a residential area to support home zones. There will be a minority of anti-social people, whom we all meet, and there will be complaints. The people who create problems around schools are a small minority of parents who drive and park in a wholly anti-social manner. A home zone covering a local area, including a school, would do much to control such parents. Some of them cock a snook, even at a high-up police gentleman with lots of marmalade on his hat with whom I patrolled. Using unparliamentary language, they invited the senior police official to remove himself. It would be helpful if the police had some powers in such cases.

The proposal offers benefits. It is a commonplace observation that play in the street has deteriorated or disappeared and that play and physical activity in general is decreasing. Making our streets safer for children to play together in would be a huge benefit. It would create less crime. If there were more honest activity in the street, there would be less dishonest activity. Also, there are many accidents in residential areas, particularly in poorer areas, which have a frighteningly high level of accidents.

The Dutch have introduced many schemes such as this. A briefing paper that I read included figures of 3,000 schemes and 6,500 schemes—I not know which is correct. The Dutch have pioneered this idea. We do not need the odd

scheme here and there; we should go ahead with a national scheme in councils all over the country.

There are two difficult areas to confront. First, it would be a mistake to create a false sense of pedestrian safety, which might in the end produce more accidents. We have to give careful thought to how the whole thing is achieved so that there is genuine safety, drivers recognise that pedestrians and cyclists have priority, and vehicles are allowed in to the zones only as cautious visitors.

The second is a technical issue, which the minister will no doubt explain. There seems to be a problem about our legislating on anything relating to traffic speeds. It seems bizarre. As I understand it, the Executive can do clever things about speeds, but the Parliament cannot legislate about speed. It may be that we will have to reword the legislation to help the Executive do the right thing about speed.

I am not wedded to the form of words in amendment 265. The wording seems quite good and I am happy to move the amendment, but if the Executive came up with something better, I would consider it. I hope that the committee and the Executive will support the amendment so that we end up with a good section on home zones.

I move amendment 265.

The Convener: As Robin Harper is absent, does any other member wish to speak to and move amendment 265A?

Bruce Crawford: I would like to probe to find out what the intent of Robin Harper's amendments is. I think he is trying to ensure that cyclists are mentioned appropriately so that they have greater access to home zones. I will speak to amendments 265A and 265C but do not intend to speak to amendment 265B. I thought that Robin Harper's idea in amendment 265C was good, until I noticed the words "in a rural area". That is not in keeping with what home zones are trying to achieve. However, I would like to hear the minister's argument on why Robin Harper's amendments should not be accepted.

I move amendment 265A.

The Convener: Do any members want to make general comments on this group of amendments? I remind members that time is limited and that we would like to complete stage 2 today if possible.

Cathy Jamieson: I would like the minister to clarify a couple of points. I support the general principle of home zones, but I have concerns about whether amendment 265 would allow us to do what we want to do. I will give an example. There is a built-up area in my constituency where a 20 mph limit has been imposed, but one of the main roads through the area has been designated a through route, so it was not possible to put the

speed limit on that part of the road.

If we are going to legislate for home zones, I am anxious that we should be able to do it properly. In your view, minister, would amendment 265 allow us to achieve those ends, or do we need to consider tidying it up and lodging it again at a later stage?

Fiona McLeod: I shall speak briefly in support of amendment 265. I, too, want to remind the minister of the fantastic conference that we attended in Stirling last year, at which we saw examples from Germany and the Netherlands. Since then, the minister has consistently said in replying to parliamentary questions that she will pilot the idea of home zones and that she is not minded to go for legislation. I hope that she will take the opportunity the amendment presents to move the argument forward and to take the powers to designate home zones. It would not mean that local authorities were forced to designate them, but they would have the powers to designate them if they wanted to.

Helen Eadie: I support and endorse everything Donald Gorrie said, including his final comments about whether the present wording of amendment 265 is appropriate and suitable. Can the minister advise us on whether another amendment, based on the same principles but with different wording, should be lodged at stage 3?

Bruce Crawford: The home zones amendment would give local authorities powers to do specific things. Will the minister also consider introducing at stage 3 an amendment that would allow local authorities to designate repeater signposts in 30 mph zones without having to get permission from the Executive? That is a blockage that local authorities have always had and it seems daft that the Executive should keep that power. I am sorry to bring that up at this point, but it is probably the only chance that I will have to raise the matter.

Nora Radcliffe: I endorse the idea of home zones and quiet lanes, and I agree that it should not apply only to rural areas. The whole thrust of amendment 265 is to reverse the overdominance of the motor vehicle and give space back to pedestrians and cyclists. There may be difficulties with the wording of the amendment, but I would like the matters that it deals with to be debated again at stage 3.

