MEETING OF THE PARLIAMENT

Wednesday 5 July 2000

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Scottish Parliament

Wednesday 5 July 2000

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

Time for Reflection

The Presiding Officer (Sir David Steel): We welcome to lead our time for reflection the Rev Dr Finlay Macdonald, the principal clerk to the General Assembly of the Church of Scotland.

Rev Dr Finlay A J Macdonald (General Assembly of the Church of Scotland): The grace of the Lord Jesus Christ be with us all.

The untimely death on Monday of Enric Miralles is felt particularly in the Parliament. Our thoughts and prayers are with his family. I offer for reflection two verses from the New Testament Epistle to the Hebrews. In chapter 11, the writer speaks of Abraham's journey of faith, and comments:

"He looked forward to the city which has foundations whose architect and builder is God."

In chapter 13, he writes:

"Here we have no continuing city, but are seekers after the city which is to come".

Architects, politicians and people of religious faith live in a place between vision and fulfilment. In the Old Testament story, Abraham set out on a journey of faith in obedience to his vision of God. The architect has a vision of how his building will look and journeys towards a realisation of that vision. The politician has a vision of the good society and seeks to make such a society real. A phrase often found on the lips of Jesus was "the kingdom of God", something we understand as being the establishment of the good and just society, where God's will is done on earth as it is in heaven. Realising the kingdom of God involves building the city whose architect and builder is God.

Because we live between vision and fulfilment, we have regard also to that other text:

"here we have no continuing city, but are seekers after the city which is to come".

Here, in the Assembly Hall, the Scottish Parliament has a fine but temporary home, but even now, the city that is to come—Enric Miralles's vision—is emerging at Holyrood. That can be a parable. As the new Parliament building takes shape at the heart of the city so, we trust, God's kingdom, the good society, struggles to take shape in the life of our nation and our world.

I conclude by reading a verse of a contemporary hymn by Marty Haugen. The sentiments seem appropriate for architects, politicians and all who care about the shape of our cities and the life of our communities:

"Let us build a house where hands will reach
beyond the wood and stone
to heal and strengthen, serve and teach
and live the Word they've known.
Here the outcast and the stranger
bear the image of God's face;
let us bring an end to fear and danger,
All are welcome, all are welcome, all are welcome in this place."

Parliamentary Bureau Motions

The Presiding Officer (Sir David Steel): Our first item of business is consideration of the following Parliamentary Bureau motions: S1M-1084, S1M-1089 and S1M-1090.

Motions moved,

That the Parliament agrees as an addition to the Business Motion agreed on 29 June 2000—

Thursday 6 July 2000

after Executive Debate on Modernisation in the NHS, insert

followed by Debate on Motion on Government Resources and Accounts Bill – UK Legislation, and

after Continuation of Executive Debate on Modernisation in the NHS, insert:

followed by Standards Committee Motion on Relationships with MSPs

followed by Motion on Political Parties, Elections and Referendums Bill – UK Legislation

and delete,

Motion on Government Resources and Accounts Bill – UK Legislation

That the Parliament agrees under the Rule 2.2.7 that the meeting of Parliament on Wednesday, 5 July 2000 shall continue to 19:00.

That the Parliament agrees under Rule 11.2.4 that Decision Time on Wednesday, 5 July 2000 shall begin at 18:30.—[*Mr McCabe.*]

Motions agreed to.

Bail, Judicial Appointments etc (Scotland) Bill and National Parks (Scotland) Bill: Timetable

The Presiding Officer (Sir David Steel): The next motion is S1M-1092, the timetabling motion relating to stage 3 of the Bail, Judicial Appointments etc (Scotland) Bill and of the National Parks (Scotland) Bill.

09:35

The Minister for Parliament (Mr Tom McCabe): I reserve my position—if there are any questions, I will try to address them.

I move,

That the Parliament agrees that for Stage 3 of the Bail, Judicial Appointments etc. (Scotland) Bill and the National Parks (Scotland) Bill, debate on each part of the proceedings, if not previously brought to a conclusion, shall be brought to a conclusion at the following times (calculated from the time when Stage 3 of the Bail, Judicial Appointments etc. (Scotland) Bill begins) –

Bail, Judicial Appointments etc. (Scotland) Bill

Group 1 to Group 4 – no later than 1 hour 15 minutes
Group 5 – no later than 1 hour 45 minutes
Group 6 to Group 10 – no later than 3 hours
Motion to pass the Bill – no later than 3 hours 30 minutes

National Parks (Scotland) Bill

Group 1 to Group 4 – no later than 4 hours 30 minutes
Group 5 – no later than 5 hours 15 minutes
Group 6 to Group 7 – no later than 6 hours
Group 8 to Group 11 – no later than 7 hours
Motion to pass the bill – no later than 7 hours 30 minutes.

09:36

Michael Russell (South of Scotland) (SNP): I wish to speak against motion S1M-1092. This is the third time that I have opposed a timetabling motion in recent weeks, and I am mindful of what Mr McCabe said on those previous occasions.

When Mr McCabe moved a timetabling motion on Thursday last week, for stage 3 of the Education and Training (Scotland) Bill, he said:

"Timetabling motions—particularly the one on today's debate—are not about guillotining or restricting debate, but are the exact opposite. Having a timetabling motion with particular knives that come down at specific times ensures that specific sections of the bill are protected."

He went on to say:

"This motion is simply a timetabling motion that allows the chamber to know when the debate will finish. No specific sections are mentioned, and the whole time is open for debate on the amendments."

Mr McCabe spoke at 10.05 am last Thursday. After 10.45 am, the Presiding Officer said that time was so short that he

"would be grateful if opening speeches could be limited to four minutes and other speeches to three minutes."

Fifteen minutes later, after 11 am, he said:

"I apologise to two members who, for time reasons, I cannot call."

After 11.15 am, he told the chamber that he would have

"to conclude stage 3 by 11.30 or time will be taken off"

subsequent statements. Two minutes later, he was asking people

"to give bullet points only".—[*Official Report*, 29 June 2000; Vol 7, c 862-91.]

A minute after that, he was asking members whether they would mind waiving their rights to speak or respond.

Dennis Canavan (Falkirk West): Disgraceful.

Michael Russell: Indeed, it was disgraceful. Mr Canavan is absolutely right. As he has worked out—and he is one of the sharper members in the chamber—what Mr McCabe said turned out not to be true, although I do not question his motivation for saying it.

In the previous week, Mr McCabe said:

"I emphasise that the purpose of a timetabling motion is not to restrict debate."—[*Official Report*, 21 June 2000; Vol 7, c 476.]

I accept that that is the purpose of motion S1M-1092, which we are debating now, and of the timetabling motion that we debated last week. However, such motions restrict debate. If I can cite five instances within one hour of a single debate, of when the person in the chair has to stop members speaking; to cut speakers out of the debate; to restrict time; to say to members that they should "give bullet points only"; and to tell ministers that they have no time to respond, then the timetabling motion is wrong and should not be agreed to.

I ask the Executive to think again about timetabling motions: using them as a matter of course has the effect—it might not be the purpose—of restricting debate in the chamber, and I hope that no member wishes that. I oppose the motion.

09:39

Lord James Douglas-Hamilton (Lothians) (Con): We initially indicated that we would vote against the timetable motion, but since then, the Minister for Parliament has substantially extended the time limits. As he listened to our request on that matter, we will not oppose the timetable motion. [*Interruption.*]

The Presiding Officer: Order.

Lord James Douglas-Hamilton: Scottish National Party members speak for themselves—they do not speak for Conservative members.

Our strong view is that the lateness of the marshalled list of amendments gives members of the Scottish Parliament inadequate time to study the detail of the changes proposed. That matter should be referred to the Procedures Committee. Decisions made by the Executive in haste and at the last moment can easily be repented at leisure.

The Presiding Officer: If I may treat that as a point of order, I should like to say that I agree entirely with Lord James Douglas-Hamilton. We discussed that issue in the Parliamentary Bureau yesterday, and, in my view, the standing order does not allow enough time between the completion of the lodging and deletion of amendments, and the marshalling of lists and timetabling of motions. A letter on that subject is currently winging its way from me to the convener of the Procedures Committee, and I hope that the matter will be reviewed. Things are being far too rushed in the process.

09:40

Alasdair Morgan (Galloway and Upper Nithsdale) (SNP): In following the usual double act, I want to make a couple of comments. Mr Russell referred to Mr McCabe's explanation at the end of the short debate last week; in fact, Mr McCabe seemed to go on for so long that I thought he was filibustering on his own timetabling motion. At one stage last week, he said that the motion was not a guillotine, and in the next breath he talked about a knife coming down. I have to say that I do not quite get the semantic distinction between a guillotine and a knife.

This week, we are considering the National Parks (Scotland) Bill, and Mike Rumbles has lodged some substantial technical amendments to clarify and correct points that were raised at stage 2. We are effectively to take it at face value that the technical problems from stage 2 will be rectified by those extremely technical amendments at stage 3. If we do not have the necessary time to debate those amendments, there is the risk that the Parliament will pass bad law.

My second comment is in response to Lord James Douglas-Hamilton's point that the Government has somehow has got over the problems by generously extending the timetable. As Mr McCabe would have it, the whole point of lodging a timetabling motion is to provide a guide for members and the chair on when different debates will be taken. However, if he has had to extend the timetable so much, it potentially ceases to be a realistic guide, because we might finish debates long before the times set down in the

timetabling motion. I have to ask Mr McCabe again: why bother with the timetabling motion? Why can we not sit down and debate the amendments as they come up? We will get through them in good order; the Parliament is very sensible, and we have not had filibustering thus far. Let us get on with the debate and stop this nonsense with the timetable.

Furthermore, the danger with the timetable is that at some point, an Administration—certainly not this one—that wants to get something through quickly and to stifle debate will be in the habit of accepting timetabling motions willy-nilly. That is a bad thing for democracy.

09:42

Donald Gorrie (Central Scotland) (LD): I raised a question when today's business was put forward by Iain Smith on behalf of the Executive. Perhaps the issues should have been raised by some other members at that time.

I agree very much with Lord James Douglas-Hamilton's point that we must address the issue. Presiding Officer, I am very happy that you have written what will be—I am sure—a highly sensible letter to the Procedures Committee, which will reinforce my own feeble efforts in that direction. The committee has already discussed my paper on the timetabling of amendments.

As for today's business, I am advised that the Parliamentary Bureau has provided a reasonably generous allocation of time to debate what members have proposed in various amendments and to allow us to get the legislation through. As members have said, the bureau has misjudged the situation two out of the past three times. However, being a very long-suffering person, I am personally prepared to give the bureau the benefit of the doubt on this occasion.

That said, before we start debating legislation in the autumn, we must properly sort out the whole timetabling issue. It is madness to spend all this time on pre-legislative scrutiny and then to have a final sprint at the end when, as Alasdair Morgan pointed out, we might get some of the amendments wrong. As far as I am concerned, this is a yellow card to the Parliamentary Bureau.

09:44

Phil Gallie (South of Scotland) (Con): With respect to marshalled lists of amendments, I want to draw attention to the fact that, when stage 2 of the Bail, Judicial Appointments etc (Scotland) Bill was cleared on the Thursday, all amendments to the bill had to be lodged by the Friday evening to allow the production of the marshalled list, which, as has been acknowledged, is coming out too late. However, it is difficult to see how, with such a time scale, that situation can be improved, unless there is no time to lodge amendments.

With respect to guillotines, everyone in the chamber sympathises with Mike Russell's point. On today's business, there is no doubt that there has been movement, which should allow us to contain the business within a reasonable time scale. However, many of us identify with the principles that Mike Russell set out.

The Presiding Officer: Does Mr McCabe wish to reply?

Mr McCabe: Briefly, Presiding Officer—members in the chamber are concerned about time, but they seem to spend inordinate amounts of time discussing the same thing every week.

In response to Mr Morgan, as a member of the SNP group, he should understand knives—just look at his back. The SNP group would do well to listen to Lord James Douglas-Hamilton's advice—the SNP speaks for itself, and not for other parties. That should be mentioned to Mr Sillars this morning when he holds his press conference with Mr Rifkind, although the SNP might not want to mention that.

Mr Russell seems to have changed his argument. A few weeks ago, he was happy with an overall end time for the debate. Now that argument has changed, so that members are not given notice of when the debate will end. The more some people complain about Westminster, the more they want to be the same as Westminster.

It is striking to note the arguments that are being put forward to try to defend a position that more and more simply reflects divisions within the SNP group. Mr Russell's arguments are becoming weaker and weaker. He now has to invoke the help of Mr Canavan—a good choice, I must say—but clearly he is losing the argument if he has to invoke the help of other members.

Dennis Canavan: Will the minister give way?

Mr McCabe: No, I will not. We are not wasting any more time.

Quite simply, the case has been made for a timetabling motion. I commend the motion.

The Presiding Officer: The question is, that motion S1M-1092 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
Baillie, Jackie (Dumbarton) (Lab)
Barrie, Scott (Dunfermline West) (Lab)
Boyack, Sarah (Edinburgh Central) (Lab)
Brankin, Rhona (Midlothian) (Lab)

Brown, Robert (Glasgow) (LD)
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Curran, Ms Margaret (Glasgow Baillieston) (Lab)
Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
Eadie, Helen (Dunfermline East) (Lab)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
Finnie, Ross (West of Scotland) (LD)
Galbraith, Mr Sam (Strathkelvin and Bearsden) (Lab)
Gillon, Karen (Clydesdale) (Lab)
Godman, Trish (West Renfrewshire) (Lab)
Gorrie, Donald (Central Scotland) (LD)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (Edinburgh Pentlands) (Lab)
Henry, Hugh (Paisley South) (Lab)
Home Robertson, Mr John (East Lothian) (Lab)
Hughes, Janis (Glasgow Rutherglen) (Lab)
Jackson, Dr Sylvia (Stirling) (Lab)
Jackson, Gordon (Glasgow Govan) (Lab)
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
Kerr, Mr Andy (East Kilbride) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Livingstone, Marilyn (Kirkcaldy) (Lab)
Lyon, George (Argyll and Bute) (LD)
Macdonald, Lewis (Aberdeen Central) (Lab)
Macintosh, Mr Kenneth (Eastwood) (Lab)
MacKay, Angus (Edinburgh South) (Lab)
MacLean, Kate (Dundee West) (Lab)
Macmillan, Maureen (Highlands and Islands) (Lab)
Martin, Paul (Glasgow Springburn) (Lab)
McCabe, Mr Tom (Hamilton South) (Lab)
McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
McMahon, Mr Michael (Hamilton North and Bellshill) (Lab)
McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
McNeill, Pauline (Glasgow Kelvin) (Lab)
McNulty, Des (Clydebank and Milngavie) (Lab)
Morrison, Mr Alasdair (Western Isles) (Lab)
Muldoon, Bristow (Livingston) (Lab)
Mulligan, Mrs Mary (Linlithgow) (Lab)
Murray, Dr Elaine (Dumfries) (Lab)
Oldfather, Irene (Cunninghame South) (Lab)
Peacock, Peter (Highlands and Islands) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Radcliffe, Nora (Gordon) (LD)
Raffan, Mr Keith (Mid Scotland and Fife) (LD)
Robson, Euan (Roxburgh and Berwickshire) (LD)
Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
Scott, Tavish (Shetland) (LD)
Simpson, Dr Richard (Ochil) (Lab)
Smith, Elaine (Coatbridge and Chryston) (Lab)
Smith, Iain (North-East Fife) (LD)
Stephen, Nicol (Aberdeen South) (LD)
Thomson, Elaine (Aberdeen North) (Lab)
Watson, Mike (Glasgow Cathcart) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)
Wilson, Allan (Cunninghame North) (Lab)

AGAINST

Campbell, Colin (West of Scotland) (SNP)
Canavan, Dennis (Falkirk West)
Crawford, Bruce (Mid Scotland and Fife) (SNP)
Cunningham, Roseanna (Perth) (SNP)
Elder, Dorothy-Grace (Glasgow) (SNP)
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
Ewing, Mrs Margaret (Moray) (SNP)
Fabiani, Linda (Central Scotland) (SNP)
Grahame, Christine (South of Scotland) (SNP)
Harper, Robin (Lothians) (Green)
Hyslop, Fiona (Lothians) (SNP)
Ingram, Mr Adam (South of Scotland) (SNP)
Lochhead, Richard (North-East Scotland) (SNP)
MacAskill, Mr Kenny (Lothians) (SNP)
Marwick, Tricia (Mid Scotland and Fife) (SNP)
Matheson, Michael (Central Scotland) (SNP)
McGugan, Irene (North-East Scotland) (SNP)
Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
Neil, Alex (Central Scotland) (SNP)
Paterson, Mr Gil (Central Scotland) (SNP)
Quinan, Mr Lloyd (West of Scotland) (SNP)
Robison, Shona (North-East Scotland) (SNP)
Russell, Michael (South of Scotland) (SNP)
Salmond, Mr Alex (Banff and Buchan) (SNP)
Sturgeon, Nicola (Glasgow) (SNP)
Swinney, Mr John (North Tayside) (SNP)
White, Ms Sandra (Glasgow) (SNP)
Wilson, Andrew (Central Scotland) (SNP)

ABSTENTIONS

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

The Presiding Officer: The result of the division is: For 63, Against 28, Abstentions 14.

Motion agreed to.

That the Parliament agrees that for Stage 3 of the Bail, Judicial Appointments etc. (Scotland) Bill and the National Parks (Scotland) Bill, debate on each part of the proceedings, if not previously brought to a conclusion, shall be brought to a conclusion at the following times (calculated from the time when Stage 3 of the Bail, Judicial Appointments etc. (Scotland) Bill begins) –

Bail, Judicial Appointments etc. (Scotland) Bill

Group 1 to Group 4 – no later than 1 hour 15 minutes
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Motion to pass the Bill – no later than 3 hours 30 minutes

National Parks (Scotland) Bill

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Group 5 – no later than 5 hours 15 minutes
Group 6 to Group 7 – no later than 6 hours
Group 8 to Group 11 – no later than 7 hours
Motion to pass the bill – no later than 7 hours 30 minutes.

Bail, Judicial Appointments etc (Scotland) Bill: Stage 3

The Presiding Officer (Sir David Steel): We come to stage 3 proceedings on the Bail, Judicial Appointments etc (Scotland) Bill. I will make the usual announcement about the procedures that will be followed. First, we will deal with amendments to the bill, and then move on to the debate on the question that the bill be passed. For the first part of the debate, members should have in their hands the bill—that is, SP Bill 17A, as amended at stage 2—the marshalled list, which contains all the amendments that I have selected for debate, and the groupings in which they will be debated.

Each amendment will be disposed of in turn. An amendment that has been moved may be withdrawn with the agreement of the members present. It is possible for members not to move amendments if they wish.

The electronic voting system will be used for divisions. We will allow an extended voting period of two minutes for the first division that occurs after each debate on a group of amendments.

I hope that, with that explanation, we can turn to the first grouping, which is amendment 13 on its own.

Section 3—Removal of restrictions on bail

09:50

Phil Gallie (South of Scotland) (Con): This amendment seeks to retain section 26 of the Criminal Procedure (Scotland) Act 1995, which the bill seeks to repeal. Section 26 refers to circumstances in which bail cannot be allowed. Such circumstances would include situations in which an individual has previously been found guilty of attempted murder, culpable homicide, rape or attempted rape. We have already debated in this section the issue of whether someone charged with murder should automatically be stopped from having bail, as is currently the situation under the Criminal Procedure (Scotland) Act 1995.

Given the considerable rise in crimes of violence, if we relax the bail laws, we are taking a step too far. We are aware of numerous incidents of people committing serious offences while on bail. In one incident in the Ayr constituency, an individual lost his life at the hands of youths who were on bail and had been charged with acts of serious violence. In such circumstances, there should not be a discretionary factor for judges.

