WAVERLEY RAILWAY (SCOTLAND) BILL COMMITTEE

Wednesday 24 May 2006

Session 2

£5.00

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by Astron.

CONTENTS

Wednesday 24 May 2006

WAVERLEY RAILWAY (SCOTLAND) BILL COMMITTEE
† 11th Meeting 2006, Session 2

CONVENER

*Tricia Marwick (Mid Scotland and Fife) (SNP)

DEPUTY CONVENER

*Christine May (Central Fife) (Lab)

COMMITTEE MEMBERS

*Mr Ted Brocklebank (Mid Scotland and Fife) (Con)
*Gordon Jackson (Glasgow Govan) (Lab)
*Margaret Smith (Edinburgh West) (LD)

*attended

CLERK TO THE COMMITTEE

Fergus Cochrane

LOCATION

Committee Room 4

† 10th Meeting 2006, Session 2—held in private.

Scottish Parliament

Waverley Railway (Scotland) Bill Committee

Wednesday 24 May 2006

[THE CONVENER *opened the meeting at 13:30*]

Waverley Railway (Scotland) Bill: Consideration Stage

The Convener (Tricia Marwick): I welcome everybody to the meeting, which is our 29th overall, our 11th of 2006 and, potentially, our final one. The committee has reached phase 2 of consideration stage, when we must consider and process all admissible amendments to the bill that have been lodged. The procedures that we will follow are similar to those that are followed at stage 2 of a public bill, except that only members of the committee can lodge amendments and participate in the meeting.

Amendments have been lodged for a range of reasons. Some have arisen from our consideration stage report, when we made a commitment to amend the bill. Some are more minor or technical amendments that have been provided by the promoter and lodged on its behalf by a member of the committee. Some have arisen as a result of discussions between our clerks, the legal adviser and the promoter. Given that only members of the committee can lodge amendments to the bill, no particular inference should be drawn from which member speaks to and moves an amendment. Amendments have been lodged by individual members for procedural reasons only.

Section 1—Authority to construct works

The Convener: The first group of amendments, which are in my name, specify the stations that will be built for the purposes of the railway. Amendment 1 requires that the entire line and all stations must be built if the project proceeds. The Parliament tasked the committee with considering and reporting on the bill. The long title of the bill as introduced states that its purpose is to:

"authorise the reconstruction of a railway from a point in Midlothian immediately south of Newcraighall in the City of Edinburgh to Tweedbank in Scottish Borders".

We have met regularly over the past 32 months to hear evidence from numerous witnesses. Our conclusion in our preliminary stage report to Parliament was that the bill's general principles depended on the increases in social inclusion that the railway could deliver for people in the Borders. The Parliament endorsed the general principles. Thereafter, we considered further the Stow station proposal and agreed unanimously that a station at Stow needed to be provided to meet the needs of the local population and enhance social inclusion.

The promoter brought its bill to us and set out its intentions, which we have tested by hearing evidence from the community, objectors, the promoter and the Minister for Transport and Telecommunications. We were clear in our consideration stage report that a station at Stow is required. Amendments 66, 6, 7 and 25 provide for that.

Having heard and considered all the evidence in relation to the building of the railway to Tweedbank, we are also clear that that was exactly what we supported. Notwithstanding pressures to build only part of the line or to construct it in sections over time, we agreed, given that the bill promoter, Scottish Borders Council, supported by the Scottish Executive, had brought forward the full package, that that is exactly what the Parliament should authorise. The reasons for that are made clear in both our reports to Parliament. Amendments 1 to 5, 8 and 10 require the line to be built in its entirety along with all the stations.

Amendments 58 and 62 insert definitions into section 43 for the book of reference and maps, plans and sections for Stow station. The book of reference lists the owners, lessees and occupiers of all land and buildings to be acquired or used or whose rights may be affected by the construction of the station. The maps, plans and sections show where the line will be and the limits of the land to be acquired.

Amendment 9 is a minor tidying up of grammar in schedule 1. Amendment 35 removes and replaces a reference to affected land in schedule 7. Amendment 36 adds further land to schedule 7 to that which is required for the station at Stow. Schedule 7 lists land of which temporary possession may be taken.