Sarah Boyack: I am grateful to Donald Gorrie and Robin Harper for introducing their amendments. In a sense, I would like to accept the challenge that Donald has thrown out to take up the principle of home zones and to improve on it. I strongly support what he is trying to deliver with amendment 265.

We all accept that, although it has brought immense personal freedom and mobility for some,

the car also has a downside. Rates of child accidents and serious injury are particularly important considerations, and we know that those rates increase with car speeds. We have a target of reducing road accidents in general by 40 per cent, and road accidents involving children by 50 per cent, over the next decade. That is an area in which home zones could play an important part—by enabling children to play safely in the street.

We believe that maintaining and developing vibrant communities is important. Home zones could provide an environment in which the roads outside people's houses can be used safely for a variety of purposes and not just for access by people coming and going in cars. It is important for children to be able to play safely, particularly where they may not have access to private gardens. There are a lot of important issues buried in the title of home zones.

My final point concerns access to health and the benefits that come with sustainable transport. Walking and cycling do not create pollution, they cause no congestion and they provide good exercise; but if they are to use those options, people need to feel safe on the roads. We feel that home zones could be part of a wider network of approaches to making our roads safer.

We support the intention behind amendment 265. I advise Fiona McLeod that four pilot schemes, which I launched in August this year, are examining the before, during and after experience, so that we can learn what works, and what does not work, for future reference.

Donald Gorrie's proposals, as drafted, are not acceptable to us for a number of reasons and I want to take them away to reframe them. There is a technical problem in subsection (1), which refers to prohibiting driving "at the speed specified" in a speed limit order, rather than above "the speed specified". There are no powers to make regulations for the procedures that local authorities should follow when designating home zones or those that should be followed if objections to proposals are maintained.

We all talk about home zones being a good thing, but it is important to have a process for involving and consulting local communities on proposed home zones. While I welcome Donald Gorrie's idea that local authorities should be required to crack on and get going with a home zone within six months of its designation, it might be a bit of a risk to give them the discretion to put in the measures that they "deem appropriate".

The last thing we want is for local authorities to put up signs only; other home zone design solutions must be considered. We want to ensure that home zones in an area do not exist as a name only but that they reflect features that make them

special and that pick up the point Donald Gorrie made about people perhaps feeling safe, but having a false sense of security. We need a rigorous approach. In my view, guidance issued by the Executive would allow local authorities to pursue these proposals in an informed way.

Robin Harper's amendments—amendments 265A, 265B and 265C—fall into two categories. Bruce Crawford did not speak to amendment 265A, which extends the list of criteria in subsection (2) of amendment 265. I will come back to that issue.

12:15

Amendments 265A and 265C introduce the concept of "quiet lanes" which, in our view, is an English phenomenon of quiet, rural routes, as most of the Scottish rural road network is different. Fife Council is a good example of a local authority that is considering the management of its rural roads under existing roads legislation by providing local access and preventing through access. I do not think that the suggested designation is necessary. I will consider the issue further in the run-up to stage 3, but I am not convinced that designating roads as "quiet lanes" meets Scottish needs.

The DETR's Transport Bill contains provisions to enable the UK secretary of state to review the operation of speed limits on rural roads and to report on that review within 12 months. The review will consider whether it is necessary to amend the law to facilitate the introduction of rural road hierarchies. A rural road hierarchy is a system under which rural roads are categorised by the local traffic authority by reference to the ways in which they are used, with the option of considering applying different speed limits to different categories of rural road.

Speed limits are reserved; consequently, the secretary of state's review will cover all of Great Britain. We must keep an eye on that review, but it will not require us to have quiet lanes in Scotland—there is more than one way to skin a cat.

I agree with the objectives that Donald Gorrie and Robin Harper are trying to achieve in relation to home zones. The Transport (Scotland) Bill provides the legislative opportunity for giving statutory weight to home zones, which can be rolled out from the pilots that are already running in Scotland. I am keen to lodge amendments at stage 3 but, rather than simply give that general commitment, I will outline briefly what I intend to do at stage 3 so that members are able to understand why I am asking Donald Gorrie not to press his amendment today.

First, local authorities already have delegated

powers to introduce 20 mph speed limits without reference to Scottish ministers. I am keen to extend those powers to 10 mph speed limits where the local authority intends to use them in conjunction with a home zone. It is important that we use this opportunity to tie those powers to statutory home zones.