I should like to bring into the debate the argument about mandatory sentences. If judges must have total discretion on bail, somewhere along the line, compliance with the European convention on human rights will suggest that judges should have discretion on every form of sentencing. On that basis, mandatory life sentences for murder could disappear. I should like to hear the minister's views on that.

In the main, section 26 has acted well to prevent dangerous people from being let loose on our streets; it is well worded, it has been set in our law for the past five years and it is probably built on principles established well before that. To my knowledge, it has not been challenged in any way to date. I urge the chamber to accept the amendment, which allows section 26 of the 1995 act to remain.

I move amendment 13.

Roseanna Cunningham (Perth) (SNP): I have a sense of déjà-vu about the debate, as the Justice and Home Affairs Committee dealt with stage 2 of the bill only last week. I suspect that at exactly this time last Wednesday morning, we were having almost exactly the same debate. I do not want to go over all the arguments that took place then. However, members should be aware that to agree to the amendment would effectively negate the whole point of part 1 of the bill.

We had clear evidence earlier in our proceedings from Professor Gane, among others, that not to legislate on bail to bring our provisions into line with the ECHR would inevitably lead to a challenge, which would inevitably be successful. I urge Phil Gallie to accept what almost everybody has said, which is that once we remove the restrictions, it is highly unlikely that people will get bail who would not previously have got it and that anybody will be in a different position.

All we are asking Phil Gallie, the Conservatives and everybody to accept is that if we do not make that change, there will be a challenge. The challenge is likely to come at a point of maximum emotional impact, when people are incapable of being objective. It is far better to have this discussion when we can be objective.

For those reasons, the Scottish National Party will not support the amendment.

Euan Robson (Roxburgh and Berwickshire) (LD): I do not want to repeat everything that Roseanna Cunningham said, other than to emphasise that the Law Society of Scotland made it clear to the Justice and Home Affairs Committee that the changes that the bill will bring about are necessary for ECHR compliance.

I am bemused that Phil Gallie suggested at stage 2 that we remove the whole of section 3, but is now trying to remove just one subsection. I

cannot understand how that could be done, because one of the provisions would remain.

The problem with amendment 13—exactly as Roseanna Cunningham articulated—is that the whole purpose of part 1 of the bill would, in effect, be negated if the amendment were passed.

The Liberal Democrats accept that the common-law provisions will assist the process, because they should restrict the number of those who are released on bail. Much will rely on the sheriff's discretion in a number of circumstances. We are clear that the change is necessary; it is not dangerous. If the change were not made, that would precipitate very quickly an ECHR challenge, so we are minded not to support the amendment.

The Deputy Minister for Justice (Angus MacKay): Amendment 13 relates to the provisions in section 26 of the Criminal Procedure (Scotland) Act 1995, which provide for circumstances in which bail is not available and form part of the provisions known as the bail exclusions. The Executive has proposed that those provisions be repealed. Amendment 13, as Roseanna Cunningham said, would retain certain key elements of the provisions—that is, the exclusions in section 26 that relate to persons who are accused of certain serious offences in circumstances in which they have a previous conviction for similar offences. I note that Mr Gallie now appears content to accept that persons who are accused of murder or treason should not be denied the opportunity to have their case for bail considered at their first appearance.

The issue was considered carefully by the Justice and Home Affairs Committee, as Roseanna Cunningham said, both during evidence taking and at stage 2. As the committee noted in its report, it is agreed on all sides that the recent Strasbourg judgments do not leave any room for doubt that all the existing bail exclusions are incompatible with the ECHR and must therefore be repealed. That is the purpose of section 3. Removing section 3(2), as Phil Gallie is attempting to do, would mean that our law on bail would remain incompatible with convention rights. From 2 October, when the Human Rights Act 1998 comes into force, a person who was refused bail under legislation that provided for bail exclusions would be able to challenge the legislation on ECHR grounds. I think that Phil Gallie is aware of that. I have no doubt that the court would make a declaration that the provisions in question were incompatible with the ECHR, which would require us to amend the same legislation in any event.

In those circumstances, there is simply no option, it appears, but to legislate now to remove the incompatibility before it becomes challengeable under the Human Rights Act 1998. I emphasise that if we do not legislate now, it is possible that the individuals would have to be released and could not be detained pending their trial. I think that Mr Gallie would be very concerned about that.

I also stress again, as I did at stage 2, that the abolition of the bail exclusions does not mean that those who are accused of serious sexual offences, or violent offences, will have a right to—or even an expectation of—bail. The common law in Scotland contains clear guidelines on the criteria that the courts must apply in deciding whether to grant bail. Those criteria include considerations of public safety and the accused's previous convictions, so I believe that the courts would not release an accused person on bail if he or she presented a serious risk to the safety of the public.

I should also point out that the Crown has a right of appeal against a decision to admit an accused person to bail, just as the accused may appeal against the decision to refuse bail. If a person who is released on bail commits an offence, or breaches their conditions of bail, or if there are reasonable grounds for thinking that they have broken or are likely to break a bail condition, they are liable to be rearrested and brought back before the court, which may then revoke bail or impose fresh conditions.

It is clear beyond doubt that our existing legislation is in breach of the ECHR. Frankly, it would be irresponsible not to remove the incompatibilities before they are challenged, as they surely would be as soon as the Human Rights Act 1998 comes into force.

I have said before—and it is worth putting on record again—that when the legislation was passed at Westminster, the Conservatives did not vote against the second or third reading of the Human Rights Bill. In fact, they wished it well. I am glad that they did—I am glad that all parties in the chamber signed up to it—because it is important legislation that guarantees fundamental human rights.

Having signed up for that legislation, we must live with the consequences and the advantages. One consequence is that we must tidy up our law to ensure that bail applications are heard properly and safely, but we must ensure that our law is not challengeable under the ECHR.

On that basis, I ask Phil Gallie to withdraw amendment 13.

10:00

Phil Gallie: Euan Robson and the minister referred to the amendment on murder that I lodged last week. Had I lodged that amendment again for today's debate, I am quite sure that the Presiding Officer would have knocked it off the marshalled

list as it has already been debated. Last week, I had strong feelings about section 26 of the Criminal Procedure (Scotland) Act 1995, but I deliberately did not address that matter in committee so that I could bring it to the floor of the chamber.

Many members will not recognise what the bail element of the Bail, Judicial Appointments etc (Scotland) Bill entails. It is only right that these issues be brought before the chamber so that the implications of that element can be picked up.

Malcolm Chisholm (Edinburgh North and Leith) (Lab): Phil Gallie will know from the stage 1 debate that I would like several measures to be implemented in order to strengthen the rights of victims in relation to bail; but amendment 13 is not one of those measures.

Will Phil Gallie tell members whether it is now a Conservative tactic to propose a series of measures that are clearly and flagrantly in breach of the ECHR as part of that party's anti-European agenda?

Phil Gallie: If, as Malcolm Chisholm suggests, I thought that the lifting of bail restrictions was a clear requirement of the convention, perhaps I would not have lodged amendment 13—but I suspect that that requirement has not been tested and that it remains a question in the minds of those who have considered the issue. People have opinions on the issue, but it has not been challenged. To my mind, it is not clear that a mandatory refusal of bail would contravene the European convention on human rights.

I see the minister shake his head, but he has never used the word "certainty" and he has never said, "This is a contravention." He has always said, "It would seem to me," "I expect," or, "It is my opinion." He has not used the word "guarantee." It might bring us some comfort if he were to use it today. However, at this point, it appears that the system is being watered down and it is my intention to pursue amendment 13.

The minister referred again to the Conservatives at Westminster. Just as we are not part of the SNP group, the Scottish Conservative group in the Scottish Parliament stands alone. We have our own views. On that basis, I will press my amendment.

The Deputy Presiding Officer (Patricia Ferguson): The question is, that amendment 13, in the name of Phil Gallie, be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

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

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
Baillie, Jackie (Dumbarton) (Lab)
Barrie, Scott (Dunfermline West) (Lab)
Boyack, Sarah (Edinburgh Central) (Lab)
Brankin, Rhona (Midlothian) (Lab)
Brown, Robert (Glasgow) (LD)
Campbell, Colin (West of Scotland) (SNP)
Canavan, Dennis (Falkirk West)
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Crawford, Bruce (Mid Scotland and Fife) (SNP)
Cunningham, Roseanna (Perth) (SNP)
Curran, Ms Margaret (Glasgow Baillieston) (Lab)
Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
Eadie, Helen (Dunfermline East) (Lab)
Elder, Dorothy-Grace (Glasgow) (SNP)
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
Ewing, Mrs Margaret (Moray) (SNP)
Fabiani, Linda (Central Scotland) (SNP)
Finnie, Ross (West of Scotland) (LD)
Galbraith, Mr Sam (Strathkelvin and Bearsden) (Lab)
Gillon, Karen (Clydesdale) (Lab)
Godman, Trish (West Renfrewshire) (Lab)
Gorrie, Donald (Central Scotland) (LD)
Grahame, Christine (South of Scotland) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (Edinburgh Pentlands) (Lab)
Henry, Hugh (Paisley South) (Lab)
Home Robertson, Mr John (East Lothian) (Lab)
Hughes, Janis (Glasgow Rutherglen) (Lab)
Hyslop, Fiona (Lothians) (SNP)
Ingram, Mr Adam (South of Scotland) (SNP)
Jackson, Dr Sylvia (Stirling) (Lab)
Jackson, Gordon (Glasgow Govan) (Lab)
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
Kerr, Mr Andy (East Kilbride) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Livingstone, Marilyn (Kirkcaldy) (Lab)
Lochhead, Richard (North-East Scotland) (SNP)
Lyon, George (Argyll and Bute) (LD)
MacAskill, Mr Kenny (Lothians) (SNP)
Macdonald, Lewis (Aberdeen Central) (Lab)
Macintosh, Mr Kenneth (Eastwood) (Lab)
MacKay, Angus (Edinburgh South) (Lab)
MacLean, Kate (Dundee West) (Lab)
Macmillan, Maureen (Highlands and Islands) (Lab)
Martin, Paul (Glasgow Springburn) (Lab)
Marwick, Tricia (Mid Scotland and Fife) (SNP)
Matheson, Michael (Central Scotland) (SNP)
McAveety, Mr Frank (Glasgow Shettleston) (Lab)

McCabe, Mr Tom (Hamilton South) (Lab)
McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
McGugan, Irene (North-East Scotland) (SNP)
McMahon, Mr Michael (Hamilton North and Bellshill) (Lab)
McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
McNeill, Pauline (Glasgow Kelvin) (Lab)
McNulty, Des (Clydebank and Milngavie) (Lab)
Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
Morrison, Mr Alasdair (Western Isles) (Lab)
Muldoon, Bristow (Livingston) (Lab)
Mulligan, Mrs Mary (Linlithgow) (Lab)
Munro, Mr John (Ross, Skye and Inverness West) (LD)
Murray, Dr Elaine (Dumfries) (Lab)
Neil, Alex (Central Scotland) (SNP)
Oldfather, Irene (Cunninghame South) (Lab)
Paterson, Mr Gil (Central Scotland) (SNP)
Peacock, Peter (Highlands and Islands) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Quinan, Mr Lloyd (West of Scotland) (SNP)
Radcliffe, Nora (Gordon) (LD)
Robison, Shona (North-East Scotland) (SNP)
Robson, Euan (Roxburgh and Berwickshire) (LD)
Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
Salmond, Mr Alex (Banff and Buchan) (SNP)
Scott, Tavish (Shetland) (LD)
Simpson, Dr Richard (Ochil) (Lab)
Smith, Elaine (Coatbridge and Chryston) (Lab)
Smith, Iain (North-East Fife) (LD)
Smith, Margaret (Edinburgh West) (LD)
Stephen, Nicol (Aberdeen South) (LD)
Sturgeon, Nicola (Glasgow) (SNP)
Swinney, Mr John (North Tayside) (SNP)
Thomson, Elaine (Aberdeen North) (Lab)
Watson, Mike (Glasgow Cathcart) (Lab)
White, Ms Sandra (Glasgow) (SNP)
Whitefield, Karen (Airdrie and Shotts) (Lab)
Wilson, Allan (Cunninghame North) (Lab)
Wilson, Andrew (Central Scotland) (SNP)

The Deputy Presiding Officer: The result of the division is: For 16, Against 90, Abstentions 0.

Amendment 13 disagreed to.

Section 4A—Variation of number of Inner House judges and filling of vacancies

The Deputy Presiding Officer: I call Phil Gallie to speak to and move amendment 14.

Phil Gallie: Perhaps this amendment will receive a bit more sympathy because it is, quite simply, about democracy and the powers of the Scottish Parliament.

Under section 4A, responsibility for filling judicial vacancies lies totally in the hands of Scottish ministers. It seems to me that such appointments are the kind of issue that it would have been custom and practice to bring to the attention of the Parliament in the form of an order. I therefore ask the minister to recognise that amendment 14 relates to democracy and that any change in the number of people serving in the judiciary is of interest to everyone who serves in the Parliament.

There are all kinds of reasons for not filling vacancies. One, which would be abhorrent to most members, is purely financial. Surely that would not be acceptable. Not all Administrations will be as generous as this one claims to be. A future Administration might want the justice and home affairs budget to be a bit tighter, although that is hard to believe given current circumstances. I am sure that members would not want the judiciary to be depleted on purely financial grounds.

Other reasons would make a reduction justifiable. If the pressure on courts were reduced, it might be reasonable to reduce numbers. A reduction in external activities such as the need for a court in the Netherlands and for a rail accident inquiry might allow for some reduction in the judiciary. It seems right that the Parliament should be asked for its opinion. Laying a negative instrument before Parliament is the way to do it.

I move amendment 14.

Michael Matheson (Central Scotland) (SNP): I congratulate Phil Gallie on his conversion to open government and to the Scottish Parliament's having greater powers of scrutiny.

Chapter A1 was amended by the Executive at stage 2. Having considered the proposed subsection (8), I have sympathy with Phil Gallie's comments about the role Parliament could play in scrutinising the number of senior judges in the Inner House. The current Executive may have made it clear that it has no intention of changing the number of senior judges, but I am concerned that that could change further down the road.

It is appropriate to consider any decision that would lead to a reduction in the number of senior judges in the Inner House, because it would give us an opportunity to scrutinise that decision. I support amendment 14.

Angus MacKay: If Phil Gallie is to be congratulated on his conversion to open government, perhaps Michael Matheson is to be congratulated on mentoring that change in Phil Gallie's political judgment. Michael confessed recently to working on Phil whenever possible to move his political posture towards the left.

Phil Gallie remarked on the Administration's commitment to the justice and home affairs budget. He will be aware that the baseline budget of the justice and home affairs department is increasing year on year in real terms; that the prisons budget is increasing; that—

David McLetchie (Lothians) (Con): Will the minister give way?

Angus MacKay: No.

David McLetchie: Exactly.

Angus MacKay: And that police numbers are set to hit record levels. If we do not hit record levels it will only be because the highest level of police officers in Scotland was under Labour in

1997, so we will occupy first and second place.

David McLetchie: What a pack of lies.

Angus MacKay: I am glad Mr McLetchie enjoyed that contribution so much. Perhaps he could prevail on Mr Gallie to stick to the terms of the bill—if he does not want to be provoked during the rest of the morning.

Amendment 14 would remove a requirement on ministers to satisfy themselves that they should not approve the filling of a vacancy in the Inner House unless they are clear that that would be justified on grounds of the work load of the Inner House. It seems odd for the Opposition to attempt to relieve ministers of that responsibility and I invite members to reject the amendment on that ground alone.

However, amendment 14 seeks to require ministers to bring before the Parliament the order under the new subsection (2D) formally to reduce the number of Inner House judges whenever ministers refuse a request from the Lord President that a vacancy should be filled. It is unnecessary and undesirable to require ministers to exercise their subsection (2D) power on any occasion when they refuse immediately to fill a vacancy.

The Court of Session Act 1988 envisages that the Inner House will still run even if there is an outstanding vacancy. It will not necessarily be appropriate to reduce immediately the number of Inner House judges if Scottish ministers have refused to fill a vacancy. Ministers will want to monitor the situation to see whether the downturn is likely to be a long-term trend that would justify reducing the number of judges through a subsection (2D) order so that no vacancy exists. We would not want to be required to reduce the number of Inner House judges only to find that we need to make a further order shortly afterwards to reinstate the original position. For sensible administration, we will want to ensure that the number of Inner House judges specified in the subsection (2D) order is based on an accurate assessment of the likely amount of business before the Inner House.

We would not expect the Inner House to run with a vacancy in the long term. As soon as it becomes apparent that there is unlikely to be a case for filling the vacancy, we would expect to make an appropriate order under subsection (2D). Mr Gallie's amendment would remove the flexibility that will enable ministers to monitor the situation before making the reduction order. The Lord President is content with the Executive's proposals and I invite members to reject amendment 14 and to approve the provisions on Inner House judges as currently drafted.

Phil Gallie: I thank Mr Matheson for his support. The issue was well worth debating and has led to the minister explaining his intentions and that he has concentrated on the short term and flexibility. We can have some sympathy for that. He has stated on the record what I see as guarantees in the longer term. On that basis, I ask to withdraw the amendment.

Amendment 14, by agreement, withdrawn.

Section 6—Creation of part-time sheriffs

The Deputy Presiding Officer: We now move to amendment 1, which is grouped with amendment 2.

10:15

Angus MacKay: For brevity, I will confine myself to saying that the Executive has lodged minor amendments 1 and 2—which tidy up the wording of the section—following points that were made during stage 2.

I move amendment 1.

Amendment 1 agreed to.

Amendment 2 moved—[Angus MacKay]—and agreed to.

The Deputy Presiding Officer: We now come to amendment 16.

Phil Gallie: Many of the arguments that I used with respect to democracy and the standing of the Scottish Parliament relate to amendment 16. Although I accepted the minister's comments on earlier amendments, I mentioned the long-term and short-term issues and pointed out that it was reasonable—given the short-term aspiration to sustain flexibility—to withdraw amendment 14.

Amendment 16 relates to remuneration of part-time sheriffs. There is nothing short-term about that. Ministers make decisions on the level of remuneration in many other areas and, in such cases, it is traditional to have a negative instrument put before the chamber. It seems to me that the matter to which amendment 16 relates is not different from such cases. I lodged the amendment on the basis that agreement to it would refer ministers' decisions to the chamber. The minister might argue that the matter is already covered under new section 11D. If he can assure me on that point, I will be reasonably happy. I would, however, appreciate clarification on the matter.

I move amendment 16.

Roseanna Cunningham: I do not want to make a speech, but I would like to ask a question for clarification. Despite the number of legally qualified people on the SNP benches, I am not certain about the current situation as it relates to full-time sheriffs and I am not sure whether the

level of remuneration of full-time sheriffs is contained in orders. I appreciate that Mr Gallie assumes that that is the case, but it would be helpful to establish whether it is. There is an argument for keeping part-time appointments on the same basis as full-time appointments where remuneration is concerned. I would appreciate the minister's addressing directly the issue of equivalence. [*Interruption.*]

Angus MacKay: Gordon Jackson wonders whether I am going to answer that question. I am going to try. If Mr Jackson feels that I am not being sufficiently informative, I will give way to him.

If agreed to, amendment 16 would remove ministers' discretion to pay part-time sheriffs such remuneration and allowances as ministers had determined. That would also require that fees were specified in a statutory instrument, which would have to be laid in draft before and approved by Parliament. The cost of fees and allowances to part-time sheriffs will be met through the justice programme, for which the Minister for Justice is accountable to Parliament.

The Executive's view is that it is appropriate that the minister should have discretion to decide those matters. We consider that it would be unnecessarily restrictive to require that fees and allowances be specified in an affirmative statutory instrument. It is normal practice for the fees and allowances that are payable to public appointees to be determined by ministers without a requirement for another statutory instrument.