There are references to the committee in amendments 49 and 62. Amendment 60 is a technical amendment that defines the committee as the Waverley Railway (Scotland) Bill Committee.

I move amendment 1.

Christine May (Central Fife) (Lab): Amendment 1 is extremely important and reflects the committee's view in our final discussion and our report that if the railway is to be put in place it must, as well as serving the Edinburgh conurbation, serve the Borders and that therefore a station at Stow is required and the line should go to Tweedbank. I am happy to support amendment 1.

Margaret Smith (Edinburgh West) (LD): As Christine May said, the committee was unanimous on the issue. We have listened to a lot of evidence over the two years, in which it has emerged that we should give the go-ahead for a Borders railway, not a Midlothian railway. The committee reached the clear view that, if we are to promote social inclusion in the Borders, it is important that the route goes all the way to Galashiels and Tweedbank. If the aim is to support the economy and tourism in the Borders, a strong case can be made for a station at Stow, which will open up the central Borders area—the station will serve many satellite villages and towns. Without a stop at Stow, it is unlikely that people who live in that area would travel backwards to Galashiels to get on a train. The only way in which the line can truly be a proper Borders railway is if we include a station at Stow. I am happy to support amendment 1.

Mr Ted Brocklebank (Mid Scotland and Fife) (Con): I support what the convener said in moving amendment 1 and what Christine May and Margaret Smith said. The relevant phrase is "social inclusion". The railway cannot fulfil its obligation to promote social inclusion if it fails to serve the important area between Edinburgh and the Borders that a station at Stow will serve. It is not enough to say that, because the railway goes to Galashiels and Tweedbank, it is a Borders railway. I fully support the committee's unanimous view that a railway that excluded Stow would not be the railway that we set out to deliver. For those reasons, I, too, support the station at Stow.

Gordon Jackson (Glasgow Govan) (Lab): I do, too. I agree with all that has been said on the matter. It is right that the committee makes absolutely clear its unanimous view that we support a station at Stow. The committee feels strongly about the issue, so we should make our point forcibly.

Margaret Smith: I want to pick up on one point. Critics may raise the issue of extra cost. We heard clearly that not going ahead initially with a station at Stow but coming back to it in the future would be more difficult and would involve much greater cost. If the station is to be built, we should ensure that it is built initially, because coming back to it in the future would cause a great many more problems.

At one of our previous meetings, officials dealt with the issue of the extra time that may be taken as a result of trains stopping at Stow. They said that extra time had been found on the route that will allow for a stop at Stow. We have heard evidence that some of the difficulties that people might have with our decision can be dealt with.

The Convener: I waive my right to sum up, as the committee is unanimous on the issue.

Amendment 1 agreed to.

Section 1, as amended, agreed to.

Section 2 agreed to.

Schedule 1

RAILWAY WORKS

Amendments 2 to 10 moved—[Tricia Marwick]—and agreed to.

Schedule 1, as amended, agreed to.

Section 3 agreed to.

Schedule 2 agreed to.

Sections 4 to 8 agreed to.

Schedule 3 agreed to.

Sections 9 and 10 agreed to.

Schedule 4 agreed to.

Section 11—Discharge of water

The Convener: Amendment 11, in the name of Margaret Smith, is grouped with amendments 12 to 20.

Margaret Smith: The amendments have two purposes. First, they remove references to statutory provisions that have been repealed since the bill was introduced, while not altering the fact that the authorised undertaker will be obliged to comply with the general law as regards any discharges into watercourses. Secondly, they recognise that persons other than just the local authority may have rights over sewers and drains. The amendments reflect similar drafting improvements that were made to equivalent provisions in the Edinburgh tramline bills.

I move amendment 11.

Amendment 11 agreed to.

Amendments 12 to 20 moved—[Margaret Smith]—and agreed to.

Section 11, as amended, agreed to.

Section 12—Safeguarding works to buildings

The Convener: Amendment 21, in the name of Ted Brocklebank, is in a group on its own.