Secondly, I want to ensure that local authorities follow a set of proper procedures when designating home zones. My amendment at stage 3 will contain powers to enable ministers to make regulations. I take Donald Gorrie's point about the words "may" and "will". The purpose of my amendment will be to introduce regulations that allow local authorities to get on and designate home zones.

It is important that where there are objections to an authority's proposal, and they are maintained, the proposal comes to Scottish ministers for final determination. That is the same approach as we take with other types of road order, such as stopping-up or redetermination orders. It enables local people to feel that their views are being taken on board and considered fairly.

Thirdly, I propose that ministers be empowered to issue guidance on criteria for home zones and that authorities be required to have regard to that guidance. That is important where a 10 mph home zone is being considered, since authorities will have delegated powers to do that. We need to ensure that the authority takes advantage of those new powers properly and that it delivers a real home zone, not just one in name only. That addresses the points that several members have expressed concerns about. I will consider carefully the criteria that Donald Gorrie and Robin Harper propose, many of which I agree with, in making sure that we get the criteria correct.

I also envisage issuing guidance on the detailed measures that might be implemented. It would be non-statutory, as circumstances vary widely across the country, and I would not want to prescribe exactly in each case what local authorities should do, but I will ensure that they have a list of best-practice options that come from the pilots that we are currently running. I want to ensure that local authorities deliver and do not just promise, so it is important that there is a time limit between the designation of a home zone and its installation. However, I want to make sure that this is not just about new signs and that design features are put in place to ensure that home zones are safe for people to use.

I will consider further giving pedestrians and cyclists precedence over vehicles in home zones. That approach has not been adopted by the DETR. In terms of road safety and people using our roads network, obvious issues arise from having in Scotland an approach that is different

from that in the rest of the UK. I want to reflect on that further, so I am not giving a commitment to include this issue in the amendments that I will lodge at stage 3. I will consider the matter carefully and think about what such a measure would mean in practice. I am not giving a commitment to include the measure in my amendments, but I will give a commitment to consider it.

I hope that I have given the committee a helpful indication of the shape of the amendments that I intend to lodge at stage 3 and the points that I intend to take from amendment 265. I hope also that I have given some useful notice of the home zone entitlement that we intend to introduce.

The Convener: I offer Donald Gorrie a short opportunity to respond, but not to press or withdraw his amendment, because I will take the amendments in order.

Donald Gorrie: I found the minister's contribution, and that of other committee members, helpful. The only point that I would add is that I hope the minister will discuss with committee members her draft amendment before it is irrevocably put into print, so that we can argue in advance any points and try to get agreement before stage 3. Otherwise, the minister's commitment that measures for home zones will go into the bill is helpful. The debate has been helpful in airing the subject.

The Convener: Bruce, do you wish to press or withdraw amendment 265A?

Bruce Crawford: I wish to withdraw it.

Amendment 265A, by agreement, withdrawn.

Amendments 265B and 265C not moved.

Amendment 265, by agreement, withdrawn.

Amendment 292 not moved.

Sections 71 and 72 agreed to.

After section 72

The Convener: We now come to amendment 293, in the name of Fiona McLeod.

Fiona McLeod: The minister has made numerous references to DPTAC today. Amendment 293 is intended to ensure that in Scotland we have, by statute, a disabled person's travel advisory committee.

As we have gone through the bill, we have been told that the minister agrees with the principles of much of what we are trying to do, but that she will introduce guidelines or guidance as she does not want it to be in the bill.

It is important that we make a commitment to ensure that the needs of this vulnerable group and the advice that they give to the minister are

recognised in statute.

I move amendment 293.

Sarah Boyack: There is an issue about whether the transport advisory group for people with disabilities needs to be set in statute. I take the points that Fiona McLeod has made about the importance of the group.

I will tell the committee why we came to the conclusion that we need this group. After the 1997 general election, the then Scottish Office commissioned research to obtain information on the extent and type of transport provision available in Scotland that met the needs of people with disabilities and to identify gaps in provision. One of the main recommendations of the research was that we needed a national group consisting of transport providers, people with disabilities and policy makers. When I published that research report, I confirmed that we would establish a Scottish transport advisory group.

During the summer, we consulted a range of disabled groups and transport bodies about the role, remit and membership of the group. We received 19 responses. We did not receive significant calls for the group to be established on a statutory basis, although a couple of submissions said that they would prefer it to be statutory rather than an advisory body.

During the spending review this summer, we made provision to provide a secretariat for the group. I will announce detailed proposals on its membership and remit soon. There are arguments in favour of a statutory body, but I will draw some potential drawbacks to the committee's attention. A statutory basis that is fixed in advance could constrain ministers and the group from acting flexibly to meet needs as they change over time. Ministers may wish to increase the group's membership temporarily to consider specific issues. A requirement to make orders each time a change in membership or remit is required would be likely to hinder flexibility.