I announced to Parliament in the stage 1 debate that the proposed daily rate for a part-time sheriff would be £438. I see that Lyndsay McIntosh is grimacing. That is the same daily rate as would be payable to a permanent sheriff. I see that Bill Aitken is licking his lips. In addition, the part-time sheriff may claim travel and subsistence expenses on the same basis as a permanent sheriff. I invite members to agree that those are not ungenerous provisions and that the Executive is certainly not seeking to get justice on the cheap. I assure members that there will be substantial interest among the former temporary sheriffs.

Roseanna Cunningham: I am not sure that this is a huge issue of principle, but I would like the minister to address a specific question. What happens at present with the appointment of permanent sheriffs? Are their annual incomes determined by order? If they are, there ought to be the same arrangement for part-time sheriffs; if they are not, I would accept that those of part-time sheriffs should not be either.

Gordon Jackson (Glasgow Govan) (Lab) *rose—*

Roseanna Cunningham: What is the current position? Perhaps Mr Jackson has the answer.

Angus MacKay: Heroically, Roseanna Cunningham kept talking until her answer arrived. I give way to Gordon Jackson.

Gordon Jackson: I am sorry to appear rude to the minister, but I may know the answer to the question. I may be wrong, but my understanding is that full-time sheriffs have their salaries linked to a particular level of judge in England, through the top people's salary thing. [*Laughter.*] Their remuneration is not fixed by the Scottish ministers or the Scottish Executive in the way that is proposed for part-time sheriffs. They are paid in a completely different way. The salaries of full-time sheriffs are linked to those of either Crown court or county court judges through the top people's salaries review board.

Angus MacKay: I am grateful to Gordon Jackson for keeping the chamber happy. My understanding is that full-time sheriffs' salaries are reserved to the UK Parliament thing—[*Laughter.*] I understand that recommendations are made to the Prime Minister and that the Cabinet decides salary levels. That is not done through statutory instrument. I think that that probably addresses the point that Roseanna Cunningham raised.

The point I was trying to make before I gave way to Roseanna Cunningham was that I am fairly clear that there will be substantial interest among former temporary sheriffs and, we hope, many others, in trying to acquire part-time commissions on these terms. At stage 1, I said that we hope to broaden the range of backgrounds of the individuals who participate in the capacity of part-time sheriff. I said that it is important, when awarding commissions, that appointees reflect all backgrounds and experiences in Scottish society. We therefore had to ensure that the terms were sufficiently generous to encourage individuals of all backgrounds to come forward. I am sure that that will be the case.

Because ministers are fully accountable for the expenditure, members should be comfortable in agreeing that the Executive has tried to establish payment arrangements on a fair and professional basis, especially as the part-time sheriffs have an equivalence with full-time sheriffs. Ministers should be left to make decisions on those matters in the light of their overall responsibility for expenditure. I invite members to reject amendment 16.

Phil Gallie: This has been an interesting debate. The conclusion seems to be that the salaries are linked—maybe. The minister's comment about full-time sheriffs' salaries being set under reserved powers was interesting. It may have shed some light on this Parliament because, until now, that fact had not been appreciated, either by the minister or by the rest of us, except perhaps by those who have been very involved in the issue.

It seems that the salaries of part-time sheriffs will be at the discretion of the minister. I can foresee a time when a part-time sheriffs' union, affiliated to the Scottish Trades Union Congress, will come knocking on the minister's door. I am tempted to stick with my amendment just to prevent that. However, the minister has answered Roseanna Cunningham's justifiable questions and given us assurances. I therefore seek to withdraw the amendment.

Amendment 16, by agreement, withdrawn.

The Deputy Presiding Officer: I now call Roseanna Cunningham to speak to and move amendment 17, which is grouped with amendments 18, 3, 19, 20 and 21.

Roseanna Cunningham: It is always a challenge, particularly in the Scottish Parliament, to come up with things at stage 3 that have not already been digested, pre-digested and probably regurgitated long before. However, the three amendments in my name in this group cover three issues that we did not debate extensively at stage 2.

Although amendment 17 is the lead amendment, it is perhaps not the most important in the group. It is a fairly straightforward amendment whose reason for existence will be absolutely clear to all members. It seeks to include in the bill a specific notice period for the resignation of part-time sheriffs who choose to go of their own accord. It appears that, under the bill as it is currently drafted, sheriffs could sit on the bench one morning, phone up in the afternoon and say that they are resigning and not sit the next day. I am not sure whether we would want to allow that.

I am not suggesting for a moment that that is likely to happen very often. I am sure that part-time sheriffs who choose to resign will, in most cases, want to serve out some period of notice, if for no other reason than to ensure that their colleagues and the sheriff principal in their area are not woefully disadvantaged. On the other hand, the bill does not state a period of notice, which means that there is nothing to stop somebody resigning at a moment's notice and leaving. That could be rectified by including a minimum notice period.

Amendment 19 is rather more substantial and is a little more important in the broader scheme of the bill's provisions for part-time sheriffs. Concerns have already been expressed about the fact that, as it stands, section 6 allows a sheriff principal to recommend to the Scottish ministers that a part-time sheriff should not be reappointed after the expiry of a five-year term of office. We had some discussion about that at stage 2.

I do not want to quote extensively what the minister said but, as I recall, his comments were along these lines. He expected that the sheriff principal in question would draw to ministers' attention matters of some importance, and that it would not simply be an issue of somebody's face not fitting. He said that he expected that that would be the basis on which such a recommendation would be made by a sheriff principal.

Of course, the bill does not actually say that, and anybody who has dealt with law over a long period of time will know that, whatever was intended, the law of unintended consequences can sometimes come into play. This could be one of the areas in which there may be unintended consequences of not making clear in the bill what the level of reasoning should be for such a recommendation.

It is fair to say that the only foreseeable reason for such a recommendation would be unfitness for office by reason of inability, neglect of duty or misbehaviour. It is hard to imagine what other reasons the sheriff principal could have for making such a recommendation, but there are already provisions for the removal of part-time sheriffs in those circumstances.

I am concerned that, under section 6, the sheriff principal's recommendation could become a way to fast-track the removal of certain part-time sheriffs without triggering any of the tribunal procedures that are provided for in the bill. In effect, a sheriff principal or ministers may decide that ridding themselves of a particular sheriff mid-term might be messy and difficult and that it would be easier to wait until the five-year term is up. The sheriff principal could then recommend that the appointment not be renewed and the situation could be resolved without fuss or mess. The problem with that is that it appears to create the potential for fast-track firing, without the protections that the tribunal provides.

10:30

We are introducing new procedures—procedures that are required to be compliant with the ECHR—to reform a situation that we have had to accept is no longer appropriate. I would like to hear the minister deal with the issue that I have raised, as I believe that it is a genuine question that needs to be addressed.

Amendment 20 is fairly straightforward. It would enable the Lord President, as well as the Scottish ministers, to initiate an investigation. We think that that is a sensible line, as the Lord President is in a position to know whether such an investigation may be required. It seems entirely appropriate that he, as well as ministers, should have the power to initiate an investigation. I would be interested to hear what the minister has to say on that point.

I move amendment 17.

The Deputy Presiding Officer: I call Phil Gallie to speak to amendments 18 and 21.

Phil Gallie: With your indulgence, Presiding Officer, I will go through the whole group of amendments.

We have much sympathy with amendment 17. A great deal has been said about the need to give part-time sheriffs a reasonable time scale within which to operate—basically, to give them a five-year contract. It is reasonable to expect that that contract should have time limits at both ends. Adding a three-month notice period would be a worthwhile amendment to the bill.

I will not be moving amendment 18.

I disagree with Roseanna Cunningham about amendment 19 and point her to amendment 21, which would give the part-time sheriff who has been named as inappropriate by the sheriff principal the right to provide information in his defence. It is important that the sheriff principal's views of the people who serve in his sheriffdom should be taken into account, but it is also right that any individual who has been charged by the sheriff principal should have the right to respond to that.

Roseanna Cunningham: I am not entirely sure why Phil Gallie thinks that the two amendments are mutually exclusive. Amendment 21 relates directly to the tribunal procedure, whereas amendment 19 relates to an entirely different provision, under which the tribunal procedure would not be triggered and would, in effect, be avoided. That is the issue that I sought to address in my amendment. I do not think that the two amendments are at all contradictory.

Phil Gallie: Amendment 19 relates to section 11C(2) and would appear to create a situation in which the sheriff principal is cut out of the process. Under section 11C(4)(b), the issue appears to be redressed at a later stage if the tribunal is pulled into action. If my interpretation of that is wrong, the minister will no doubt correct me. It is important that the sheriff principal establishes a view. However, I support Roseanna Cunningham on amendment 17.

Euan Robson: Amendment 17 is a de minimis matter. I am not sure that the minister will be able to deal with it in terms of existing guidelines or contracts of employment for sheriffs, but I am agnostic on the necessity for it.

Amendment 19 is interesting. I read section 11B(5) entirely differently. It states that the part-time sheriff

"may be reappointed and shall be entitled to be reappointed unless—".

I did not understand that to mean that, if the sheriff principal made a recommendation against reappointment, that would preclude reappointment. I understood it to mean that there would be no automatic entitlement to reappointment. It will be interesting to hear what the minister has to say about that, because one can read that section in two ways. If there is ambiguity, it must be dealt with.

On amendment 20, there is some incongruity in adding to section 11C(2) the words

"the Lord President of the Court of Session"

when the Lord President of the Court of Session appoints the tribunal. Although the issue is not vital, I think that the amendment could lead to an accusation of a conflict of interest.

I understand the motivation behind amendment 21. I accept what it is saying, except that I cannot see why there would be a tribunal if the part-time sheriff could not be heard. I believe that what is proposed in amendment 21 is implicit in the fact that the tribunal is established.

The Liberal Democrats are not minded to support any of those amendments, although I will be interested to hear the minister's remarks on amendment 19, because I think that there may be some ambiguity in section 11B(5).

Gordon Jackson: I will deal with Roseanna Cunningham's amendments.

I do not understand the point about the three months' notice, because the part-time sheriff does not need to sit—he is under no contract and is paid only for the days on which he sits, so if he says, "I am not sitting after today," he will not sit after today. Even if he gives three months' notice, he would not be obliged to sit at any time during those three months. All that the amendment would do is tie up the system for three months.

For example—although this may be ridiculous—let us imagine that 10 part-time sheriffs said that they would not sit after today. They would not sit for those three months because no power on earth can make them sit. However, because they were technically on three months' notice, another 10 could not be appointed and the complement could not be filled. I do not see the point of making people who are not obliged to do anything give notice.

Phil Gallie: Gordon Jackson's argument is a good one. Is a part-time sheriff who is part way through a case, which is perhaps going to extend over three or four weeks, in the position to pull out of that case at any time at his discretion? That seems to be the point that Roseanna Cunningham is trying to cover.

Gordon Jackson: In a peculiar sort of way, the sheriff could do that, but professionally he would

be finished. It would be professionally irresponsible for him to do that and any professional organisation would throw him out. If a sheriff chose not to finish a case that he was halfway through and decided never to be a lawyer again but to live in the Bahamas instead, there is no earthly power to stop him. One would hope that he would not decide to do that, but there is no contract that would be able to force him not to.

Euan Robson is right about the sheriff principal. The bill does not mean that if the sheriff principal objects the person cannot be reappointed; it means that he does not have to be reappointed. It moves him from the "shall" category to the "may" category. While I share Roseanna Cunningham's worries about sheriffs principal and the arbitrary nature of the situation, who is better placed than they are to know whether there is a problem? If a sheriff is turning up in court for 20 days a year and—for whatever reasons—it is a complete disaster, the person best placed to know that and to make a recommendation to the minister is the sheriff principal. The bill does not bind the people involved; it means that there would not be automatic reappointment.

Donald Gorrie (Central Scotland) (LD): I wanted to raise the point that Euan Robson and Gordon Jackson have just dealt with. My knowledge of law is nil and my regard for it is pretty near nil. However, like other members, I think that I have some understanding of the English language. To me, section 11B(5) means that a sheriff may be reappointed unless the sheriff principal has made a recommendation against him. It says that he

"may be reappointed and shall be entitled to be reappointed".

The august lawyer next to me, Robert Brown, has suggested that a comma after "may be reappointed" would solve the problem. Perhaps we will have to have a great debate about the comma.

It is important that the ambiguity is straightened out. The idea that a sheriff principal can destroy the career of a part-time sheriff merely by writing to a minister is unacceptable. I hope that the minister can clarify what the bill means. I assume that his clarification will have some legal impact.

Angus MacKay: When Phil Gallie invited me to correct him if he was wrong, a member near to me made the uncharitable suggestion that he should not be corrected, but be sent for correction. That was unkind, particularly since Michael Matheson is having a substantial effect on Phil Gallie's speed along the road to Damascus, something that is demonstrated by the fact that, in discussing the previous group of amendments, Phil Gallie advocated the appointment of a part-time trade union representative. We welcome his support for trade unions and look forward to engaging with him on that issue. [*Interruption.*] Unfortunately, I was unable to hear what Phil Gallie said just then.

I will deal with amendments 17, 3, 19, 20 and 21. Phil Gallie said that he would not move amendment 18. All the amendments that I will deal with relate to aspects of conditions of employment of part-time sheriffs.

Amendment 17 would require the part-time sheriff to give three months' notice of an intention to resign. Having listened to the debate, I understand the sentiment behind the amendment, which is that, normally, part-time sheriffs should give some notice to allow there to be an orderly withdrawal from business. However, a part-time sheriff might resign due to an unfortunate event in their private life that might or might not be a matter of public knowledge. In that circumstance, it would not be reasonable to expect a part-time sheriff to work their notice or for the Executive to continue to offer that sheriff work during the proposed three-month period. I do not think that short-notice resignations will cause the Executive any difficulty, as we intend to make sufficient appointments to ensure that we can cope with what will be a relatively rare event and with the other circumstances that members have talked about. On that basis, I ask members to agree that the amendment is unnecessary and can be rejected.

10:45

Amendment 3 is designed to tidy up the wording of new section 11B, which will be inserted in the Sheriff Courts (Scotland) Act 1971 by way of section 6 of the bill. The amendment follows constructive comments that were made by members of the Justice and Home Affairs Committee at stage 2. At stage 2, we inserted amendments to section 11B that specified the circumstances in which a part-time sheriff coming to the end of a five-year term would automatically be reappointed. Some members queried whether the reference to the sheriff being "entitled to be reappointed" was the clearest way in which to convey the intended meaning. We have given further consideration to that matter and have lodged an amendment that more clearly conveys the intended meaning. Amendment 3 makes it clear that an individual will not be reappointed if they do not want to be. It was to cover that situation that the previous reference to an entitlement to reappointment was included. Amendment 3 improves the drafting of the bill and makes no change to the substance of the provisions that were approved at stage 2. I therefore invite members to support amendment 3.

Amendment 19 seeks to limit the number of situations in which ministers may treat

reappointment as discretionary rather than automatic. Unlike amendment 18, amendment 19 removes only two of the grounds that are set out in the bill. In responding to members' comments on amendment 19, it may be helpful if I explain the Executive's intentions on this matter.

In the bill as drafted, we propose that reappointments of part-time sheriffs should be automatic in most cases up to the age of 70, which is the retirement age for permanent sheriffs who were appointed after 1995. However, we suggest that, in a small number of situations, there should be pause for thought before a reappointment is confirmed. Those situations are described in subsections (5)(a) to (5)(d) of section 11B.

The first situation is when a part-time sheriff has reached the age of 69 and is within a year of retirement. He or she could be reappointed, but the question is whether he or she should be reappointed rather than make way for a younger recruit.

The second situation is when a sheriff principal has had to consider a stated case from a part-time sheriff that has been referred to the sheriff principal as the court of appeal. If the sheriff principal—himself an experienced individual—judges that the work of the part-time sheriff is seriously deficient, it is reasonable that the sheriff principal should be able to draw those concerns to the attention of ministers.

The third situation is when a part-time sheriff has failed to offer 50 or more days' service in the previous five years, in which case it is reasonable to ask whether the part-time sheriff has taken seriously the heavy responsibilities that are acquired in accepting the office.

The fourth situation is when the volume of business is such that ministers do not require the services of as many part-time sheriffs after the bill passes into law.

It is worth stressing that the conditions in the bill mean simply that ministers would give thought to an individual situation, after which a reappointment might be confirmed in any event. We do not think it unreasonable for ministers to be given an opportunity to reflect before making a decision. I invite members to agree that the provisions in the bill represent the right balance between the independence of the part-time sheriff and the duty of ministers to review cases in which automatic reappointment might not be the appropriate response. The ministers will have to exercise reasonably their power not to reappoint, otherwise their decision could be judicially reviewed.

Amendment 20 would confer on the Lord President, as well as on the Scottish ministers, the power to request that a tribunal investigate whether an individual part-time sheriff should be removed from office on grounds of inability, neglect of duty or misbehaviour. If amendment 20 were passed, it would place the Lord President in an odd situation. For example, the Lord President may order that an individual's behaviour be investigated and, under the bill as drafted, he would have the sole authority to determine the membership of the tribunal that would undertake that investigation. It could be speculated that the Lord President would select members for that tribunal who would support his initial suspicions about an individual's behaviour. That would be an invidious situation for the Lord President to be in and the bill should not place him in it. The Lord President is content with the bill as drafted, and I invite members to reject amendment 20.

Amendment 21 would require regulations that were made by Scottish ministers to govern the operation of a tribunal for the removal of a part-time sheriff to include provision for giving a part-time sheriff who was under investigation the opportunity to be heard. As members of the Justice and Home Affairs Committee are aware, an amendment along those lines was discussed at stage 2, when I gave specific assurances that the regulations that the Executive would make on the procedure of the tribunal would include a requirement on the tribunal to give the part-time sheriff who was under investigation an opportunity to be heard before decisions were made.

We intend to consult fully before bringing draft regulations before the Parliament. I do not think that it is necessary to describe any particular feature of the regulations in the bill. In view of the assurance that we will regulate so that part-time sheriffs have the opportunity to state their case before a report is made, I invite members to reject amendment 21.

In summing up, I invite members to reject amendments 17, 19, 20 and 21, and to approve Executive amendment 3.

Roseanna Cunningham: I have listened with interest to the various speeches, and have noted Gordon Jackson's expectation that part-time sheriffs will never behave in such a fashion as to put courts in disarray. I confess that I had not thought that any sheriff would be so unprofessional as to walk off in the middle of a trial. I was thinking of a scenario in which a sheriff who is booked to work for a week or two somewhere decides part way through not to continue. Gordon Jackson is quite right that it would be profoundly unprofessional to walk out in the middle of a trial.

Given that everybody seems to be absolutely reassured that the issue of notice does not require to be dealt with in the bill, I will seek the approval of members to withdraw amendment 17.

On amendment 19, however, I am not sure that my concerns have been addressed. There is reason to think that new section 11B may be used as precisely the kind of fast-track provision about which concerns have been raised. The minister said that if the sheriff principal had a view on the standard of work of a part-time sheriff, it would be entirely appropriate for him to make a recommendation against reappointment. The bill already gives three specific reasons for the removal from office of part-time sheriffs. A sheriff principal may, for whatever reason, think that a part-time sheriff was unable to do the work, was neglecting his duty, or was misbehaving—goodness knows that that is entirely possible.

Euan Robson: Who would be in a better position than the sheriff principal to know whether a part-time sheriff was not discharging his or her duties?

Roseanna Cunningham: Mr Robson completely misses the point. Of course the sheriff principal is in a position to know that. The sheriff principal can recommend to the Scottish ministers that a part-time sheriff should be investigated and dealt with under the procedures in the bill for the removal of part-time sheriffs. That would allow the part-time sheriff to go to the tribunal. The difficulty is that, if action is taken four years and nine months into a part-time sheriff's term with a quiet word by the sheriff principal in the ear of the appropriate minister, and then that sheriff is not reappointed, where is the sheriff's recourse to any kind of natural justice?