Mr Brocklebank: Section 12(1) enables safeguarding works to be done to any building or structure within 20m of the authorised works to prevent or repair damage being caused by the construction or operation of the railway or when maintenance is being carried out. Amendment 21 clarifies that the provision applies if any part of the building or structure is within 20m, and is not restricted to those buildings that are wholly within the limit.

I move amendment 21.

Amendment 21 agreed to.

Section 12, as amended, agreed to.

Schedule 5 agreed to.

Section 13—Authority to acquire land

The Convener: Amendment 22, in the name of Ted Brocklebank, is grouped with amendments 23, 24, 26 and 28 to 34.

Mr Brocklebank: The amendments have a common thread, in that they are all related to land issues and the promoter's power compulsorily to acquire land through the bill. In the committee's consideration stage report, we stated that we would amend the bill to remove those plots of land that were no longer required by the promoter for the purpose of the railway. Amendments 22 and 23 address that commitment by removing the power to acquire compulsorily those whole plots of land identified in the new subsection. The amendments give statutory effect to agreement reached between the authorised undertaker and the owners of the plots of land referred to in new section 13.

Amendments 24, 26 and 29 to 34 remove and replace references to the affected land from the schedules to the bill. Amendment 28 is a technical amendment relating to section 17(8). It clarifies the exceptions to the rule that powers of compulsory purchase under the bill do not apply to land taken into temporary possession under the bill. It does that by replacing references to rights acquired under sections 14 and 15 with descriptions of the rights so acquired. Amendment 28 also addresses an apparent drafting inconsistency in the bill regarding land that is identified for both compulsory acquisition and temporary possession and brings the provision into line with similar provisions in more recent private bills before the Parliament.

I move amendment 22.

Amendment 22 agreed to.

Amendment 23 moved—[Mr Ted Brocklebank]—and agreed to.

Section 13, as amended, agreed to.

Sections 14 and 15 agreed to.

Schedule 6

ACQUISITION OF LAND, ETC OUTSIDE LIMITS OF DEVIATION

Amendment 24 moved—[Mr Ted Brocklebank]—and agreed to.

Amendment 25 moved—[Tricia Marwick]—and agreed to.

Amendment 26 moved—[Mr Ted Brocklebank]—and agreed to.

Schedule 6, as amended, agreed to.

Section 16—Rights in roads or public places

The Convener: Amendment 27, in the name of Margaret Smith, is in a group on its own.

13:45

Margaret Smith: Amendment 27 relates to section 16(3), which is a technical subsection that seeks to mesh the bill with the law on registration of title. The effect of section 16(3), as provided for in the bill as introduced, is that a right acquired under the bill, if enacted, will automatically have effect, even if that right is not registered. In the Land Registration (Scotland) Act 1979, a right that operates automatically in that way is called an "overriding interest". Although the bill as drafted achieves the desired result, the amendment provides simpler and clearer drafting and brings the provision into line with similar provisions in more recent private bills. The legal effect of the subsection is unchanged.

I move amendment 27.

Amendment 27 agreed to.

Section 16, as amended, agreed to.

Section 17—Temporary use of land for construction of works

Amendment 28 moved—[Mr Ted Brocklebank]—and agreed to.

Section 17, as amended, agreed to.

Schedule 7

LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN

Amendments 29 to 34 moved—[Mr Ted Brocklebank]—and agreed to.

Amendments 35 and 36 moved—[Tricia Marwick]—and agreed to.

Schedule 7, as amended, agreed to.

Sections 18 to 23 agreed to.

Section 24—Further powers of entry

The Convener: Amendment 37, in the name of Gordon Jackson, is in a group on its own.

Gordon Jackson: Section 24 allows the authorised undertaker to take entry on to land without first complying with the provisions of the Lands Clauses Consolidation (Scotland) Act 1845, which requires that an undertaker taking early entry on land must pay compensation on the terms provided in the act. The amendment makes it clear

that the more modern provision under which compensation on early entry can be addressed—namely, section 48 of the Land Compensation (Scotland) Act 1973—applies. The amendment does not change the existing position under the bill, but has been produced for clarification and the avoidance of doubt, given the complexity of compensation provisions.