I will give the example of the national transport forum, which was set up to deal with developing policies post 1997. It spawned a series of sub-groups; it has 40 members. I will review that forum, because now we have this bill and the Transport and the Environment Committee, times have changed and the situation has moved on. The same issue arises in relation to the transport advisory group on disability issues. Over time, the scope of that committee will probably change. Down south, the UK DPTAC covers standards for all types of transport. We need a different kind of advisory group in Scotland. It is much more about how the operators function and how the Scottish Executive uses its money. Various groups raised those issues with us.

Flexibility is probably more important to us in Scotland. There is already a UK group, which is responsible through the Disability Discrimination Act 1995 for rolling forward the major changes that will take place in transport across the UK. We need an additional body in Scotland. It does not need to be statutory. I acknowledge that there is a debate on the issue. My strong view is that a non-statutory approach would be preferable in Scotland, for reasons of flexibility and to allow the focus to shift over time.

Fiona McLeod: I do not believe that the amendment takes away flexibility. It states:

"The Scottish Ministers shall, by order".

That gives you complete flexibility. As a new member of the Subordinate Legislation Committee, I know that orders do not take a lot of time to go through the Scottish Parliament, but when a Scottish minister issues an order the procedure ensures that the Scottish Parliament has a say on the matter.

I recently had a meeting with the Scottish Consumer Council. Its view is that these bodies must be in statute. They should not be another quango—another group that can be listened to, or not listened to. It believes that the voice of the consumer must be heard and must have the right to be heard. If the voices of any consumers need to be heard, it is the voices of disabled people concerning transport.

The Convener: Do you wish to press your amendment?

Fiona McLeod: Yes.

The Convener: The question is, that amendment 293 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

FOR

Crawford, Bruce (Mid Scotland and Fife) (SNP)
Gorrie, Donald (Central Scotland) (LD)
McLeod, Fiona (West of Scotland) (SNP)
Radcliffe, Nora (Gordon) (LD)
Tosh, Mr Murray (South of Scotland) (Con)

AGAINST

Eadie, Helen (Dunfermline East) (Lab)
Hughes, Janis (Glasgow Rutherglen) (Lab)
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
Kerr, Mr Andy (East Kilbride) (Lab)
McNulty, Des (Clydebank and Milngavie) (Lab)

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

In accordance with previous practice, I use my casting vote in favour of the bill as it stands.

Amendment 293 disagreed to.

The Convener: The next amendment for debate is amendment 294, in the name of Murray Tosh.

12:30

Mr Tosh: Having spoken about other people inserting new items in the bill without consultation, I must confess that this amendment is a new item on which I have not consulted. It was formulated very late in the day and is based on an e-mail that all members received this week from COSLA.

COSLA raised an issue that struck a chord with me—the extreme frustration and irritation that the public feels, and is entitled to feel, when utilities fail to carry out roadworks speedily to fill in the holes that they have dug in the road. Whether that work is carried out by utilities' contracting wings or by subcontractors, there seems to be a clear requirement for certain utilities to exercise better managerial control. The amendment, the wording of which was suggested by COSLA, sets out a mechanism for bringing that about. Drawing on his time as a member of Strathclyde Regional Council, Des McNulty will be able to speak at great length on this issue and to provide the committee with many practical examples of the problem with which we are dealing.

To some extent, this is a probing amendment. We want to see what ministers make of it and whether by the time we finish considering the bill we can work out a way of solving this problem, which is a real scourge in some parts of Scotland.

I move amendment 294.

Des McNulty: I want to highlight the plight of some of my constituents in Milngavie, whose entire road network has been distorted for six weeks as a result of the closure of one of the key access roads in the area. In my view, the local council did not handle the situation particularly well. There needs to be a mechanism that enables the public to seek redress from utilities and local authorities if they fail to handle these situations effectively. Like Murray Tosh, I would like to hear the minister's response to the amendment. The issue with which it deals causes great frustration and public concern. We want to be able to indicate that it has been highlighted and that the minister has issued a response.

Helen Eadie: I want to echo the comments that Des McNulty and Murray Tosh have made. Recently the City of Edinburgh Council had to do essential works at the Barnton junction, which created enormous problems for commuters from across the central belt of Scotland. We need to ensure that roadworks are done not during peak hour travelling, but at a convenient time. For that reason, I support the amendment in principle, bearing in mind the points that Des McNulty has made. I should point out to Murray Tosh that this

issue was raised at stage 1; I hope that he was not inferring that it had not been.