Gordon Jackson: Does Roseanna Cunningham accept that, in the real world, there might be occasions on which one would not like to take the extreme step of throwing a part-time sheriff off the bench, but one would not want to reappoint them? I see that, strictly speaking, that argument may not be attractive, but in the real world, although one may not want to be draconian, one may not want to reappoint a sheriff. Is there not a balance to be struck?

Roseanna Cunningham: That is a very interesting interjection, which suggests to me that the provision is intended to be used as a fast-track procedure. Under that procedure, the part-time sheriff would not have recourse to the protection that is provided in the provisions on tribunals. What recourse would the part-time sheriff have if the refusal to reappoint took place in the way in which Mr Jackson described?

Amendment 21, in the name of Phil Gallie, deals with the tribunal procedure and so I am of the view that there is no contradiction with amendment 19. My concern is that we will have a set of part-time sheriffs who, for one reason or another, never get to trigger the tribunal procedure because they fall into the interesting new category introduced by Mr Jackson. That is why I intend to press amendment 19.

I listened with interest to the comments on amendment 20 and have decided not to move the amendment. I have heard some interesting comments about the dual role of the Lord President in certain circumstances and I remind Mr Robson and other members that many senior members of the judiciary and the law officers have dual roles. It may be that the principle that Mr Robson seeks to apply in respect of the Lord President should apply across the board; Mr Robson may find that he is on a different side of the argument from some of his colleagues when we debate those measures.

I have no difficulty with Executive amendment 3, which is straightforward and responds to concerns that were raised at stage 2. I have already dealt with amendment 21, which the SNP will support. We consider that amendment to be reasonable; it does not contradict amendment 19.

Amendment 17, by agreement, withdrawn.

Amendment 18 not moved.

Amendment 3 moved—[Angus MacKay]—and agreed to.

Amendment 19 moved—[Roseanna Cunningham].

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

Members: No.

The Deputy Presiding Officer: There will be a division. Members have two minutes in which to cast their votes.

FOR

Aitken, Bill (Glasgow) (Con)
Campbell, Colin (West of Scotland) (SNP)
Canavan, Dennis (Falkirk West)
Crawford, Bruce (Mid Scotland and Fife) (SNP)
Cunningham, Roseanna (Perth) (SNP)
Douglas-Hamilton, Lord James (Lothians) (Con)
Elder, Dorothy-Grace (Glasgow) (SNP)
Ewing, Dr Winnie (Highlands and Islands) (SNP)
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
Ewing, Mrs Margaret (Moray) (SNP)
Fabiani, Linda (Central Scotland) (SNP)
Fergusson, Alex (South of Scotland) (Con)
Gallie, Phil (South of Scotland) (Con)
Grahame, Christine (South of Scotland) (SNP)
Hamilton, Mr Duncan (Highlands and Islands) (SNP)
Hyslop, Fiona (Lothians) (SNP)
Ingram, Mr Adam (South of Scotland) (SNP)
Johnston, Nick (Mid Scotland and Fife) (Con)
Johnstone, Alex (North-East Scotland) (Con)
Lochhead, Richard (North-East Scotland) (SNP)
MacAskill, Mr Kenny (Lothians) (SNP)
Marwick, Tricia (Mid Scotland and Fife) (SNP)
Matheson, Michael (Central Scotland) (SNP)
McGugan, Irene (North-East Scotland) (SNP)
McIntosh, Mrs Lyndsay (Central Scotland) (Con)
Monteith, Mr Brian (Mid Scotland and Fife) (Con)

Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
Mundell, David (South of Scotland) (Con)
Neil, Alex (Central Scotland) (SNP)
Paterson, Mr Gil (Central Scotland) (SNP)
Quinan, Mr Lloyd (West of Scotland) (SNP)
Robison, Shona (North-East Scotland) (SNP)
Salmond, Mr Alex (Banff and Buchan) (SNP)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, John (Ayr) (Con)
Sturgeon, Nicola (Glasgow) (SNP)
Swinney, Mr John (North Tayside) (SNP)
Tosh, Mr Murray (South of Scotland) (Con)
Wallace, Ben (North-East Scotland) (Con)
White, Ms Sandra (Glasgow) (SNP)
Wilson, Andrew (Central Scotland) (SNP)
Young, John (West of Scotland) (Con)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
Baillie, Jackie (Dumbarton) (Lab)
Barrie, Scott (Dunfermline West) (Lab)
Boyack, Sarah (Edinburgh Central) (Lab)
Brankin, Rhona (Midlothian) (Lab)
Brown, Robert (Glasgow) (LD)
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Curran, Ms Margaret (Glasgow Baillieston) (Lab)
Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
Eadie, Helen (Dunfermline East) (Lab)
Finnie, Ross (West of Scotland) (LD)
Galbraith, Mr Sam (Strathkelvin and Bearsden) (Lab)
Gillon, Karen (Clydesdale) (Lab)
Godman, Trish (West Renfrewshire) (Lab)
Gorrie, Donald (Central Scotland) (LD)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (Edinburgh Pentlands) (Lab)
Harper, Robin (Lothians) (Green)
Henry, Hugh (Paisley South) (Lab)
Home Robertson, Mr John (East Lothian) (Lab)
Hughes, Janis (Glasgow Rutherglen) (Lab)
Jackson, Dr Sylvia (Stirling) (Lab)
Jackson, Gordon (Glasgow Govan) (Lab)
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
Kerr, Mr Andy (East Kilbride) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Livingstone, Marilyn (Kirkcaldy) (Lab)
Lyon, George (Argyll and Bute) (LD)
Macdonald, Lewis (Aberdeen Central) (Lab)
Macintosh, Mr Kenneth (Eastwood) (Lab)
MacKay, Angus (Edinburgh South) (Lab)
MacLean, Kate (Dundee West) (Lab)
Macmillan, Maureen (Highlands and Islands) (Lab)
Martin, Paul (Glasgow Springburn) (Lab)
McAveety, Mr Frank (Glasgow Shettleston) (Lab)
McCabe, Mr Tom (Hamilton South) (Lab)
McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
McMahon, Mr Michael (Hamilton North and Bellshill) (Lab)
McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
McNeill, Pauline (Glasgow Kelvin) (Lab)
McNulty, Des (Clydebank and Milngavie) (Lab)
Morrison, Mr Alasdair (Western Isles) (Lab)
Muldoon, Bristow (Livingston) (Lab)
Mulligan, Mrs Mary (Linlithgow) (Lab)
Munro, Mr John (Ross, Skye and Inverness West) (LD)
Murray, Dr Elaine (Dumfries) (Lab)
Oldfather, Irene (Cunninghame South) (Lab)
Peacock, Peter (Highlands and Islands) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Radcliffe, Nora (Gordon) (LD)
Robson, Euan (Roxburgh and Berwickshire) (LD)
Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
Scott, Tavish (Shetland) (LD)
Smith, Elaine (Coatbridge and Chryston) (Lab)
Smith, Iain (North-East Fife) (LD)
Smith, Margaret (Edinburgh West) (LD)
Stephen, Nicol (Aberdeen South) (LD)
Thomson, Elaine (Aberdeen North) (Lab)
Wallace, Mr Jim (Orkney) (LD)
Watson, Mike (Glasgow Cathcart) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)
Wilson, Allan (Cunninghame North) (Lab)

The Deputy Presiding Officer: The result of the division is: For 42, Against 65, Abstentions 0.

Amendment 19 disagreed to.

Amendment 20 not moved.

11:00

The Deputy Presiding Officer: Amendment 21 has already been debated with amendment 17. Do you wish to move the amendment, Mr Gallie?

Phil Gallie: The minister has agreed to introduce an appropriate regulation. Given that assurance, I will not move the amendment.

Amendment 21 not moved.

Section 8—Removal, restriction of functions and suspension of justices

The Deputy Presiding Officer: Amendment 4 is grouped with amendments 22 and 23.

Angus MacKay: Amendment 4 was lodged for the absence of doubt and for the sake of clarity. It makes explicit that the existing provisions in the District Courts (Scotland) Act 1975 to remove or restrict the functions of a justice on grounds of age or for no longer meeting the residence requirements are to be retained, and are not to be the subject of a tribunal constituted for that purpose.

Should I deal with amendment 22 now, Presiding Officer?

The Deputy Presiding Officer: I would prefer if you only spoke to amendment 4 at this point.

Angus MacKay: Done.

I move amendment 4.

Phil Gallie: The Law Society of Scotland have suggested that amendments 22 and 23 would be appropriate. Amendment 22 enables an investigation into the fitness of the justice, to be initiated by the sheriff principal for

"the commission area for which the justice was appointed".

The reason for the amendment is that the right to instigate an investigation should not rest solely with the Executive. The judiciary, in the form of the

sheriff principal, ought to have the right to initiate an investigation, if he or she has concerns as to the competence or fitness of the justice in question.

Amendment 23 returns to the point that, if anyone is accused, it is only right that they have

"the opportunity to be heard".

The Deputy Presiding Officer: I now invite the minister to speak to amendments 22 and 23.

Angus MacKay: Amendment 22, which seeks to give the sheriff principal of the relevant commission area the power to request the investigation of a justice, means that a sheriff principal would be expected to sit as a judge at a tribunal. To allow the sheriff principal the power to ask for such an investigation is unnecessary, because the sheriff principal would need at least some knowledge of the behaviour complained of. That might compromise the subsequent role of the sheriff principal, and that relates in some respects to our earlier discussion about the Lord President.

Amendment 23 is similar to amendment 21, which related to part-time sheriffs, and we ask members to reject the amendment for the same reasons as were outlined in our earlier discussion. There is no need to require in the bill that the justice tribunal regulations include provisions that give the justice an opportunity to be heard. We have already given assurances that the regulations will include such provision. In any event, all tribunals that sit to decide disciplinary matters require to follow the principles of natural justice. A failure to follow those principles would allow very good grounds for a successful appeal. The principles are well settled in law, and there is no doubt that the tribunal must follow them. They include a need to hear all sides to a dispute. In short, amendment 23 asks to have done what must be done anyway.

We ask that amendments 22 and 23 be not moved or rejected.

Roseanna Cunningham: Executive amendment 4 is clearly technical, and we have no difficulty with it. Amendment 23, which deals with justices, is effectively the same as Mr Gallie's earlier amendment covering part-time sheriffs, and my views are the same as they were earlier.

I wish to ask a question about amendment 22. I am not clear about how it would come to the notice of the sheriff principal if a justice was creating some difficulties in district courts. I would be interested to know how a sheriff principal would be in the position to realise that that was happening.

Phil Gallie: I think that there is no official line of communication, but the sheriff principal would, I suspect, become well aware of justices who were building up a reputation for inefficiencies or for a lack of expertise. Having said that, it all seems pretty irrelevant, as the minister has persuaded me not to move amendment 22.

Amendment 4 agreed to.

Amendment 22 not moved.

Phil Gallie: I am grateful to the minister for accepting that he will provide regulation and, on that basis, I will not move amendment 23.

Amendment 23 not moved.

Section 9—Restriction of function of justices who are councillors etc

The Deputy Presiding Officer: We now move to amendment 25, which is grouped with amendment 26. I call Phil Gallie to speak to and move amendment 25, and to speak to amendment 26.

Phil Gallie: Councillor justices or local authorities have almost certainly told every member in the chamber that it would be a bad move to remove, at a stroke, people who have given quite considerable time and effort to their role as justices through their appointment as elected councillors. At this point, we should pay some tribute to the people who have served the benches well over many years, for the most part without complaint.

We can acknowledge certain aspects of the argument for standing down councillor JPs. Under their terms of contract, judges, sheriffs, tribunal chairmen and even the police are not allowed to have political links. As a result, one could certainly question how on earth councillors who are, in the main, elected under political labels can be expected to be neutral as justices. However, from comments made at the committee by the minister and others, it has become apparent that that is not really why councillor justices are being stepped down. The real reason is the financial interests of the local authorities that the justices represent—councillor justices with such interests in the well-being of their local authority could be tempted to give foul judgment.

There is a way around that concern. We must remember that that role can be removed from a councillor JP at any time. Once they are appointed at the start of the council, they can be stood down halfway through their term in office. From a local authority viewpoint, there is an element of patronage. Furthermore, changing the law to allow councillors to be appointed in their own right as justices of the peace but still remain sitting councillors might provide a solution that would allay some of our fears about the loss of expertise in the district courts. That is the basis for amendment 25, and I ask the minister to give it

careful consideration. It will not contravene the ECHR, as so many other amendments seem to, and will acknowledge the expertise and knowledge that some councillor JPs have built up over many years.

Amendment 26 simply endorses that view, and is therefore consequential to amendment 25.

I move amendment 25.

Michael Matheson: From Phil Gallie's comments on amendment 25, he seems to intend that councillors who are appointed as JPs in future should be only signing JPs. Furthermore, amendment 26 seeks to ensure that people who are currently councillor JPs can continue as full JPs.

As members will be aware, one of the primary purposes of the bill is to deal with problems that could occur with the ECHR. Although the evidence that was given to the Justice and Home Affairs Committee on whether councillors being full justices would contravene the ECHR was ambiguous, there was a view that the position could be challenged. On that basis, and given the previous problems that we have had with incorporating the ECHR into our domestic law, it is appropriate that we should be prudent and err on the side of caution. If there is the potential for a challenge, we should move in the direction of preventing it.

In addition, concerns have been raised about the effect on the work of district courts of the reduction in the number of councillor JPs, who would no longer be able to practise as full justices. However, in the evidence that the Justice and Home Affairs Committee received there was a view that although there would be some localised difficulties initially, such difficulties could be dealt with by the other serving justices.

Phil Gallie: Would Mr Matheson acknowledge that I am looking for a short-term solution, something that ensures that district courts continue to function in a reasonable manner? I point out to him that he said that we "could" contravene the ECHR. My view is that my proposed change will not contravene the ECHR, but that is a matter of opinion, which is all that Michael Matheson stated.

Michael Matheson: Given Mr Gallie's views on the ECHR, I am not sure if his view on whether it will be contravened carries much weight. The evidence that was given to the Justice and Home Affairs Committee did not indicate that, as a result of this bill, district courts would not be able to cope. Only around 10 per cent of JPs are councillors, so there are plenty more JPs who will be able to take on the work in the district courts. If we are to work on a short-term basis, we could only do so until the beginning of October. We should act now, be prudent and make sure that we do not find ourselves, or JPs who are councillors, being challenged in October.

On that basis, we will not be supporting amendments 25 or 26.

Dennis Canavan (Falkirk West): I fully support the European convention on human rights. However, as Phil Gallie said, there is a long-standing tradition in Scotland of some people who are councillors sitting on the bench. It is a long-standing tradition indeed. My grandfather was a Labour councillor in Cowdenbeath in the 1920s. He was also a justice of the peace who sat on the bench, and he did so even after he retired as a councillor.

I must confess that when I was a youngster I did not fully comprehend the local system of dispensing justice and I said to my grandfather, "Granddad, how on earth can you sit there in judgment of your fellow human beings?" It was a small community, where everybody knew everybody else, and sometimes the people who were appearing before my granddad on the Monday morning had been lifted—literally in some cases—by the police on the Saturday night, when possibly their gravest crime was having too much to drink.

My granddad's response was, "Well, son, my usual maximum fine is half a crown, or five shillings for a second offence, but these poor people would probably end up in jail if there was a right-wing reactionary Tory sitting on the bench." [*Laughter.*] Things have probably moved on since then, but I tell Phil Gallie this: if I ever landed on the wrong side of the law, I would rather be judged by people like my grandfather than have Phil on the bench in judgment on me.

11:15

On Phil Gallie's amendment, I gave the minister a copy of correspondence from the director of law and administration for Falkirk Council, which contains points that I would like the minister to address. The letter says, among other things:

"Within Falkirk Council, there is only one Court Justice who is entitled to sit on the bench who is affected by the proposed restrictions. All current ex-officio Justices will, however, also be affected by the proposals."

The restriction

"would preclude three of our Councillors from remaining as members of the local Justices Committee. It would also preclude two Councillors from remaining as members of the local Justice of the Peace Advisory Committee."

Part of the problem may be that the council manages the district court. The director of law and administration, in her letter to the minister's department, says that the council

"may be thought to benefit from the imposition of fines and that Councillor or ex officio Justices may be perceived to lack the necessary independence and impartiality by virtue of their relationship with the local authority managing the Court."

However, as the minister will see from the letter, the council

"suggests that a better way of addressing this difficulty would have been to alter the administrative and financial arrangements of the Court, in order to prevent any perception that the authority may benefit from fine income."

In the letter, the council asks for a meeting with the Scottish Executive to discuss those matters. It would appear that that request has been ignored and that the council has not even had a response to its letter. I am not surprised at that, as the Scottish Executive is not renowned for speedy and positive replies to letters from MSPs. I suspect that many local councils throughout Scotland have had a similar experience.

I would be grateful, however, if the minister would give a considered response to the points made by Falkirk Council. Councils—and members of councils—throughout Scotland are probably raising those matters. If I get a response from the minister, I can report to the council that its views were given some consideration by the Executive before a final decision was taken.

Unusually for me, I agree with Phil Gallie. I hope that the minister will take the opportunity to put on record the Executive's appreciation, and indeed that of the Parliament, for the dedicated public service over many years that some councillors have given in their dual role as elected representatives of the people and—doing their best to administer justice—as justices of the peace. Their service ought to be recognised by the Executive and by the Parliament.

David Mundell (South of Scotland) (Con): I do not wish to repeat what I said when we debated this at stage 1, but I am disappointed that the Executive has pressed ahead with these measures in the bill, on the basis of what Michael Matheson has acknowledged as some ambiguous advice about the impact of the ECHR on our district courts. When officials gave evidence to the Subordinate Legislation Committee, they made it clear that there was not an ECHR problem with the way that the district courts were operating.

In rural areas, the role of a justice of the peace is distinct, in the sense that, as a result of cases that come before district courts being routinely reported in great detail in the press, a justice of the peace has a profile in the community. That is not so much the case in urban areas. To accept that profile requires special skills and willingness. That is why, in many rural areas—Dumfries and Galloway, for instance—many councillors have been the mainstay of the district court and have sat on the bench.

It is disappointing that the Executive, rather than considering the experience that such people have brought and the fact that there have been no complaints about individual bias, political or otherwise, has not sought to stand the corner in order to retain our councillor justices. Instead, it has sought, ahead of its review, to disbar them. I support Phil Gallie's amendment, which I acknowledge is a temporary solution, because I think that the proper place to examine the role of justices, and who should become justices, would be in the Executive's inquiry.

As I understand the current situation, no councillor justices are sitting, so nobody can argue that there is a current ECHR problem. It would have been far better to withdraw the proposals and reconsider the matter in the light of the Executive's review. Dennis Canavan and others have made it clear that many councillors have contributed significantly to the administration of justice in their local communities. I hope that the minister will acknowledge that, and acknowledge the fact that no personal issues in relation to any councillor justices have led to the introduction of the proposed measures.

I would also like to hear the minister say that he is committed to the delivery of local justice in local areas. Michael Matheson may dismiss as localised difficulties some of the problems that are arising in areas such as Dumfries and Galloway, but those difficulties are real and substantial, and people are not queuing up to become justices. It is important that people should be able to get justice in their local community, without having to travel many miles to the court. People should have access to justice that is administered by somebody who knows the context of the community and of the offence. I hope that the minister will confirm his commitment to the continuance of the district court and that the review will seek to improve that court and not to undermine it in any way.

If the proposals become law, it is sad that we will lose a large group of experienced justices—of whom there has been no significant criticism of the way that they have operated as individuals—on very ambiguous ECHR grounds. I hope that those members who know the work that councillor justices have done across Scotland will feel able to support Phil Gallie's amendment.