I move amendment 37.

Amendment 37 agreed to.

Section 24, as amended, agreed to.

Section 25 agreed to.

After section 25

The Convener: Amendment 38, in the name of Margaret Smith, is grouped with amendment 47.

Margaret Smith: Both of the amendments apply to the plans and sections and the book of reference, two of the bill's accompanying documents. Amendment 38 provides a procedure before a sheriff to enable the correction of any inaccurate description of any land or its ownership or occupation in the parliamentary plans and sections or in the book of reference. The promoter must initiate any application for correction and is required to give the owner of the land notice that allows them to object. If they object, a hearing will be held.

The bill authorises the compulsory acquisition of land as shown on the plans and sections and described in the book of reference. A minor mistake in a description in one document might result in it being inconsistent with the other, which might in turn prevent proper identification of land to be compulsorily acquired. The new section that will be inserted by amendment 38 should ensure that implementation of the bill, if enacted, is not prevented by such errors.

Amendment 38 also provides a mechanism for amendment of the plans, sections or book of reference to reflect any agreement that is reached with landowners to limit the land to be taken under the bill. The effect of such an amendment would be that the powers of compulsory purchase in the bill would no longer apply to the land identified in the amended documents. The amendment is designed to address concerns that we expressed in our consideration stage report.

Amendment 47 inserts a new section to ensure that the authorised undertaker shall, as soon as practicable after the act comes into force, submit copies of the parliamentary plans and sections and the book of reference to the clerk of the Parliament for certification that they are the documents that are referred to in the act. Such certified documents may be used as evidence in court or other proceedings without the authorised undertaker having to prove their authenticity.

I move amendment 38.

Amendment 38 agreed to.

Section 26—Period for compulsory acquisition of land

The Convener: Amendment 39, in the name of Margaret Smith, is grouped with amendment 46.

Margaret Smith: In response to concerns that were expressed by objectors in evidence about the uncertainty surrounding if and when the railway would be constructed, we stated in our consideration stage report that we would amend the bill to reduce the time period for which the compulsory purchase and permitted development powers that are conferred under sections 26(1) and 35(2) respectively are exercisable. Amendment 39 reduces the compulsory purchase powers from seven years to five years and amendment 46 reduces the permitted development powers from 10 years to eight years.

In our view, the provisions of amendments 39 and 46 strike an appropriate balance between alleviating any uncertainty and delay and the imposition of too great a burden on the promoter. With respect to the time limit for compulsory purchase powers, landowners should not be blighted by having the threat of compulsory purchase hanging over them indefinitely. Reducing the time period from seven years to five years is likely to tie in with the anticipated date of the commencement of railway operations in 2011. The timescale is sufficient for the promoter to finalise its land-take requirements and to make the necessary arrangements for acquisition.

For the same reason, we propose to reduce the period for permitted development powers from 10 years to eight years, as provided for in amendment 46. Our opinion is that, if the timescale cannot be met for whatever reason, the granting of the statutory powers would be premature at that stage. At the latest therefore, the railway must be under construction by 2014. We hope that amendments 39 and 46 offer clarity to the objectors and others who are affected by the construction of the railway in terms of when the land will be acquired and the railway constructed.

I move amendment 39

Amendment 39 agreed to.

Section 26, as amended, agreed to.

Sections 27 to 29 agreed to.

Section 30—Powers of disposal, agreements for operation, etc

The Convener: Amendment 40, in the name of Christine May, is in a group on its own.

Christine May: Section 30 allows for the powers that are granted by the bill to be transferred from the promoter, thereby enabling the railway to be built and operated by some other body. Although Scottish Borders Council is the bill promoter, and may be the authorised undertaker for the construction of the railway, it is not anticipated that it will operate the railway. The expectation is that the powers that are conferred by the bill regarding the completed railway will be transferred to Network Rail as the national rail infrastructure operator. If required, I can provide members with a detailed description of the new section; I will otherwise restrict my comments to three subsections.