Mr Tosh: I would not dream of it.

Sarah Boyack: I thank Murray Tosh for lodging this amendment. I note that he said it is a probing amendment and that he is seeking information on how the Executive intends to proceed on this issue.

I do not think that, at the moment, an amendment of this sort is the best way of proceeding. It may be helpful if I assure members that future use of the section 133 power is under active consideration. I am sure that members will recognise that there are many potential sensitivities associated with a charging scheme of the type that is proposed. We need to ensure that whatever emerges has been properly thought out. That is why we intend to undertake a full consultation exercise before bringing forward draft regulations. I intend to start that exercise early in the new year. That may be of some comfort to members, as it makes clear that we intend to move on this issue. Last week, I attended a meeting of the west end community council as a constituency MSP; I am all too aware of the importance of this issue throughout Scotland. I hope that, in the light of those assurances, Murray Tosh will not press his amendment.

Mr Tosh: I am happy with that response. I seek the committee's agreement to withdraw the amendment, on the understanding that this matter will be dealt with.

Amendment 294, by agreement, withdrawn.

Section 73—Guidance

Amendment 219 moved—[Mr Tosh]—and agreed to.

Section 73, as amended, agreed to.

Section 74 agreed to.

Section 75—Regulations and orders

Amendments 55 to 57 not moved.

The Convener: The next amendment for debate is amendment 284, in the name of the minister, which is grouped with amendments 285 and 295.

Sarah Boyack: These are minor amendments. Amendment 284 simply makes clear that one statutory instrument will contain only one order—singular, not plural.

Orders that commence acts are very rarely subject to parliamentary procedure and we see no reason to make special provision in the case of this bill. Amendment 285 makes clear that the orders that will commence this bill when it becomes an act will not be subject to

parliamentary procedure.

Amendment 295 is consequential on amendments already agreed to—those removing workplace parking levies and those introducing the bus user complaints committee.

I move amendment 284.

Amendment 284 agreed to.

Amendment 285 moved—[Sarah Boyack]—and agreed to.

Amendment 130 moved—[Sarah Boyack]—and agreed to.

Amendment 295 moved—[Sarah Boyack]—and agreed to.

Section 75, as amended, agreed to.

Section 76—Interpretation

Amendment 220 moved—[Mr Tosh]—and agreed to.

Amendments 132 and 133 moved—[Sarah Boyack]—and agreed to.

Section 76, as amended, agreed to.

Section 77—Minor and consequential amendments and repeals

Section 77 agreed to.

Schedule 2

MINOR AND CONSEQUENTIAL AMENDMENTS AND REPEALS

Amendments 14, 15, 16 and 51 moved—[Sarah Boyack]—and agreed to.

Schedule 2, as amended, agreed to.

Section 78 agreed to.

Long title agreed to.

The Convener: Now that we have completed consideration at stage 2 of the Transport (Scotland) Bill, it is worth reflecting on the considerable input the committee has made into the bill during our past few meetings.

At stage 1 we produced a comprehensive report on the bill, which laid the groundwork for the subsequent chamber debate and our stage 2 proceedings. We heard directly from 45 witnesses representing 23 different organisations. Their evidence backed up our detailed recommendations on the bill.

In several important areas, the committee can claim credit for encouraging a change of heart from the Executive and for reshaping and—dare I say it—improving the bill. I would like to highlight three examples.

First, the committee stated unambiguously in its report that it was

“not convinced that the case for workplace parking levies has been made”.

I believe that the evidence that we took pointed clearly to that conclusion and that pressure from the majority of committee members led to the removal of workplace parking levies from the bill.

Secondly, I believe that the Executive's amendment to allow quality partnerships to specify minimum bus service frequencies was a direct result of the recommendations of the committee's stage 1 report.

Finally, on concessionary travel, we were keen that eligibility for concessions should be extended to target problems of social inclusion, but we recognised the financial implications of doing that. The committee has a long-standing interest in concessionary travel. I believe that as a result of our input on that subject the Executive was willing to amend the bill to allow a possible future extension of concessionary groups.

The work of this committee has demonstrated the strengths of the Parliament's committee system in scrutinising legislation, holding ministers to account and actively involving the wider Scottish public in our processes.

I thank our staff, who have worked extremely hard throughout, committee members, ministers and all the organisations that have appeared before us and have submitted amendments over the past few weeks. Thank you for what was, at the end of the day, a fairly enjoyable experience.

Meeting closed at 12:40.

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