Scott Barrie (Dunfermline West) (Lab): I, too, want to extend a great vote of thanks to the justices who have performed such a magnificent task in our district courts in the past. However, the Executive was right to introduce, in section 9, the proposed changes to the District Courts (Scotland) Act 1975, and we should support neither amendment 25 nor amendment 26 today.

I find today's criticisms of the Executive quite strange. In the past, the Executive has been accused of not anticipating the ECHR—during a couple of debates in the chamber, it was suggested that the Executive should have had some sort of crystal ball to enable it to guess various things in advance. On this occasion, the Executive is introducing proposals that may avert an open challenge under the ECHR and it should be congratulated on looking ahead, exactly as it has been asked to do on previous occasions.

Michael Matheson is correct that the numbers involved represent less than 10 per cent of JPs, and that not all of those who are involved actually sit as magistrates on the bench. It is right that we should separate those two functions. Dennis Canavan spoke eloquently of his grandfather sitting in the burgh court in Cowdenbeath. He probably carried out a good job in the 1920s, but we are not in the 1920s. We have moved on. Lay justice is an important part of the criminal justice system and should be bolstered, but the difference that the Executive proposes in the bill should strengthen rather than weaken, as David Mundell seemed to suggest, lay justice.

We should not support amendments 25 and 26. When the Justice and Home Affairs Committee took evidence, a large volume of evidence from various councils throughout Scotland argued that the existing legislation should be retained, but the committee felt that the arguments, when balanced up with what the Executive proposed, did not come up to the mark. We should reject the amendments today.

Bruce Crawford (Mid Scotland and Fife) (SNP): I was a councillor justice on the bench before I became the leader of Perth and Kinross Council in 1996. While the measures in the Bail, Judicial Appointments etc (Scotland) Bill might be regrettable, I fully understand why they are necessary. We must ensure that the legal process that is available to us in this country is robust and defendable.

I cannot imagine for a minute that a councillor JP would increase fines just to get extra income—that just would not happen. However, that is not the point at issue. The point is that someone might point the finger and make that suggestion. If I were a litigant in such a situation and were going to appeal, I might trawl through the available monitoring statistics for district courts. I might find out where speeding offences occur, what level of fine is attributable in that area, discover how many councillors are sitting on the bench and, if that reveals a workable equation, lodge an appeal that would be difficult to defend.

We must also have from the Executive a thoroughgoing overhaul and review of the appointment process for JPs, as many local authorities conduct much of that process behind the scenes. The recruitment process is not as open and fair as it should be. If local authorities had an open and fair process, I am sure that many more people with the capacity and the competence to undertake the role of JP would come forward. In such circumstances, the need for councillor JPs would decrease and we might find people with a lot more talent who are prepared to serve on the bench.

I ask the minister to take on board a serious review of the appointment process within local authorities. Some authorities are quite open and above board, putting vacancies out for advertisement in the press, implementing a proper process thereafter and considering person specifications; however, others conduct the process quietly behind the scenes. The situation must be sorted out, with a proper rationale being brought to bear.

The Deputy Presiding Officer: Before I call the minister, I ask members to keep the noise level down, as it is beginning to creep up.

I call Angus MacKay to speak to amendments 25 and 26.

Angus MacKay: I am happy to put on record the Executive's acknowledgement of the work done by councillor and ex officio justices over the years and to acknowledge the value of that work. Phil Gallie appeared to make a new friend when he put on record his testament, as Bruce Crawford arrived in the chamber at that point and will have been particularly delighted to be congratulated for his past efforts. I know that a number of other members have been councillor JPs in the past, and we wish to acknowledge the work of all current and previous councillor JPs.

Having said that, a number of important issues have been raised in the debate on these amendments, and it is worth addressing those issues.

Amendments 25 and 26 relate specifically to the position of councillor and ex officio justices. The bill as it stands provides that existing councillor and ex officio justices will not be able to serve as bench-sitting justices, and that Scottish ministers and local authorities will no longer be able to appoint members of a local authority as full justices. As Phil Gallie explained, his amendments would, in large part, reverse that position. The consequences of his amendments would be that the 88 or so existing councillor and ex officio justices could continue to sit as full justices and that Scottish ministers could continue to appoint councillors as full justices.

These matters were discussed in detail during stage 2 of the bill, when I made pretty clear our express view that the continued use of councillor

and ex officio JPs in a bench-sitting capacity would be incompatible with the requirements of the ECHR. That remains the Executive's view, and therefore I believe that Phil Gallie's amendments would fall foul of the convention for the same reason that I put forward in relation to earlier amendments. I will take some time to explain why.

First, councillors are paid allowances by the local authority, which is a recipient of some of the fines levied by justices. That, in itself, could well create a significant risk that a councillor who is a justice would not have the perception—that is the important point—of impartiality required under article 6 of the convention. We should remember that it was the perception of impartiality that was the substantial issue in respect of temporary sheriffs.

11:30

Secondly, justices who are councillors have no security of tenure. As members will be aware, the lack of security of tenure was a major factor in the case of Starrs and Chalmers, which affected temporary sheriffs. Clearly, there is an even greater risk of challenge to ex officio justices, who lose their commission if they lose their seat. Indeed, they are liable to lose their commission simply as a result of a local authority withdrawing their nomination as a justice, for which no reasons need be given. Ex officio justices are therefore totally dependent on the good will of local authorities for their initial nomination and its continuance.

Finally, there are no statutory arrangements governing the selection and recruitment of justices. Ministers rely on the recommendations of local advisory committees, which are selected by Scottish ministers and contain members who are recognised as supporters of political parties. There is therefore an obvious perception of political influence in the composition of the committee that puts forward nominations for justices where the committee recommends the appointment of persons who are councillors. There is not a sufficiently patent element of independence in the appointment process for councillors to ensure that they would be regarded as compliant with article 6.

Taking those factors together, it is the Executive's view that there is a real risk of challenge to councillor and ex officio justices on the basis of the perception that they lack the necessary independence and impartiality. I emphasise that there is no suggestion of actual bias on the part of any councillor or ex officio justice. There was no suggestion of bias on the part of temporary sheriffs either, but as the High Court made clear in the case of Starrs and Chalmers, it is the perception that counts for ECHR purposes.

It is also important to echo the view expressed by the Justice and Home Affairs Committee, and raised in particular by Gordon Jackson, that the concept of elected politicians sitting as judges is at least an uneasy one. We believe that the ECHR risks are real and substantial. I endorse the view of the committee that there are strong arguments of principle in favour of trying to ensure clear separation between active political and judicial functions.

Those are the reasons why the Executive believes that it is important to act to prevent challenge under the ECHR.

A number of other issues have been raised during the debate. Bruce Crawford raised the issue of the appointments process for justices. I want to cover that point and the issue raised by David Mundell about local justice in rural and remote areas. We intend the review of the district courts to be wide-ranging. There is no reason why it cannot examine some of the issues raised today. We have no preconception about the outcome of the review.

Last week, I met representatives of the Stornoway Trust in Stornoway, where I also had the opportunity to meet individuals from the local authority and the local justice system who wanted to make representations about the nature of justice in rural and remote areas of Scotland. One of the assurances that I was able to give them is that I want to ensure that the outcome of the review does not prejudice or reduce the quality of justice in those parts of Scotland. I hope that that puts David Mundell's mind at ease to some extent.

I also made it clear that we want to receive representations not just about the conclusions of the review, but about what the review should cover. In Stornoway, we received representations that one of the things that the review should cover is the overlap between district courts and the role of sheriffs. Bruce Crawford's specific point about the way in which local justices are appointed and then feed into the local justice system might usefully be taken on board by the review. We will be happy to take on board a wide range of opinions and submissions.

That leaves me to deal with the points raised by Dennis Canavan in relation to Falkirk Council. I do not want to be confrontational or unconstructive, but I must begin by refuting one or two of the points made by Dennis Canavan.

The submission from Falkirk Council to the Scottish Executive was dated 29 June, which was six days ago. The letter would therefore have arrived perhaps only four or five days ago. My understanding is that the individual to whom it was addressed has replied to the letter and has explained in detail the Executive's position on the

issue. There is therefore no question in this particular case of the Executive dragging its feet in responding to Falkirk Council. I hope that the fact that I have met representatives of Western Isles Council in Stornoway indicates that we have tried to be open to questions and concerns at all times during the process. Indeed, we have involved the District Courts Association in submissions about where we should go on such issues.

Nevertheless, Falkirk Council does raise substantive points in its letter. I am happy to put those on record today, which will perhaps give some peace of mind to Dennis Canavan. Falkirk Council suggested that, instead of standing down councillors and ex officio justices, fine income could be diverted from the local authority. That proposal has been made by a number of local authorities. In our view, that would not be sufficient to remove the serious risk of incompatibility with the ECHR that arises from the role of the JP advisory committees in nominating justices—in other words, from the political dimension. We also feel that it would be a lengthy way of resolving the problem and would raise the question of what happens to fine income within the Treasury.

Falkirk Council raised two further matters. Their letter states that there is no mechanism for restoring councillor justices to the bench if they cease to be councillors. That is not correct. Section 9 would insert in the District Courts (Scotland) Act 1975 a new section 12(2)(b), enabling ministers to appoint a signing justice as a full justice. The people affected by this bill can put themselves forward for appointment to the bench again if they are no longer serving as councillors. Falkirk Council also says that councillor justices will not be permitted to sit on the local JP committee. We proposed an Executive amendment to the bill at committee to allow that, so some of Falkirk Council's concerns have been addressed.

Since November 1999 the Lord Advocate, bearing in mind his duty to act in accordance with the ECHR, has declined to prosecute before a councillor or ex officio justice. Since then the district courts have had to do without those justices. There is no evidence that that has given rise to practical problems. District court business has fallen dramatically in recent years: from 87,000 cases in 1991 to 48,000 cases in 1999, a reduction of around 45 per cent. Many local authorities had made no use of councillor or ex officio justices on the bench even before last November. Those who did so can of course put forward nominations for new justices at any time.

Those arguments make clear why the Executive believes we must act and it is right to do so, judiciously and taking account of views of individuals engaged with local justice in Scotland. I ask members to reject amendments 25 and 26.

Phil Gallie: The minister's arguments in winding up were much better than what he said at the start—which was the weakest defence that I have heard from the minister. He argued that local authority councillors relied on the council to pay their wages. If he accepted my amendment, that would not be the case, because the local authority and JP inputs would be removed. They would not be sitting as councillor appointees to the bench.

The minister also spent some time on the argument about nomination by local authorities. That would be dispensed with if my amendment were accepted. The minister talked again about the perception of conformity with the ECHR. Honestly—the ECHR, on my understanding and that of everyone here, is supposed to improve the law and make people feel more comfortable. I cannot see that taking out councillor JPs does that, particularly when we hear of examples such as Dennis Canavan's grandfather in Cowdenbeath—someone of a different political persuasion from me but committed to the community. That was David Mundell's message—about people committed to the community. No one can be more committed than by taking on the role of a councillor, particularly in the past, and at the same time the role of JP. No one does it for financial reasons; they do it because of their commitment to the community. The minister has ignored all of that—

Roseanna Cunningham: How would Mr Gallie feel about sheriffs sitting on the bench and being politically active? Would he see that as acceptable? If not, why is a councillor sitting in the district court acceptable?

Phil Gallie: If Roseanna Cunningham thinks back to my opening remarks, I referred to that—to people who must be removed because of politics. We should examine that matter further down the line.

I take Bruce Crawford's comments on board—I would go along with the idea of a review of the matter in the longer term. I argue that we should examine the situation whereby serving justices of the peace who have done a good job might be dismissed arbitrarily because there is a perception—I underline the word perception—that we are not conforming with the ECHR.

I cannot resist mentioning Dennis Canavan's reference to 2s 6d and 5 bob—that brings affectionate memories bounding back to my mind, particularly in respect of my love of sterling.

Dennis Canavan: Is Phil Gallie also against decimalisation? [*Laughter.*]

Phil Gallie: I listened carefully to Scott Barrie's comments about separation of functions.

Amendment 25 clearly acknowledges the separation of functions. Many individuals have served as JPs for a number of years and have, somewhere along the line, decided that they want to give more time and effort to the community and have taken on the role of councillor. Why on earth should they step back from their original commitment to act as JPs? The minister should think about that. Why should people who have served in that way for a number of years stand down? They have been reasonable and committed enough to become councillors.

My amendment offers a short-term way forward and it would give the minister time to set up the review that Bruce Crawford wants, which would meet the wishes of everybody in the chamber. We do not want a quick hash-bash approach to be taken, irrespective of the minister's words. I acknowledge that there are problems in the High Court and in the sheriff courts that we do not want to see in district courts. Michael Matheson argued that there is no problem in the district courts. I ask the minister to reconsider whether he will agree to amendment 25.

The Deputy Presiding Officer: The question is, that amendment 25 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

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

AGAINST

Baillie, Jackie (Dumbarton) (Lab)
Barrie, Scott (Dunfermline West) (Lab)
Boyack, Sarah (Edinburgh Central) (Lab)
Brankin, Rhona (Midlothian) (Lab)
Brown, Robert (Glasgow) (LD)
Campbell, Colin (West of Scotland) (SNP)
Canavan, Dennis (Falkirk West)
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Cunningham, Roseanna (Perth) (SNP)
Curran, Ms Margaret (Glasgow Baillieston) (Lab)
Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
Eadie, Helen (Dunfermline East) (Lab)
Elder, Dorothy-Grace (Glasgow) (SNP)
Ewing, Dr Winnie (Highlands and Islands) (SNP)
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
Ewing, Mrs Margaret (Moray) (SNP)
Fabiani, Linda (Central Scotland) (SNP)
Finnie, Ross (West of Scotland) (LD)
Galbraith, Mr Sam (Strathkelvin and Bearsden) (Lab)
Gillon, Karen (Clydesdale) (Lab)
Godman, Trish (West Renfrewshire) (Lab)
Gorrie, Donald (Central Scotland) (LD)
Grahame, Christine (South of Scotland) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (Edinburgh Pentlands) (Lab)
Hamilton, Mr Duncan (Highlands and Islands) (SNP)
Harper, Robin (Lothians) (Green)
Henry, Hugh (Paisley South) (Lab)
Home Robertson, Mr John (East Lothian) (Lab)
Hughes, Janis (Glasgow Rutherglen) (Lab)
Hyslop, Fiona (Lothians) (SNP)
Ingram, Mr Adam (South of Scotland) (SNP)
Jackson, Dr Sylvia (Stirling) (Lab)
Jackson, Gordon (Glasgow Govan) (Lab)
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
Kerr, Mr Andy (East Kilbride) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Livingstone, Marilyn (Kirkcaldy) (Lab)
Lochhead, Richard (North-East Scotland) (SNP)
Lyon, George (Argyll and Bute) (LD)
MacAskill, Mr Kenny (Lothians) (SNP)
Macdonald, Lewis (Aberdeen Central) (Lab)
Macintosh, Mr Kenneth (Eastwood) (Lab)
MacKay, Angus (Edinburgh South) (Lab)
MacLean, Kate (Dundee West) (Lab)
Macmillan, Maureen (Highlands and Islands) (Lab)
Martin, Paul (Glasgow Springburn) (Lab)
Marwick, Tricia (Mid Scotland and Fife) (SNP)
Matheson, Michael (Central Scotland) (SNP)
McAveety, Mr Frank (Glasgow Shettleston) (Lab)
McCabe, Mr Tom (Hamilton South) (Lab)
McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
McGugan, Irene (North-East Scotland) (SNP)
McMahon, Mr Michael (Hamilton North and Bellshill) (Lab)
McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
McNeill, Pauline (Glasgow Kelvin) (Lab)
McNulty, Des (Clydebank and Milngavie) (Lab)
Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
Morrison, Mr Alasdair (Western Isles) (Lab)
Muldoon, Bristow (Livingston) (Lab)
Mulligan, Mrs Mary (Linlithgow) (Lab)
Munro, Mr John (Ross, Skye and Inverness West) (LD)
Murray, Dr Elaine (Dumfries) (Lab)
Neil, Alex (Central Scotland) (SNP)
Oldfather, Irene (Cunninghame South) (Lab)
Paterson, Mr Gil (Central Scotland) (SNP)
Peacock, Peter (Highlands and Islands) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Quinan, Mr Lloyd (West of Scotland) (SNP)
Radcliffe, Nora (Gordon) (LD)
Robison, Shona (North-East Scotland) (SNP)
Robson, Euan (Roxburgh and Berwickshire) (LD)
Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
Salmond, Mr Alex (Banff and Buchan) (SNP)
Scott, Tavish (Shetland) (LD)
Simpson, Dr Richard (Ochil) (Lab)
Smith, Elaine (Coatbridge and Chryston) (Lab)
Smith, Iain (North-East Fife) (LD)
Smith, Margaret (Edinburgh West) (LD)
Stephen, Nicol (Aberdeen South) (LD)
Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
Sturgeon, Nicola (Glasgow) (SNP)

Swinney, Mr John (North Tayside) (SNP)
Thomson, Elaine (Aberdeen North) (Lab)
Wallace, Mr Jim (Orkney) (LD)
Watson, Mike (Glasgow Cathcart) (Lab)
White, Ms Sandra (Glasgow) (SNP)
Whitefield, Karen (Airdrie and Shotts) (Lab)
Wilson, Allan (Cunninghame North) (Lab)
Wilson, Andrew (Central Scotland) (SNP)

The Deputy Presiding Officer: The result of the division is: For 16, Against 93, Abstentions 0.

Amendment 25 disagreed to.

Amendment 26 not moved.

Section 10—Abolition of prosecutions on behalf of or by local authorities

11:45

The Deputy Presiding Officer: We now come to amendment 27, which stands on its own.

Phil Gallie: The minister had strong opinions about councillors, saying that people who were paid by the local authority should play no part in the judicial processes of the district courts. Amendment 27 removes the words

"brought by persons authorised by"

from section 10(1), when the authorising would have been done by the local authority. As Roseanna Cunningham pointed out at stage 1, the clerks of the court in the district courts are employees of the local authority. It seems to me that all the arguments that the minister used against the appointment of councillors would also apply to the clerks of the court. I am therefore helpfully trying to assist the minister in amending the bill, so that it is in line with his own wishes.

I move amendment 27.

Roseanna Cunningham: I am, I confess, a bit puzzled by what Mr Gallie has just said. When I read his amendment, it did not occur to me that he hoped to deal with the position of the clerks of the court in the district courts. Under no circumstances do clerks of the court institute proceedings in the district court, and section 10 is about the people who are, at present, entitled to institute proceedings. The clerks cannot do so; they merely give advice on the law to justices of the peace, who are generally not legally qualified. I do not see how the amendment even begins to address the situation of the clerks.

Robert Brown (Glasgow) (LD): I would like to speak against Phil Gallie's amendment, for the reasons that Roseanna Cunningham mentioned. We are dealing with section 10, on the abolition of prosecutions by local authorities, and I would like to reiterate a point that I made at an earlier stage in the debate. It concerns the liaison between the prosecuting authority—the procurator fiscal service—and the councils.

A number of municipal-type offences—I am thinking of houses in multiple occupancy and of matters that would come under the Public Health (Scotland) Act 1897—are relatively trivial but still come under the local authorities' panoply of powers for dealing with, for example, anti-social tenants. For years, difficulties have arisen between the procurator fiscal service and the local authorities over the seriousness with which such matters are taken. Some are prosecuted by the fiscal; some, in the past, have been prosecuted by the local authorities.

I would like an assurance from the minister that that issue will be taken on board. The procurator fiscal service must have the organisation and the facilities to deal properly and effectively with what, hitherto, have been regarded as relatively trivial offences but about which local authorities feel strongly. There is an important liaison and resources issue to be addressed.