Section 30(3) improves the drafting of the provision that it replaces. It makes it clear that any restrictions, liabilities or obligations on the council or any other authorised undertaker will be equally binding on any subsequent authorised undertaker. The provision applies whether the restriction, liability or obligation was made under the bill or by way of an undertaking or commitment that was or is given before or after the bill receives royal assent.

Section 30(4) maintains the requirement to notify the Scottish ministers within 21 days of the details of any transfer of the responsibilities and rights to another. Section 30(7) gives the authorised undertaker greater flexibility as regards the range and content of the agreements that come under the section. That is necessary, given the complexity of the contractual arrangements that will have to be put in place to build the railway. Amendment 40 mirrors the drafting of equivalent sections in recently introduced private bills such as the Edinburgh Airport Rail Link Bill. We consider the wording to be an improvement on the existing provision in the bill.

I move amendment 40.

Amendment 40 agreed to.

Section 30, as amended, agreed to.

Section 31 agreed to.

Schedule 8 agreed to.

Section 32—Arbitration

The Convener: Amendment 41, in the name of Ted Brocklebank, is in a group on its own.

Mr Brocklebank: Section 32 provides arbitration provisions. It has been suggested that the adjudication provisions in section 108 of the Housing Grants, Construction and Regeneration Act 1996 may apply in addition to the arbitration provisions in the bill. Amendment 41 therefore expressly states that section 108 of the 1996 act will not apply to disputes that the bill requires to be settled by arbitration. The amendment removes any possible confusion that could have arisen over which dispute resolution procedure should be used to resolve disputes under the bill.

I move amendment 41.

Amendment 41 agreed to.

Section 32, as amended, agreed to.

Section 33 agreed to.

Section 34—Listed buildings and conservation areas

The Convener: Amendment 42, in the name of Ted Brocklebank, is grouped with amendment 43.

Mr Brocklebank: Amendments 42 and 43 remove an erroneous reference to ancient monuments in section 34.

I move amendment 42.

Amendment 42 agreed to.

Amendment 43 moved—[Mr Ted Brocklebank]—and agreed to.

Section 34, as amended, agreed to.

Schedule 9 agreed to.

Section 35—Saving for town and country planning

Amendment 46 moved—[Margaret Smith]—and agreed to.

Section 35, as amended, agreed to.

Sections 36 to 40 agreed to.

After section 40

Amendment 47 moved—[Margaret Smith]—and agreed to.

The Convener: Amendment 48, in the name of Gordon Jackson, is in a group on its own.

Gordon Jackson: Amendment 48, which inserts a new section, is highly technical and is designed to address a problem with land registration. Members will recollect from the Title Conditions (Scotland) Act 2003 that servitudes are rights over land, such as a right of access over land that belongs to someone else. Amendment 48 provides that servitudes that the promoter acquires under sections 14 or 15 will apply to all the land that is acquired under the bill. It also avoids the need for dual registration, so servitudes that are created under the bill will need to be registered against only the land that is burdened by those servitudes. Members knew all that, anyway.

I move amendment 48.

Amendment 48 agreed to.

The Convener: Amendment 49, in the name of Christine May, is grouped with amendments 50 to 52, 44, 45, 59, 61 and 63 to 65.

Christine May: Before speaking to the amendments, I will refer to a printing error. In the *Business Bulletin* of 23 May, the third column of the table in amendment 45 did not appear correctly. The co-ordinates should appear separately under the headings X and Y. However, the amendment appears correctly in the marshalled list, which is on the Parliament's website.

Amendment 49 meets the requirements that we set out in our consideration stage report. In effect, the amendment is in two parts. Having considered the evidence, we agreed that it was imperative that the railway's environmental impact should be no worse than the residual impact that is identified in the bill's environmental documents. If the impacts can be mitigated, we expect that to happen, but amendment 49 makes it clear that, as a minimum, the design, building and operation of the scheme must reach the standards that are set out in the environmental statement, the further environmental information document that was lodged in February 2005 and the addendum to the environmental statement in relation to the Stow station proposal that was lodged in January 2006.