Angus MacKay: Amendment 27 seeks to amend section 10 to enable persons authorised by the local authority to continue to institute proceedings in a district court. It is the Executive's view that the fact that the legal assessor is an employee of the local authority means that there is serious risk of a successful ECHR challenge to the district courts in cases where the local authority is itself prosecuting before that court. That risk is present in all cases in which the local authority is the prosecutor, whether the prosecution is brought by a person instructed by the local authority or by a person authorised by the local authority. On those grounds, I ask Mr Gallie to withdraw his amendment, as it would prevent the bill from dealing fully with the ECHR difficulty that is caused when a local authority prosecutes in its own court.

Mr Gallie also raised the question of clerks of court. I must admit that, like Roseanna Cunningham, I was a little bit confused by that, but I shall address the issue, as it has been raised. The Executive does not believe that there is a serious risk of a successful ECHR challenge to the clerk of a district court on the basis that the clerk is an employee of the local authority, except in cases where the local authority is itself prosecuting, which will no longer be possible once the bill becomes law.

There are a number of reasons for believing that such a challenge would not be well founded. For example, the justice's decision is appealable, and there is therefore a proper opportunity for appeal and review of the justice's decision. The clerk does not take part in the decision making; his or her role, as Roseanna Cunningham said, is merely advisory and is restricted to legal matters. The clerk does not participate in the finding of the facts or in the final decision. In addition, the clerk has

nothing to gain by exerting influence or showing partiality in the legal advice that is provided to the justice. Clerks have no interest in the outcome of the proceedings, so there could be no reason to believe that a clerk would try to give legal advice to ensure that there was a conviction.

Phil Gallie may be aware that a forthcoming case has been listed for hearing by the High Court of Justiciary at the end of July, and the Crown will be vigorously defending the position of clerks of the court in that case.

A note has magically appeared before me, which addresses the point that Robert Brown raised. It says that there is no reason why there cannot be discussions between the District Courts Association and the Crown Office about policy relating to the matters that Robert Brown mentioned. I hope that that puts his mind at rest.

In any event, I ask Phil Gallie to withdraw amendment 27, for the reasons that I have outlined.

Phil Gallie: I make no apologies for the fact that the vehicle that I have used to have the debate is one that perhaps is not based entirely on substance, and I acknowledge what Roseanna Cunningham said in challenging my amendment. However, I believe that the position of district court clerks is an issue that must be dealt with, and the minister has, to a degree, acknowledged that.

One thing that Roseanna Cunningham said stirred up some concerns in me. She said—and the minister repeated—that the clerk is there to give advice to the justices themselves. That advice could certainly tend to change the opinions of the justices on some issues. Perhaps I am being naive about that, but I suspect that it could happen. However, irrespective of my doubts, I recognise that there is a current legal case that addresses the matter. The minister is defending the situation and I would be interested to know the outcome of the case. If it is indeed okay for district clerks to continue to be in the employ of the local authorities, and they are not seen to influence the fair working of the district courts in any way, the minister still has a good excuse to go back and look at other issues, such as the position of JP councillors.

Amendment 27, by agreement, withdrawn.

After section 11

The Deputy Presiding Officer: We now come to amendment 28.

Roseanna Cunningham: I detect a certain amount of anxiety beginning to develop among members about when they will manage to get any lunch, so I shall try to be as brief as possible. Amendment 28 was triggered by expressions of concern by a rather eminent law professor in a university not very far from the chamber, so I put it out for discussion today.

At stage 2 there was an interesting, although brief, discussion generated by amendments lodged by Phil Gallie, in which he attempted to change the reference in section 11 to "the Scottish Ministers" to a reference to "the First Minister". We sought to establish what was meant by the term "the Scottish Ministers", and Phil Gallie asked whether it included the law officers. In his response, the minister talked about the definition of the Scottish ministers that appears in the Scotland Act 1998. However, he did not address directly the issue of the law officers. I would like him to deal with that today.

Members will be aware that the law officers are the Lord Advocate and the Solicitor General for Scotland. The Lord Advocate may have one of the oldest continuous public roles of anyone in any country in the world. It would be interesting to make a comparison with some other countries, but I suspect that the position of Lord Advocate has existed in Scotland longer than any comparable position in any other country. It is a role with a very long history.

The law officers are the ultimate source of advice to the Government on all legal matters. They are members of the Cabinet in their own right and they are independent of the Secretary of State for Scotland. The Lord Advocate is the principal law officer of the Crown in Scotland, responsible for investigating crime and for prosecutions in the High Court, sheriff courts and district courts. He discharges those functions through the Crown Office and the fiscal service. He is constitutional and legal adviser to the Government on Scottish affairs, and he is responsible for the Scottish parliamentary counsel.

The real issue is that the Lord Advocate is responsible for the prosecution of all crime in Scotland. Cases are brought in his name. The fact that the Lord Advocate has a dual legal-political role has caused some concern in the recent past about his impartiality, particularly as regards appointments. We have had some bruising debates in the chamber about the role of the Lord Advocate. In the Lord Advocate's absence, the Solicitor General tends to take on his responsibilities. Concerns have been expressed about the process by which appointments to the bench are made.

Starrs and Chalmers was a case brought under the ECHR in which the appointment of temporary sheriffs, involving the Lord Advocate, on an annual basis, with no security of tenure, was found not to be compliant with the relevant article of the ECHR. I know that Starrs and Chalmers was principally about tenure, but the issue of tenure arose only

because of the fact that the person doing the appointing was the person responsible for all criminal prosecutions in Scotland. Indeed, it is possible for the Lord Advocate to give advice while trials are happening.

Given those circumstances, I would like the minister to say something about the role of the law officers in respect of judicial appointments. He may simply fall back on the line that he took at stage 2, which was to point out that a judicial appointments consultation is under way and that all these things will be dealt with in due course. However, today we are passing legislation, and we ought to clarify whether in the bill we are perpetuating a situation that has already given rise to a great deal of criticism and concern. Perhaps we ought to think rather more carefully about that.

I move amendment 28.

Phil Gallie: I support the amendment. Roseanna Cunningham was right to say that I had concerns about the use of the term "the Scottish Ministers". The minister very kindly suggested a formula defining it but, as Roseanna Cunningham has pointed out, there are concerns about the involvement of the Lord Advocate and the Solicitor General.

Amendment 28 adds to the bill. It meets the minister's requirements and it clarifies my original questions concerning the issue. It would be nice if, for a change, the minister would say that he is prepared to accept one of the Opposition's amendments.

12:00

Angus MacKay: I assure members that I am not likely to accept any of the amendments lodged today on the basis of doing so just for a change. I am sorry to have to disappoint Phil Gallie in that regard and to thwart his expectations.

Amendment 28 seeks to ensure that, alone among Scottish ministers, the Lord Advocate and the Solicitor General should not exercise any powers that are conferred under the bill or under any provisions of an act that is amended by the bill. It seems that the amendment is concerned with the powers that are conferred on the Scottish ministers in relation to the appointment and removal of part-time sheriffs, although the debate that has been generated today has gone wider than that.

The fact that the Lord Advocate and the Solicitors General are excluded on statutory grounds from exercising appointment powers does not prevent them from having a role in the appointment. Temporary sheriffs were required to be appointed by the secretary of state and not the Lord Advocate. However, it was accepted by the court, in the case that Roseanna Cunningham mentioned, that in practice the Lord Advocate played a significant role in the appointments.

A great deal has been said and written recently about the role of the Lord Advocate in appointment and reappointment of temporary sheriffs. We have studied the judgment in Starrs and Chalmers carefully, and in our scheme for appointment and reappointment of part-time sheriffs, we have tried to learn the lessons of that court case. We have changed the term of appointment from one year to five years. We have made reappointment virtually automatic, except in a few very limited situations in which reappointment would be discretionary. We have proposed that an independent tribunal should remove any part-time sheriff who is considered to be unfit to hold office. No minister will have any role in that process.

We have moved a long way towards distancing ministers from decisions about reappointment and removal of part-time sheriffs. It is true that the Scottish ministers will make the initial appointments, but they will be responsible for the expenditure, so it is right that they should do so. Ministers will make appointments after consultation with the senior judiciary. It is inevitable that the Lord Advocate will play a role in offering advice to ministerial colleagues on the selection of those for appointment.

We make no apology for referring to the Lord Advocate's role, and I believe that we do so on very sound authority. The first authority is:

"So far as the initial appointment (rather than the subsequent renewal of appointments) of temporary Sheriffs is concerned, I agree that appointment by the Executive is not inherently objectionable . . . I therefore conclude that the manner of appointment of temporary Sheriffs does not point towards any lack of judicial independence."

The second quotation is as follows:

"I do not have difficulty with the fact that temporary sheriffs are appointed by the executive, following upon their selection by the Lord Advocate".

Members will wish to note that the authors of those statements are respectively Lord Reed and Lord Cullen, in their judgments in Starrs and Chalmers.

I remind members that the Executive has published a consultation paper on judicial appointments, in which the Executive commends the establishment of an independent judicial appointments board. We must await views on the consultation paper, but we will certainly bring forward proposals as soon as possible. In the meantime, it is our view that we would be wrong to interfere with current arrangements by making changes in the bill. Rather than dealing piecemeal with new proposals, we think that they should be dealt with in their entirety, in one place and at one

time.

Amendment 28 runs contrary to the broad philosophy of the Scotland Act 1998, which places collective statutory responsibility on the Scottish ministers in most cases and does not seek to specify which Scottish ministers should or should not exercise specific functions. It is therefore for the First Minister to decide how the functions of the Scottish ministers should be allocated among specific ministers. That point was rehearsed in committee.

I invite members to agree that it is not appropriate to seek to exclude the law officers from any involvement in advising ministers on the appointment of part-time sheriffs. I therefore invite members to reject amendment 28.

Roseanna Cunningham: I disagree slightly with the minister. In my view, it is perfectly appropriate to seek to remove the involvement of the person responsible for prosecuting crime in Scotland from appointments to the bench. That issue is likely to be debated again in the judicial appointments consultation.

I understand what the minister has said about the bill, although I thought that he downplayed the role of the Lord Advocate a little. If he is content to have that on the record, I am content to hear him talk about the appointments in the terms that he is using today. In view of the fact that the judicial appointments consultation is on-going, I will seek leave to withdraw the amendment.

A broader issue should be addressed. The fact that legislation is triggered by the need for compliance with the ECHR does not mean that we need do only the absolute minimum that is required for compliance. There are always opportunities to do more with any legislation, to achieve a better result. The fact that the ECHR does not demand that we do something does not mean that we should not do it.

I ask leave to withdraw the amendment.

Amendment 28, by agreement, withdrawn.

Schedule

MINOR AND CONSEQUENTIAL AMENDMENTS

The Deputy Presiding Officer: We move to amendment 5, which is grouped with amendment 6.

Angus MacKay: These Executive amendments deal with a minor new matter. I apologise to members that we did not spot the need for them at an earlier stage.

Amendment 5 ensures that a part-time sheriff can conclude any case that is started but not finished by the date on which the part-time sheriff's appointment comes to an end. If we did not make that change, it would mean that any such case would have to be reheard by a new sheriff, which would cause delay and additional expense for the parties involved. We touched partially on the matter earlier in relation to other amendments. I am sure that members agree that the situation is to be avoided and that the amendment delivers that objective.

Amendment 6 is a drafting arrangement that is entirely consequential on amendment 5. I invite members to approve the amendments.

I move amendment 5.

Amendment 5 agreed to.

Amendment 6 moved—[Angus MacKay]—and agreed to.

The Deputy Presiding Officer: That concludes consideration of the amendments to the bill.

Bail, Judicial Appointments etc (Scotland) Bill

The Deputy Presiding Officer (Patricia Ferguson): The next item of business is the debate on motion S1M-1079 in the name of Jim Wallace, which seeks agreement that the Bail, Judicial Appointments etc (Scotland) Bill be agreed to.

12:08

The Deputy First Minister and Minister for Justice (Mr Jim Wallace): The Bail, Judicial Appointments etc (Scotland) Bill was introduced on 25 May this year. The fact that we are debating stage 3 on 5 July demonstrates that it has taken a great deal of commitment from all concerned to enable us to get to this stage before the summer recess. It was important that the bill be passed before the summer recess so we could appoint part-time sheriffs and have legislation in place by 2 October.

I want to thank the convener, members, clerks and officials of the Justice and Home Affairs Committee for the efficiency with which they dealt with stages 1 and 2 of the bill and for their co-operative handling of it. I want to extend a personal thanks to the Deputy Minister for Justice, Angus MacKay, for having borne the brunt of the ministerial work relating to the bill. I also want to thank officials in the justice department for the work that they have done. It is clear that this is an important piece of legislation and that it has required a lot of intensive work.

I hope that the Executive has co-operated and collaborated during the passage of the bill. We have listened carefully to the views that have been expressed by distinguished lawyers and experts on human rights, such as Professor Chris Gane, and by the Law Society of Scotland, Victim Support Scotland, the Sheriffs Association and the District Courts Association. When it has made sense to do so, we have willingly lodged amendments, and the bill is the better for all the work of the Justice and Home Affairs Committee and the representations that it received, distilled and put forward in its reports.

We have removed the power to appoint the members of the tribunal to remove part-time sheriffs from ministers' hands and put it into judicial hands. Greater security of tenure has been conferred on part-time sheriffs by stipulating that their reappointment will be automatic unless one of the grounds that are specified in the bill applies. We have brought the procedure for removing a justice of the peace into line with that for the removal of a part-time sheriff. We have also lodged an amendment that allows councillor justices to remain eligible for appointment to the justices committee.

My thanks are extended to all those who have expressed a view on the bill, who have helped to ensure that it will be a sound piece of legislation. The passing of this bill before the summer recess will enable the appointment of part-time sheriffs to proceed, thus relieving the burden on our sheriff courts. It will also ensure that our district court procedures on bail, under Scots law, can stand scrutiny under the European convention on human rights.

This is an important bill. It is the first piece of legislation that the Executive and the Parliament has dealt with that specifically addresses ECHR concerns. Throughout the bill process, I have been impressed by the readiness of members to accept the key importance of the convention and the need for Scotland to ensure that our laws and procedures are constructed in accordance with the rights that are guaranteed by it.

As I know only too well, the process of ensuring ECHR compatibility is not always comfortable. We may support the underlying values of the convention, feeling that our legislation already embodies them, but it is sometimes difficult to acknowledge instances in which it does not. The process of this bill has shown that when there is a commitment to the ECHR and the principles that it represents, much can be achieved through a constructive and sensible approach. I believe that the European convention on human rights should not be about conflict, but about development and acknowledging mistakes, when necessary, and seeking improvement. Most of all, it should be about putting into practice our beliefs in fundamental rights. I am therefore grateful for the approach that members from all parties have taken and I commend the bill to the Parliament.

I move,

That the Parliament agrees that the Bail, Judicial Appointments etc (Scotland) Bill be passed.

12:12

Roseanna Cunningham (Perth) (SNP): With the exception of the emergency Mental Health (Public Safety and Appeals) (Scotland) Act 1999, which was passed in the aftermath of the Noel Ruddle affair, this must count as some kind of record for getting a piece of legislation on to the statute book. It feels as though the bill was introduced only about three and a half minutes ago. Paradoxically, we have run a marathon in that time to reach this point.

Unlike the Conservatives, the SNP does not bewail the incorporation of the European convention on human rights: we regard it as the

minimum standard that we should seek to achieve in all that we do in Scotland. For that reason, we have accepted the need to make changes to bail. The truth is that there will be precious little difference in the granting and refusal of bail. I wish that the Conservatives would accept that, instead of taking the line that they have taken today. In practice, the bill will not make that big a difference.

Although the speed with which the Justice and Home Affairs Committee has had to deal with the bill has been breathtaking, I do not want to repeat my criticisms of that today. I understand why the minister was so concerned to have this bill passed. The impact of the Starrs and Chalmers case, which effectively found against the use of temporary sheriffs, was immediately felt in Scotland's courts, and the extent to which the justice system had come to rely on the extensive use of temporary sheriffs was perhaps not fully understood until they were no longer available. Arguably, that was a failure of previous Administrations, who did not monitor the situation.

The use of temporary sheriffs had been criticised for a considerable number of years. A main concern was that it was a way of getting justice on the cheap, as temporary sheriffs do not have rights to a holiday entitlement and other benefits—although that fact may give rise to what Phil Gallie anticipates as a trade union for sheriffs. Critics were equally concerned that the annual process of hiring and firing substantially reduced the appearance of impartiality, which is essential in our courts. Some of those critics were well known and wrote in the press years ago—people such as Ian Hamilton QC, who has been concerned about the use of temporary sheriffs for many years.

Unlike the Conservatives, I believe that it is right that, where possible, the Executive should anticipate successful challenges. My criticism in the past has been that the Executive did not properly anticipate challenges and that it did not do so in the case of Starrs and Chalmers, although it had been widely predicted that the Starrs and Chalmers decision would be unfavourable to the use of temporary sheriffs.

Was any assessment made of the likely effect on court rotas of the withdrawal of temporary sheriffs? It almost seems as if the Executive was caught by surprise by the impact of their removal. The result has been a period of profound disruption in Scottish courts. Trials have been set down for dates many months in the future and other business has been delayed almost indefinitely in some areas.

Those who use our courts will be relieved when the new part-time sheriffs are in place and there can be a return to some semblance of normality, although the events in the High Court in Glasgow last week suggest that normality in Scottish courts may be relative.

Surprisingly, the section on justices who are councillors turned out to be the section that generated most correspondence. Understandably, that came mainly from individual councillor JPs. Unfortunately, the alternative mechanism that they identified as preferable to removing them from the bench was not a measure on which the Parliament was competent, even if it had been politically acceptable, which is doubtful. That will be of little comfort to them, but it is difficult to see how the potential problem could have been solved other than by what is proposed in the bill.

Despite the short time scale for processing the bill, the Justice and Home Affairs Committee identified some serious shortcomings that required to be rectified before it would allow the bill to proceed. To its credit, the Executive accepted almost all of the committee's recommendations. On behalf of the committee, I thank the Executive for doing that.

With the agreed amendments, the SNP can support the bill. It is hoped that the woes of court practitioners will now be alleviated.

12:16

Phil Gallie (South of Scotland) (Con): I am a little disappointed that ministers did not use their ingenuity to find a means of introducing into the bill Tony Blair's ideas on on-the-spot fines.

We express regret that the sections on bail seem to have weakened the bail laws. We take some assurance from the words of Roseanna Cunningham and the minister that these provisions will not induce a major change in the operation of the bail laws as they are perceived by the public. We will watch this issue very closely and—believe it or not—we will bring it back to Parliament by some means or other if we find that the bail laws have been weakened.

Section 5 was not debated today. As Gordon Jackson said at a recent meeting of the Justice and Home Affairs Committee, temporary sheriffs are no more. In fact, when one examines section 5, one sees that there is still a place for temporary sheriffs. There is a continuing role for those who were appointed before enactment of this bill. Given the Starrs and Chalmers decision, that comes as a bit of a surprise. As ministers have not seen the need to change it, we will go along with it.

We have had a good debate on councillors today. It is right that we have paid tribute to many long-serving and capable JPs who were councillors. I am a little disappointed that the minister could not find a way to retain some of

their knowledge and experience on the bench, but I would not want judgments at whatever level to be challengeable.

The failure to accept Roseanna Cunningham's amendment on the Lord Advocate and the Solicitor General being party to the appointment of those who will sit in judgment on prosecutions is a case of allowing poachers to appoint the gamekeepers. Difficulties may lie ahead.

Overall, time has been the enemy on the bill. Roseanna Cunningham said that it seemed as if it had been introduced three or four minutes ago. In fact, it will be a fortnight tomorrow since it was introduced. I do not think that that makes for good legislation. Ministers must consider that issue in respect of future legislation. I recognise that we are working under pressure from the European convention on human rights. It is pointless to hark back to that continually—it is in the past and we must look to the future. We must ensure that our law conforms so that no more verdicts and decisions of our courts are challenged.

In respect of the need for haste and our support, I refer members to the case last week in which a person involved in the drugs scene was discharged because the case was time barred. That is the last thing the Conservatives want and it is one reason why we are supporting implementation of the bill today.

12:20

Scott Barrie (Dunfermline West) (Lab): I do not know whether I am speaking only for myself or for all members of the Justice and Home Affairs Committee when I say that I was hardly filled with great excitement when I discovered that the committee was to discuss something called the Bail, Judicial Appointments etc (Scotland) Bill, but the subjects that we have discussed and that have been introduced by what in a few minutes' time will become an act are vital.

We have heard that the changes to the bail procedures in Scots law are necessary to bring us in line with the ECHR and to ensure that our bail procedures are robust and are able to stand up to the highest scrutiny. We have also heard, in committee and from the Deputy Minister for Justice in Parliament, that that will not affect the standards of bail decisions or lead suddenly to vast numbers of people being granted bail who previously would have been refused it.

We have also heard about the Starrs and Chalmers decision which, although it was predicted, has caused difficulties in our courts in the past few months. It is clear that we needed legislation to address those problems; now that it is in place it will be welcomed by everyone who is committed to an effective criminal justice system.

Roseanna Cunningham was right to say that it is perhaps surprising that the sections of the bill that caused if not the most controversy, certainly the most discussion, were those that dealt with councillor JPs. We discussed that issue extensively this morning. I would like to reiterate the remarks that I made when we discussed Phil Gallie's amendment in committee. People cannot have it both ways: either they can criticise the Executive for not anticipating something or they can criticise the Executive for trying to anticipate something. In this case, the Executive is rightly anticipating a possible challenge and is heading it off before it can become successful. The Executive should be congratulated when it gets something right and on this occasion I believe that it has got it right. There is another issue about the principle of whether councillors should sit as lay justices, but that is a separate argument. The legal argument was worth having and the right decision has been taken.

The bill is necessary. I am glad that we have been able to get it through the committee and the Parliament as quickly as we have. The maxim that rushed legislation is always bad legislation is not true. Although the bill has gone through the parliamentary process is remarkably quick time, it is not a bad piece of legislation. Rather, it is necessary legislation that will be welcomed.

12:24

The Deputy Minister for Justice (Angus MacKay): It is probably agreed on all sides—notwithstanding specific concerns—that the bill to which we are about to agree is necessary and urgent. I would like to put on record my gratitude to everyone who participated in the various debates that we have had, particularly the Justice and Home Affairs Committee for its constructive and tolerant approach to our proposals.

I will deal briefly with a point that was left over from our earlier discussions. Phil Gallie raised a question about bail exclusions. At the time, I did not have an opportunity to address the matter. It is not a question of the Executive sticking a finger in the air to gauge whether bail exclusions are a problem; the bail exclusions have already been repealed in England and Wales, for good reason. Following the case of Caballero v UK last year, the UK Government conceded that there was a breach of the ECHR. That case made it absolutely clear that the law had to be altered specifically in relation to bail exclusions. It is not a matter of just guessing and maybe thinking that we have a case to answer; the matter is founded in case law. We know that we are in breach of the ECHR and we have to do something about it.

Phil Gallie: The minister refers to a case that took place last year. Here we are, just a fortnight

after introducing a bill to redress the matter, passing the bill. It seems that an awful lot of water has passed under the bridge, given the comments that the minister has just made.

Angus MacKay: The bill is not just about bail; it is also about judicial appointments. It brings a number of issues together. One of the relevant judgments emerged only relatively recently. That is why the bill has been somewhat delayed.

We cannot pick and choose on compatibility with the ECHR—we either sign up to it or we do not. We can try to develop effective legislation that is compliant but which also protects our communities and their interests. The bill will provide legislation that achieves that.

I have detected a degree of movement, if nothing else, in the Conservative party's position on the ECHR during the discussions on the bill. Initially, we heard from Conservative members statements that were quite difficult to reconcile with the position of the UK Conservatives as expressed at Westminster. The tone of the Conservatives' comments seems to have softened.

If we are to participate in the ECHR with countries such as France, Germany, Italy, Spain and Sweden—as we, in Europe, would expect to do—we have to be a bit more enthusiastic about what its provisions deliver and what we have to do to comply. We must also recognise that if countries such as Albania, Andorra, Cyprus, Estonia, Liechtenstein and Moldova can cope with the ECHR, can comply with it and can give it due process in their law, it should not be an excessively onerous challenge for this country to do likewise. I hope that we have moved the debate on in that respect.

It was important to get the bill on the statute book as quickly as possible. For that reason, the normal process of consultation and of the parliamentary passage of the bill has, I fairly and openly acknowledge, been rushed. That was because we were responding to judicial decisions and because of the fast approach of the summer recess. That made the speed of the legislative process unavoidable. I repeat that, while that was unavoidable, it was not desirable. The Executive will do its best to avoid having to put so much pressure on the committees, on the Parliament—

Roseanna Cunningham: And ministers.

Angus MacKay: And on ministers in the future.

Having said that, the bill has highlighted the importance of the work done by the committees in scrutinising legislation. The Justice and Home Affairs Committee and the Subordinate Legislation Committee both did sterling work in considering the bill at very short notice. They made important, detailed recommendations that the Executive was happy to take on board. We were able to lodge amendments to meet the points that were raised and the bill in its final form is, I have no doubt, better for them.

Although the Bail, Judicial Appointments etc (Scotland) Bill is limited in scope, it is a very important measure. It will bring various aspects of our criminal law into line with the ECHR. I have noted some of the points that have been raised in today's discussions that were not dealt with in the bill, and I am confident that we will return to some of them on another occasion. I commend the bill to the Parliament.

The Deputy Presiding Officer: The question on the motion to pass the bill will be put at decision time.

National Parks (Scotland) Bill: Stage 3

12:30

The Deputy Presiding Officer (Patricia Ferguson): The next item of business is stage 3 proceedings on the National Parks (Scotland) Bill. We will follow the same procedure as in our stage 3 consideration of the Bail, Judicial Appointments etc (Scotland) Bill. We will first deal with amendments to the bill and then move to a debate on the question that the bill be passed.

Members should have in front of them the bill, as amended at stage 2—SP bill 12A—the marshalled list, which contains all the amendments that have been selected for debate, and the groupings that have been agreed.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): On a point of order, Presiding Officer. I understand that amendments 17 and 18, which I lodged, have not been selected. Although I appreciate that the Presiding Officer has unfettered power over the selection of such items, the non-selection of the amendments about a local referendum does not comply with the guidance, as the amendments raise a matter of principle that it is important to debate.

The Deputy Presiding Officer: You are absolutely right about the duties and responsibilities of the Presiding Officer, Mr Ewing. However, I refer you to paragraph 4.9 of the "Guidance on Public Bills", which says:

"Although the Presiding Officer receives advice from the clerks on aspects of selection, the decisions involved are entirely for him to make, given the political sensitivity they may involve."

The Presiding Officer is perfectly within his rights in this case.

David McLetchie (Lothians) (Con): On a point of order, Presiding Officer. This is the second occasion in this Parliament on which members have been denied the opportunity to debate issues of principle. One hundred and twenty-nine people were elected to this Parliament to decide matters, not 11 people in a committee. As this is the second time that this situation has arisen, I invite the Presiding Officer to have the matter reviewed by the Procedures Committee at the earliest opportunity.

The Deputy Presiding Officer: As you are aware, Mr McLetchie, it is open to any member, not just the Presiding Officer, to refer matters to the Procedures Committee. You may do so if you wish.

Christine Grahame (South of Scotland) (SNP): On a point of order, Presiding Officer. I have raised this matter in a letter to the Procedures Committee. I hope that the committee will address the issue after the summer recess.

The Deputy Presiding Officer: Thank you for that information.

Section A1—The National Park aims

The Deputy Presiding Officer: We move to amendment 1, which stands on its own. I call the minister to move and speak to the amendment.

The Minister for Transport and the Environment (Sarah Boyack): In the National Parks (Scotland) Bill as initially introduced, the third aim of the national parks was

"to promote understanding and enjoyment of the special qualities of the area by the public".

We have always taken the view that recreation, which will be an important reason for many members of the public to visit national parks, was covered by the word "enjoyment".

However, at stage 2, the Rural Affairs Committee strongly felt that that should be made explicit and that the term "recreation" should appear in the bill. As a result, an amendment from Fergus Ewing was accepted with the Executive's agreement. That gave rise to the current wording of the third aim, which is

"to promote recreation in, and understanding and enjoyment of the special qualities of, the area by the public".

Since stage 2, we have examined the wording that results from this amendment more closely. It has become clear that inserting the term "recreation" in such a way does not ensure a link between "recreation"—as against enjoyment—and the special qualities of the area. Amendment 1 guarantees that link while retaining the important term "recreation", and clarifies that the term is included in "enjoyment". National parks will promote enjoyment, including recreation, of the area's special qualities, which refer to the area's natural qualities or natural and cultural qualities. Those qualities are the purpose behind the national park designations.

It is important to take a balanced approach to promoting the enjoyment of the special qualities for which national parks are being established. The importance, attractiveness and contribution of those special natural and cultural attributes to the promotion of enjoyment will be crucial in determining what forms of sport and recreation should be considered in national parks. Above all, it is important that the recreation permitted should be appropriate to, and not detract from, the national park's special qualities. That is why it is

absolutely critical to agree to this amendment.

I move amendment 1.

Fergus Ewing: I should start by declaring an interest, which might be shared by my colleague Michael Matheson. At the weekend, we participated in some recreation—the Corrieyairick challenge—in a proposed national park area. Unfortunately, I think that I was bringing up the rear, whereas Mr Matheson was towards the fore.

I am pleased to support the Executive's amendment, which puts in context the importance of recreation in national parks. It was pleasing to see that, at stage 2, my amendment was accepted by the Executive. It is important that, in every national park that is envisaged, recreation is seen as something that is positive and that national park authorities should encourage, with particular regard to the needs of children and those with a disability.

Alasdair Morgan (Galloway and Upper Nithsdale) (SNP): When I first read the amendment I was puzzled, because all it seems to do is to change the wording so that unenjoyable recreation is excluded from the bill. I wondered what unenjoyable recreation might be but—given that I have been on some hill walks where it started to rain when we set off and six hours later we came back not having seen anything from the top of the hill because it was still raining—perhaps that is what the bill is getting at. Having heard the minister's explanation, the SNP is glad to support the amendment.

Mr Murray Tosh (South of Scotland) (Con): Fergus Ewing amended this section in committee. I am sure that that is not why the minister has moved to amend the amended section. The amendment was adequately and carefully explained and the Conservatives will support it.

The Presiding Officer (Sir David Steel): I presume that the minister does not wish to say anything more.

Sarah Boyack: No.

Amendment 1 agreed to.

Section 2—Reports on National Park proposals

The Presiding Officer: Amendment 2 is grouped with amendment 5. I call the minister to move amendment 2 and to speak to both amendments.

Sarah Boyack: Amendment 2 inserts at section 2(2) a new subsection, which adds to the list of matters to be considered by a reporter in considering a national park proposal. The new addition covers the financial implications of running a national park in terms of the likely annual costs and capital expenses of the national park authority in exercising its functions.

Rhoda Grant lodged a similar amendment at stage 2, which stimulated a good discussion in the Rural Affairs Committee. We promised her and the committee that we would reflect on the matter and bring forward an appropriate amendment. That is the purpose of this amendment. Finance is an important issue and we agree that the costs of a national park are elements in any decision on the designation of a national park. We have lodged this amendment to make the annual costs and capital expenses of the proposed national park a factor for consideration by a reporter.

Those costs could include the amount of money needed for an estimated staffing level and an estimate of how much money would be required for potential capital projects—for example, how much it would cost for repairs to a section of the west Highland way. Of course, those could only be estimates, as we would be able to have a final budget only when the boundaries and powers of a national park had been identified. Resource estimates could not be set in stone, but it is important that they are made, so that they can inform subsequent debate.

Like any other public body, national parks will be subject to the annual expenditure round when their budgets are agreed. All public spending has to be approved by the Parliament and we have made it clear that the core funding comes from Scottish ministers. That is provided for by the bill.

Amendment 5 mirrors amendment 2 and is required to add consistency to the bill. It ensures that, if Scottish ministers decide to prepare a statement under section 3, they must give an estimate of the likely financial implications for the national park.

I move amendment 2.

Rhoda Grant (Highlands and Islands) (Lab): I am pleased that the minister has lodged amendment 2. As she said, I had concerns about this matter at stage 2, when I was told that an amendment would be brought forward. I welcome the amendment. Although I find it inconceivable that it would be possible to propose a national park without considering the financial implications, it is important that the bill should include such a requirement.

It would also be helpful to identify the costs of other agencies—for example, local authorities and enterprise companies that work in a national park area. I am talking not about the costs that they might have if they had representation on the park board, but about the additional costs that they might have by providing services within a park area. The report may have to look into that. Identifying such costs might not be possible until the park board is set up, but it should be borne in

mind.

Mr Tosh: I accept the minister's explanation for the amendment. It appeared to be unnecessary, in that the concerns are covered by paragraph (d) of subsection (7), which refers to

"such other matters relating to the proposal as the requirement may specify".

In a sense, therefore, the amendment is declaratory. However, it helps that it is made clear that the financial implications for the park authorities will be specified in the bill.

Rhoda Grant made a good point about laying out the requirement to specify some of the costs to local authorities. Especially in instances when planning powers are split between local authorities and park authorities, there may be additional costs. The entire function will not be passed over to park authorities, which may have financial and other implications for local authorities. It would be useful if additional costs to local authorities were identified and laid out at the report stage.

On the declaratory element of the amendments—both of which we will accept—there are also declaratory elements in the wording of section 9. When we come to debate what the bill says about community councils, we will argue that there are instances where an element of declaration of intent is helpful, not only in providing good legislation, but in ensuring that there is good understanding of that legislation.

Alasdair Morgan: I welcome the provisions. In future, those who oppose the establishment of a national park may use the financial consequences as an argument against it. It is useful that financial information will be available to lance such an argument in advance.

Amendment 2 agreed to.

The Presiding Officer: Amendment 21 is grouped with amendments 22, 3, 4, 23, 24, 6, 14, 25 and 19. I call Ben Wallace to move amendment 21.

Ben Wallace (North-East Scotland) (Con): It is important to involve local communities at the initial stages of the proposals for national parks. Community councils should be involved, not only in the process of consultation, but from the outset, when the reporter puts down the outline.

Although I acknowledge that amendments 22 and 24 are no longer appropriate—I will not move them—I lodged amendments 21 and 23 to ensure that, from the outset, the reporter informs community councils about any national park proposals.

I move amendment 21.

Dr Elaine Murray (Dumfries) (Lab): By saying that he will not move amendments 22 and 24, Ben Wallace has stolen my thunder somewhat. The declaration of intent that Murray Tosh referred to already exists in the requirement for consultation with community councils and in the requirement placed on local authorities to make the proposals available for public inspection.

As an addendum to that, many opportunities are presented by the use of information and communications technology. We have debated the use of ICT in public services at other times—I hope that national park plans and so on will be made available on the internet, so that members of the community can access them and comment on them.

Mr Tosh: When we discussed this matter at the Rural Affairs Committee, Ben Wallace was unable to attend—I believe that there was a clash of dates with the European Committee. I did not press the amendments because, in a full and helpful discussion, ministers indicated—I think that it was Mr Stephen who took the debate at that point—that the Executive would lodge an amendment at stage 3 to address the points of concern expressed by the committee.

Our principal concern was that, in circumstances in which, for whatever reason, relationships are not good between community councils and local authorities, we felt that it would be appropriate for community councils to be involved to the extent that they had the right to receive a copy of all the proposals directly from the Scottish Executive, rather than through the good offices of the local authority. I spoke of having been a community councillor under a local authority that did not involve community councils in much of what was going on.

I assume that amendment 3 is the Executive's way of dealing with that concern and that it will specify that community councils are to be involved. If that is what it means—and if it has that effect—I welcome the amendment. I still cannot grasp what is wrong with specifying in the bill an entitlement for community councils to be given the report up front as an obligation on everyone else involved in the process. Community councils are part of the statutory system of local government; they are an important form of local representation and local lobbying. There is something peculiar about not including them as of right, especially as they are mentioned in other respects in later sections of the bill.

I ask ministers to consider whether there is merit still in what Ben Wallace has proposed by the simple insertion of the requirement that the reporter must send a copy of the report to every local authority and community council. What is desperately wrong with that? Is not that a

reasonable thing to ask for? I ask ministers to give further consideration to the matter.

12:45

Alasdair Morgan: I understand the point that Ben Wallace and Murray Tosh are making, especially as community councils are referred to in a later section of the bill, as has been said. I suspect that the argument hinges on the balance of precisely how much bureaucracy one actually builds into the bill. There is perhaps a danger of building in too much, and I would be interested to hear whether that is one of the minister's objections to amendment 21.

I do not think that anyone would make the accusation that the process of consultation in the bill is anything other than open. There is no problem with that process that especially needs to be addressed. I suspect that the amendments may just be a step too far, but I would be interested in the minister's explanation of why she does not wish to accept the amendments.

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): The amendments are not appropriate. The bill as it stands is much better. The subparagraph that amendment 22 seeks to replace says that the reporter must, on receipt of the National Park proposal, consult

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

That is much stronger than the amendment.

Mr Tosh: On a point of order. It may assist Mr Rumbles if he were to realise that the amendment to which he is addressing his remarks is the one that Mr Wallace indicated he would not move. We are, in fact, pressing only those amendments that insert "and community council" after the words "local authority".

Mr Rumbles: I appreciate that, but the same point tends to apply.

Ben Wallace was not at the Rural Affairs Committee—nor, I believe, was Alasdair Morgan—when it was said that the amendments would put increased responsibilities on community councils. I will be interested to hear what the minister says about that.

Sarah Boyack: I will address Ben Wallace's amendments first. I assure him that we have thought about the issues that are raised by his amendments, but we remain of the view that the amendments are not necessary. Further than that, we believe that the amendments would have serious disadvantages. I will pick up on all those points, but I want first to provide the reassurances that Ben Wallace needs. I hope that he will then be able to agree not to press his amendments.

The aim of Ben Wallace's amendments is to ensure that community councils will receive copies of the consultation documents that the bill provides for. There is no legal necessity for a requirement that a copy of the consultation document be sent to a community council, or any other consultee. Community councils, along with others, are specified in the bill as consultees. The legal position is quite clear. The essence of consultation is communication of a genuine invitation to seek advice and comments, giving a fair time to respond and giving genuine consideration to such comments. For consultation to be real, sufficient information about the proposal must be given to inform a considered response. The bill achieves that as it stands.

I take the point, made by Alasdair Morgan, about cluttering up the bill with amendments that are not required. If further reassurance is required—as I suspect that it is—I should add that Executive amendment 3 provides for Scottish ministers to issue directions to a reporting body about the conduct of its consultation. I am happy to confirm that we will use that to remind any reporters of their duties in respect of sending consultation documents to statutory consultees. The reporter will be required to do that, not the local authority. That clarification might be helpful to Murray Tosh.

I will focus briefly on what the drawbacks of Ben Wallace's amendments would be. The local authorities receive a copy of the proposal and the requirement under section 2(5)(a) because they are under a statutory duty to make them available for public inspection; community councils are not. Executive amendment 4 makes the link explicit and clear.

A requirement on the Executive to send a copy of a proposal and a requirement to community councils would raise the question why that requirement was in the bill, given that it is not stated in respect of other consultees mentioned in the bill or in other statutes. Singling out community councils for special mention creates a legal implication that there is no corresponding requirement in relation to other consultees.