Amendment 49 allows the promoter flexibility in how those standards are met and it should enable the benefits of good design and developing practices to be incorporated. For example, if, due to technological advances, the railway is quieter than is assumed in the environmental statement, to the extent that specific noise mitigation measures are not required, the authorised undertaker will not be obliged to institute any stated measures if the incorporated technological advances achieve the same result or a better result on the level of noise.

The second part of amendment 49 ensures that the standards that are embodied in pledges that the promoter made to objectors and to the committee will be delivered. That means either that the proposed mitigation will be provided or that the standard of protection that the pledges envisage will be met. Flexibility to include technological advances is provided again. For example, if the promoter has agreed to provide a noise barrier to reduce noise to an acceptable level for a particular objector, provided that the same level of noise can be achieved by using a quieter train, there will be no obligation on the authorised undertaker also to provide the barrier. The inclusion of that requirement in the bill will give some comfort to those who have expressed a degree of cynicism about whether the promoter will deliver what it promised on the environmental protections. The promoter now has no choice but to deliver.

14:00

We heard extensive evidence from objectors and the promoter on mitigation proposals, in particular regarding noise and vibration. We carefully considered the promoter's approach to controlling noise and vibration, as set out in its code of construction practice and its noise and vibration policy, both of which were submitted in written evidence. Although we broadly welcome the commitments that are made by the promoter in those documents, we are aware of the concerns that have been expressed by objectors about, for example, construction noise monitoring. We therefore stated in our consideration stage report that we would amend the bill to make specific references to those two documents. Amendment 50 fulfils that commitment. Amendments 59 and 61 provide definitions of the code of construction practice and the local construction code that are provided for in amendment 50.

The standards of mitigation that are set out in those documents and in subsequent local construction plans will now have to be applied by contractors. Furthermore, any subsequent revisions to version 7 of the code of construction practice and the 28 November 2005 version of the noise and vibration policy will not be permitted to reduce the standards of mitigation that we heard about, which are detailed in those documents.

We believe that the code of construction practice in particular is now a much more robust document than it was originally. It now reflects many of the concerns that were expressed to us by objectors about the daily impact on them of the railway's construction. The code also reflects the necessary changes and enhancements that were suggested by Scottish Natural Heritage and that are required by the committee with respect to our recommendations on the appropriate assessment of the River Tweed special area of conservation. Those changes were fundamental to our being able to recommend that the Parliament agrees that the construction of the railway will have no adverse impact on the integrity of that site.

The practical effect of the amendments is to make the code of construction practice and the noise and vibration policy enforceable. Failure to comply with those will result in the local authority being able to enforce compliance in the same way as it can enforce any planning condition. A number of objectors were somewhat cynical about promises that were given by the promoter in relation to those codes. The amendments ensure that the minimum standards that have been set must be met.

Amendments 51, 52, 44, 45 and 63 to 65 give effect to the commitments that we made in our appropriate assessment report on the River Tweed SAC to ensure that the construction of the

railway will not adversely affect the integrity of the site. The report by SNH in relation to the area was clear. The construction of the railway, as set out in the bill, is likely to affect adversely the integrity of the River Tweed SAC. However, if the bill and the code of construction practice are amended to take account of further proposals that are put forward by the promoter, Parliament should be able to conclude that construction will not adversely affect the integrity of the SAC. For the bill to meet the requirements of the European habitats directive and the UK habitats regulations, that conclusion can be reached only if those further proposals and any related conditions are included in the bill and in the code of construction practice, together with a mechanism to ensure that they are legally enforceable. That is what the amendments achieve.

Amendment 51 introduces a new section, subsection (1) of which lists the works that were identified by SNH and the promoter that could adversely affect the integrity of the River Tweed SAC. Subsection (2) relates to the new schedule that is introduced by amendment 45. Part 1 of that schedule sets out general descriptions of the sites that have been identified by SNH as requiring special mitigation measures to avoid adverse impacts on the SAC and it provides for specific things to be done in relation to the sites that are listed in the schedule.

Subsection (3) of amendment 51 deals with the operation of regulation 60 of the Conservation (Natural Habitats, &c) Regulations 1994. Specifically, regulation 60 requires the local planning authority to carry out its own appropriate assessment of works that are authorised under the bill. To avoid the need for a second appropriate assessment that merely duplicates the Parliament's assessment, subsection (3) provides that the local planning authority is not obliged to carry out a further appropriate assessment of its own to the extent that the works have already been appropriately assessed by the Parliament. That leaves open the possibility that the local planning authority could conduct a further appropriate assessment on particular sites should that become necessary, for example if new information becomes available about the sites in question.

Amendment 52 introduces a further new section on the regulation of mitigation measures. Subsection (1) provides for the enforcement of the environmental mitigation measures to be carried out by the authorised undertaker. Subsection (3) requires planning authorities—Midlothian Council and Scottish Borders Council—to appoint an environmental clerk of works whose function is to monitor the authorised undertaker's carrying out of the environmental measures that are referred to in subsection (1).

Amendments 63, 64 and 65 amend section 43 to provide definitions of the River Tweed special area of conservation, the Scottish Environment Protection Agency and Scottish Natural Heritage.

Amendments 44 and 45 insert the new schedules to which amendments 50 and 51 refer.

I put on record my thanks, and those of the committee, to SNH and SEPA for all their hard work and advice in allowing us to reach the point where the bill can proceed. The professional, constructive and timeous advice on the matters covered by the amendments is much appreciated.

I move amendment 49.

Amendment 49 agreed to.

Amendments 50 to 52 moved—[Christine May]—and agreed to.

The Convener: Amendment 53, in the name of Gordon Jackson, is in a group on its own.

Gordon Jackson: The new section that will be inserted by amendment 53 applies the Crichel Down rules to the bill. The committee heard evidence from objectors on the general issue of whether the promoter would be required to return land that had been compulsorily acquired in the event that the land was no longer necessary for the scheme. The Crichel Down rules set out the circumstances in which surplus land that has been acquired compulsorily should, as a matter of good practice, be offered back to former owners. The committee is satisfied that the Crichel Down rules should be binding on the authorised undertaker in respect of land that is compulsorily acquired under the bill. The effect of the amendment is that, if such land or part thereof is no longer required by the authorised undertaker for the scheme, the authorised undertaker will be obliged to offer the land back to the person from whom it was acquired.

Amendment 53 will ensure that the Crichel Down rules are incorporated and applied by the authorised undertaker or its successors. I should add that we gave a commitment in our consideration stage report to make such an amendment.

I move amendment 53.

Amendment 53 agreed to.

After schedule 9

Amendments 44 and 45 moved—[Christine May]—and agreed to.

Section 41—Application of original enactments

The Convener: Amendment 54, in the name of Gordon Jackson, is in a group on its own.

Gordon Jackson: Amendment 54 clarifies the current provision in the bill. The revision has been requested by BRB (Residuary) Ltd, which objected to the bill and the Stow station proposal. The amendment avoids uncertainty by ensuring that responsibility for railway-related obligations and benefits rests with the authorised undertaker. Proposed new subsection (3) of section 41 will take effect from the authorised undertaker's acquisition of land or entry on to the land, whichever happens first. From that date, BRBR will be discharged from any obligations that it might have in relation to such land as imposed by any statutory provision relating to the former railway.

I move amendment 54.

Amendment 54 agreed to.

Section 41, as amended, agreed to.

Schedule 10 agreed to.

After section 41

The Convener: Amendment 55, in the name of Gordon Jackson, is in a group on its own.

Gordon Jackson: Amendment 55 is a technical amendment that inserts a new section into the bill to ensure that its powers cannot be exercised in relation to land that is held by the Scottish ministers without their consent. It means that the authorised undertaker would require additional consent before acquiring the land, even where that were authorised by the bill. Such provisions are normally included in private legislation whenever Crown or Government land is proposed to be affected. In practice, such consent is not withheld, having been the subject of discussion and agreement prior to the bill's introduction.

I move amendment 55.

Amendment 55 agreed to.

Section 42—Incorporation of enactments

The Convener: Amendment 56, in the name of Margaret Smith, is grouped with amendment 57.

Margaret Smith: Section 42 applies some older enactments to the bill for the purposes of compulsory acquisition. In particular, much of the Railways Clauses Consolidation Act 1845 is applied. Amendments 56 and 57 exclude sections 15 and 25 of the 1845 act from applying. The effect of section 15 of the 1845 act is covered by section 4 of the bill, which deals with the powers to deviate laterally from the lines shown on the plans. Section 25 of the 1845 act is covered in a much more modern way, with much greater protections for landowners, by sections 16 and 17 of the bill. Those sections are all connected with using and taking possession of private roads. In each case, the amendment avoids confusion and allows more modern provisions to apply.

I move amendment 56.

Amendment 56 agreed to.

Amendment 57 moved—[Margaret Smith]—and agreed to.

Section 42, as amended, agreed to.

Section 43—Interpretation

Amendment 58 moved—[Tricia Marwick]—and agreed to.

Amendment 59 moved—[Christine May]—and agreed to.

Amendment 60 moved—[Tricia Marwick]—and agreed to.

Amendment 61 moved—[Christine May]—and agreed to.

Amendment 62 moved—[Tricia Marwick]—and agreed to.

Amendments 63 to 65 moved—[Christine May]—and agreed to.

Section 43, as amended, agreed to.

Section 44 agreed to.

Long title

Amendment 66 moved—[Tricia Marwick]—and agreed to.

Long title, as amended, agreed to.

The Convener: That ends the committee's scrutiny of the bill at phase 2 of consideration stage. I thank members for their contribution today and over the past 32 months. It has been a long journey and I thank everyone for taking it with me. I also thank all of our officials, past and present, who have supported us since our first committee meeting on 10 February 2004. I know that I speak for all committee members when I thank our clerking team—Fergus Cochrane, David Cullum, Stephen Fricker, Jenny Gourley and Joanna Mason. Thanks are also due to our legal advisers—Ruth Inglis, Alicia McKay, Catherine Scott and Greg Thomson—to our Scottish Parliament information centre adviser, Alan Rehfisch, and to staff from the Official Report, but in particular to Annie Kennedy. We also thank Frances Bell from the legislation team and, last but by no means least, the security and broadcasting staff who have supported us here and on our travels.

The next stage for this bill is the final stage, when any member of the Parliament may lodge an amendment to the bill and when the whole Parliament will vote on whether to pass the bill.

We continue to work towards completion of the bill before the summer recess.

I now, with pleasure, close this meeting of the committee.

Meeting closed at 14:15.

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

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, Scottish Parliament, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Thursday 8 June 2006

PRICES AND SUBSCRIPTION RATES

OFFICIAL REPORT daily editions

Single copies: £5.00
Meetings of the Parliament annual subscriptions: £350.00

The archive edition of the *Official Report* of meetings of the Parliament, written answers and public meetings of committees will be published on CD-ROM.

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75
Annual subscriptions: £150.00

Standing orders will be accepted at Document Supply.

Published in Edinburgh by Astron and available from:

Blackwell's Bookshop
53 South Bridge
Edinburgh EH1 1YS
0131 622 8222

Blackwell's Bookshops:
243-244 High Holborn
London WC1 7DZ
Tel 020 7831 9501

All trade orders for Scottish Parliament documents should be placed through Blackwell's Edinburgh

Blackwell's Scottish Parliament Documentation Helpline may be able to assist with additional information on publications of or about the Scottish Parliament, their availability and cost:

Telephone orders and inquiries
0131 622 8283 or
0131 622 8258

Fax orders
0131 557 8149

E-mail orders
business.edinburgh@blackwell.co.uk

Subscriptions & Standing Orders
business.edinburgh@blackwell.co.uk

RNID Typetalk calls welcome on
18001 0131 348 5412
Textphone 0845 270 0152

sp.info@scottish.parliament.uk

All documents are available on the Scottish Parliament website at:

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers

Printed in Scotland by Astron