The Town and Country Planning (Scotland) Act 1997 requires that, when a planning authority has prepared a structure plan, it must consult any other planning authority likely to be affected by the plan before submitting it to Scottish ministers for approval. There is no requirement to send a copy of the plan to the consultees, but it would be inconceivable that that would not be done or that the consultees would stand for it not being done.

I hope that I have reassured Ben Wallace that community councils are already guaranteed copies of the consultation documents provided for in the bill. That guarantee comes from the bill's provisions and from the directions that we will give

to the reporters through amendment 3.

I suspect that the consequences of Ben Wallace's amendments are entirely unintended. However, they could have damaging knock-on effects for other parts of the bill and other legislation. I hope that he will agree not to press his amendments.

Executive amendment 3 will ensure that consultations undertaken by the reporters on a national park proposal have the confidence of those who will participate in them. The amendment is the Executive's response to amendments that were lodged at stage 2 by Rhoda Grant and John Farquhar Munro, who proposed that the consultations should be fully participatory and undertaken on the basis of the planning-for-real exercises. Amendment 3 allows the Scottish ministers to issue directions to the reporters, with which they must comply, on how the consultations are to be carried out.

We already have a compact agreement with the voluntary sector, which details the Executive's policy and guidance on consultations with that sector. The compact agreement provides the basis for the directions that will be given to the reporters and commits the Executive to consult the voluntary sector through a range of good-practice measures. Those measures include: planning consultations with the voluntary sector; taking account of the full range of different types of consultation process; taking soundings early in the process; and setting a minimum period of three months for all consultations, which is a practice that we have adopted throughout the bill.

The agreement also makes commitments to consult widely, to give due consideration to all responses and to pay particular attention to those most affected by the proposals. The compact agreement is widely available and I assure all members that the directions that will be given to the reporters will have to adhere to the commitments made in that agreement.

Having given those commitments and assurances, I hope that everyone who is affected by the consultations will have confidence in their integrity.

I move amendment 3.

The Presiding Officer: No, minister—you are speaking to amendment 3.

Sarah Boyack: Amendments 4, 6, 14 and 19 are technical amendments to sections 2, 3, 5 and 11 respectively. We have lodged those amendments after considering the discussion at stage 2 on a group of amendments lodged by Ben Wallace. I hope that members find the Executive's amendments satisfactory. We have considered the points made when Ben Wallace's amendments were discussed at stage 2 and, having done so, I recognise that the bill's provisions were probably not as clear as they were intended to be. I hope that our amendments will clarify matters.

I will focus on section 2 as an example, in order to explain the point. The bill is drafted in such a way as to deal separately with three distinct strands of the process that is set out in section 2(5), in order to create clear and separate duties. Subsection (5)(a) and subsection (6) provide for the public inspection of consultation documents. Subsection (5)(c) requires the consultation to be publicised and subsection (5)(d) provides for the act of consultation. Subsection (6) requires the local authority to make copies of the national park proposal available for public inspection. That is a sensible way of ensuring that, despite all the other ways of publicising the consultation, everyone has access to the documents. The bill achieves that by referring back to subsection (5), which includes, among other provisions, a duty to send the consultation document to all relevant local authorities. However, the reference to subsection (5) must be more precise.

I know that Ben Wallace has agreed not to press a couple of his amendments, but I hope that, with the assurances that I have given in those detailed comments, he will agree not to press any of them. We have considered in great detail the comments made by a number of members at stage 2 and I hope that the Executive's package of amendments will deliver what every member of the Rural Affairs Committee wanted.

I move amendments 4, 6, 14 and 19.

The Presiding Officer: Let me clarify this. Only one amendment is moved at a time. The other amendments will be moved later at the appropriate time. Amendment 21 has been moved. Ben Wallace will have to tell us what he wants to do with it.

Ben Wallace: Having heard the minister's assurances, and in addition to not pressing the amendments that I mentioned, I would like to withdraw amendment 21, as well as amendments 23 and 25.

The Presiding Officer: You can tell me about the others later. I am interested only in amendment 21. Are you asking leave to withdraw amendment 21?

Ben Wallace: Yes.

Amendment 21, by agreement, withdrawn.

Amendment 22 not moved.

Amendment 3 moved—[Sarah Boyack].

The Presiding Officer: The question is, that amendment 3 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

Mr Tosh: I realise that members are not allowed to raise a point of order during a division, but my understanding is that the logical consequence of amendment 21 being withdrawn is that amendment 3 must be agreed to.

The Presiding Officer: I listen only to what members say. If members shout "No", I must call a division. I will not intrude into private grief. There will therefore be a division.

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
Baillie, Jackie (Dumbarton) (Lab)
Barrie, Scott (Dunfermline West) (Lab)
Boyack, Sarah (Edinburgh Central) (Lab)
Brankin, Rhona (Midlothian) (Lab)
Brown, Robert (Glasgow) (LD)
Canavan, Dennis (Falkirk West)
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Crawford, Bruce (Mid Scotland and Fife) (SNP)
Cunningham, Roseanna (Perth) (SNP)
Curran, Ms Margaret (Glasgow Baillieston) (Lab)
Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
Eadie, Helen (Dunfermline East) (Lab)
Elder, Dorothy-Grace (Glasgow) (SNP)
Ewing, Mrs Margaret (Moray) (SNP)
Fabiani, Linda (Central Scotland) (SNP)
Fergusson, Alex (South of Scotland) (Con)
Finnie, Ross (West of Scotland) (LD)
Galbraith, Mr Sam (Strathkelvin and Bearsden) (Lab)
Gillon, Karen (Clydesdale) (Lab)
Godman, Trish (West Renfrewshire) (Lab)
Goldie, Miss Annabel (West of Scotland) (Con)
Grahame, Christine (South of Scotland) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (Edinburgh Pentlands) (Lab)
Hamilton, Mr Duncan (Highlands and Islands) (SNP)
Henry, Hugh (Paisley South) (Lab)
Home Robertson, Mr John (East Lothian) (Lab)
Hughes, Janis (Glasgow Rutherglen) (Lab)
Hyslop, Fiona (Lothians) (SNP)
Ingram, Mr Adam (South of Scotland) (SNP)
Jackson, Dr Sylvia (Stirling) (Lab)
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
Johnston, Nick (Mid Scotland and Fife) (Con)
Johnstone, Alex (North-East Scotland) (Con)
Kerr, Mr Andy (East Kilbride) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Livingstone, Marilyn (Kirkcaldy) (Lab)
Lochhead, Richard (North-East Scotland) (SNP)
Lyon, George (Argyll and Bute) (LD)
MacAskill, Mr Kenny (Lothians) (SNP)
Macdonald, Lewis (Aberdeen Central) (Lab)
Macintosh, Mr Kenneth (Eastwood) (Lab)
MacKay, Angus (Edinburgh South) (Lab)
MacLean, Kate (Dundee West) (Lab)
Macmillan, Maureen (Highlands and Islands) (Lab)
Martin, Paul (Glasgow Springburn) (Lab)
Marwick, Tricia (Mid Scotland and Fife) (SNP)
Matheson, Michael (Central Scotland) (SNP)
McAveety, Mr Frank (Glasgow Shettleston) (Lab)
McCabe, Mr Tom (Hamilton South) (Lab)
McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
McGrigor, Mr Jamie (Highlands and Islands) (Con)
McGugan, Irene (North-East Scotland) (SNP)
McIntosh, Mrs Lyndsay (Central Scotland) (Con)
McMahon, Mr Michael (Hamilton North and Bellshill) (Lab)
McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
McNeill, Pauline (Glasgow Kelvin) (Lab)
McNulty, Des (Clydebank and Milngavie) (Lab)
Monteith, Mr Brian (Mid Scotland and Fife) (Con)
Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
Morrison, Mr Alasdair (Western Isles) (Lab)
Muldoon, Bristow (Livingston) (Lab)
Mulligan, Mrs Mary (Linlithgow) (Lab)
Munro, Mr John (Ross, Skye and Inverness West) (LD)
Murray, Dr Elaine (Dumfries) (Lab)
Neil, Alex (Central Scotland) (SNP)
Oldfather, Irene (Cunninghame South) (Lab)
Paterson, Mr Gil (Central Scotland) (SNP)
Peacock, Peter (Highlands and Islands) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Quinan, Mr Lloyd (West of Scotland) (SNP)
Radcliffe, Nora (Gordon) (LD)
Robson, Euan (Roxburgh and Berwickshire) (LD)
Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, Tavish (Shetland) (LD)
Simpson, Dr Richard (Ochil) (Lab)
Smith, Elaine (Coatbridge and Chryston) (Lab)
Smith, Iain (North-East Fife) (LD)
Smith, Margaret (Edinburgh West) (LD)
Stephen, Nicol (Aberdeen South) (LD)
Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
Sturgeon, Nicola (Glasgow) (SNP)
Swinney, Mr John (North Tayside) (SNP)
Thomson, Elaine (Aberdeen North) (Lab)
Tosh, Mr Murray (South of Scotland) (Con)
Wallace, Ben (North-East Scotland) (Con)
Wallace, Mr Jim (Orkney) (LD)
Watson, Mike (Glasgow Cathcart) (Lab)
White, Ms Sandra (Glasgow) (SNP)
Whitefield, Karen (Airdrie and Shotts) (Lab)
Wilson, Allan (Cunninghame North) (Lab)
Wilson, Andrew (Central Scotland) (SNP)
Young, John (West of Scotland) (Con)

AGAINST

Aitken, Bill (Glasgow) (Con)
Douglas-Hamilton, Lord James (Lothians) (Con)
Gallie, Phil (South of Scotland) (Con)

The Presiding Officer: The result of the division is: For 98, Against 3, Abstentions 0.

Amendment 3 agreed to.

Amendments 4 and 5 moved—[Sarah Boyack]—and agreed to.

Amendments 23 and 24 not moved.

Amendment 6 moved—[Sarah Boyack]—and agreed to.

12:59

Meeting suspended until 14:30.

14:30

On resuming—

Section 5—Making of designation orders

The Presiding Officer: We come now to the group for which the lead amendment is amendment 7.

The Deputy Minister for Enterprise and Lifelong Learning (Nicol Stephen): Amendment 16 is the major Executive amendment in this group. The rest of the Executive amendments are minor and technical, and are intended to add clarity to the bill.

In the original draft bill it was proposed that there should be only four stages in the designation process: the initial national park proposal, a public consultation on that proposal, a published report and, finally, the laying of a draft designation order before Parliament. In response to concerns expressed by the Rural Affairs Committee and the Subordinate Legislation Committee, the Executive introduced amendments to the bill at stage 2 and the further amendments that are before members today, to strengthen public consultation and the involvement of Parliament in the process.

There will now be six stages in the designation process, and at certain points there will be strengthening of those stages. The first stage is now the initial national park proposal, on which there will still be public consultation, to be followed by a published report. Then come the new stages that we have introduced. The proposed designation order will be published, and there will be a public consultation on it. There will be a duty on ministers to take into account the views received during that consultation. Ministers will then have an opportunity to amend the proposed designation order before finalising it. Finally, there will be a statement or a report on the consultation to Parliament and the draft order will be laid.

It is clear that there have been significant changes to and strengthening of the public consultation process and the involvement of Parliament in it. Section 5 of the bill was amended at stage 2. The Executive amendment at that stage, which was lodged in response to the concerns that I have described, provided for a wide consultation on the proposed designation order. Previously, as I have said, there was nothing of that nature in the bill. In the light of comments received on the proposed designation order, the Scottish ministers could amend the order prior to laying it before Parliament for consideration as an affirmative instrument. The Parliament will, therefore, have an opportunity to consider the statutory instrument. The 12-week consultation process provides the public with an opportunity to make comments and for any relevant parliamentary committee to take evidence and report its views. It is important to underscore that. The Rural Affairs Committee and other committees will have an opportunity to get involved in the consultation process. It will be for them to decide whether they wish to get involved and, if so, how.

Amendment 16 is an additional Executive amendment being brought forward today to give further strength to the consultation process. It puts a duty on the Scottish ministers to lay a statement on the consultation at the same time as they lay the final proposed designation order—the draft designation order as it will technically be known. This statement will include the views and comments received in the consultation process and how, if at all, the draft designation order has been amended in the light of consultation comments. This ensures that there is transparency in the process. It will help to inform the debate in Parliament when it is deciding whether to approve the draft designation order through the affirmative process.

Amendment 9 puts right an omission from the Executive amendment at stage 2. It ensures, in keeping with consultation provisions elsewhere in the bill, that when the Scottish ministers go out for consultation on a proposed draft designation order, a copy of the draft is laid before Parliament.

As I have said, the rest of the amendments in this group add clarity to the bill. They describe draft designation orders, which are sent out for consultation, as proposed draft designation orders to distinguish that stage of the draft from the affirmative draft laid after the consultation process has been completed.

I have extensive notes on amendment 28, in the name of Mr MacAskill. Unfortunately, he was not present during the stage 2 debate on this issue, when a similar amendment in his name was moved by Irene McGugan. I will keep my remarks short and say that, in my opinion, what Kenny MacAskill and the Subordinate Legislation Committee were trying to achieve has, in essence, been achieved by the Executive amendments that have been brought forward at stages 2 and 3.

I appreciate that Mr MacAskill is going about the process in a different way, but we have now provided for a wide consultation process on a proposed designation order, before the designation order is formally laid before Parliament. I hope that Parliament will agree that this process is the right way to go about it. There are some differences in what Kenny proposes, but we have moved a long way from what was proposed at stage 1.

I move amendment 7.

Mr Rumbles: I will comment on amendment 16, which is the main amendment. It is important for the integrity of the consultation process that this amendment is accepted by Parliament.

I will make one additional comment. In future, when the Executive publishes the reasons why changes were not made after the consultation process, could those reasons be publicised? Past experience has shown that it is helpful if the reasons for not doing something that becomes a major issue in the consultation process can be explained.

Fergus Ewing: We welcome all the steps that have been taken to ensure that consultation should be as wide as possible when we consider the designation orders and that that consultation should engage the public. However, it is most unfortunate that the Executive has not accepted the case for there to be the ultimate form of consultation, by asking the people who live and work in a national park area whether they agree that they see the benefits of a national park.

Nicol Stephen *rose*—

Fergus Ewing: I will give way in a minute, minister. Members in this chamber may not realise that there are no fewer than 17,100 people in the Cairngorms Partnership area—that is a lot of people. I believe that the ultimate form of consultation is a referendum. Anyone who is a democrat—whether a Liberal Democrat or any other type—must welcome the possibility of holding a referendum to ask people whether they agree that they wish to be part of a national park. That is true consultation.

I will be happy to give way to the minister, who will no doubt explain why he is not in favour of this aspect of democracy.

Nicol Stephen: It is important to remember that we are talking about national parks rather than local parks.

The issue was fully debated at stage 2, at which time there was an opportunity for Mr Ewing to put across his arguments in favour of a referendum. As I recall, the result of the vote on the matter—which members of the SNP took part in—was eight to zero against having a referendum.

Fergus Ewing: I must correct the minister: the vote was not as he said. I believe that there were two votes from my colleagues in favour of a referendum. I have since become aware that members of another party would have been minded to support the idea if it had been permitted for debate today. I accept the Presiding Officer's ruling, but I will say that it is unfortunate that we do not have the opportunity to debate matters of principle at stage 3.

I do not want to dwell on the matter, as the point has already been made. A referendum would have been a positive process and, if the Executive had taken advantage of it, the national park proposal would have started off with the opportunity of securing the endorsement of the people who must accept the benefits or otherwise of national park status.

Mr Kenny MacAskill (Lothians) (SNP): Amendment 28 seeks to ensure adequate democratic scrutiny in this chamber. It is meant to enhance the input of Parliament and parliamentarians. For the benefit of the Executive, I will say that it seeks to do so within the bounds of the existing Scotland Act 1998. It does not detract from the Executive amendment; indeed, it adds to and complements it. It ensures greater scrutiny and interaction from the Parliament. The Executive amendments ensure greater interaction and scrutiny from the public. We are trying to replicate the opportunity for parliamentarians to take part in the consultative process before matters proceed.

I am speaking to the amendment not as a member of the SNP but as the convener of the Subordinate Legislation Committee. This is not a committee amendment, but I point out that the suggestion for a super-affirmative procedure was carried unanimously in the committee and continued to receive the complete support of the committee even upon review at later stages.

I should indicate that subordinate legislation is an important part of the democratic process. If every matter that we deal with had to go through stages 1, 2 and 3 in the Parliament, we would make no progress. Clearly, there is a need for speedy methods of dealing with matters that will not be opposed in any way. I do not want to rehash the arguments about whether national parks should have proceeded by way of enabling legislation. The fact is that subordinate legislation is, in the main, non-contentious. That is shown by the number of occasions on which members of the Parliament have used their powers to move against any statutory instrument that has appeared.

A problem arises only when enabling legislation is used for matters that will be complex. We will spend all afternoon on this bill. We have had debates on the bill in numerous committees and in this chamber. The difficulty is that we have not yet decided where a national park will be, what its boundaries will be, what its geography and domain will be, who will be a member of the national park's authority, nor how those members will be elected. Many important issues still have to be examined.

There has to be local democratic input, but there also has to be a way for those who represent areas that are not in the park area to progress matters and participate. That will not conflict with

the ability of the Executive to move matters speedily and with efficacy; it will still be able to do that. Even with a super-affirmative procedure, this Parliament will be left only with the ability to say yes or no to a proposal, either to move against it or to accept it.

My amendment would focus matters for representatives of all airts and pairts of Scotland. I welcome the additional mechanisms to provide consultation at local level, but I believe that members of this Parliament should also have the opportunity to take part in the consultative matters. That will ensure that, when subordinate legislation goes through this Parliament, it will be focused. We will know what people are commenting on and will have before us the Executive response. Members will still be left with either a yes or a no, but at least they will have a better view of what is being debated.

This amendment enhances the democratic process—and the democratic nature of this Parliament—and adds to the powers that we should have. It does not detract from the ability of the elected Executive to process speedily matters for which it has already obtained the enabling powers.

14:45

Mr Tosh: As a rule, I try never to agree with Kenny MacAskill in this chamber: it makes for a livelier debate when I do not. However, this afternoon I support Mr MacAskill's amendment. It is not an SNP amendment, but one that he is moving in his capacity as the convener of the Subordinate Legislation Committee.

In many respects, it is a great pity that we have to go through the stages of primary and secondary legislation to establish only two or—at the outside, and allowing for a few more years to pass—three national parks. We have debated that issue in the Transport and the Environment Committee, and the reasons for it are well known. Nevertheless, the fact is that this Parliament has surprisingly little direct input into the ultimate process.

I am not detracting in the slightest from what Nicol Stephen said in his opening remarks. It is clear from the amendments that the Executive lodged at stage 2 and this afternoon that it has listened to what was said on that point at stage 2 in the Transport and the Environment Committee, and that it has taken those views into account. I am happy to support the amendment that Nicol Stephen has spoken to this afternoon, along with the other amendments that have been lodged—not least amendment 9, which provides for the laying of documentation before the Parliament.

When we debated this issue in the committee, I moved a couple of amendments that were designed to bring the report before the Parliament, not in the sense of laying it before the Parliament—which would mean only that we would receive another booklet in our mail—but to seek the endorsement of the Parliament by resolution. The aim of my amendments was not to frustrate the Executive's intentions, nor to operate in a hostile manner toward the bill, but to draw the Parliament further into the process and to give its parliamentarians a greater say.

This debate has been substantially shaped by 11 members, plus a couple of visitors to the Rural Affairs Committee. Some might say that this bill has been substantially shaped by one member, whom I presume will speak to further amendments later this afternoon. The rest of the Parliament has not been deeply engaged in the processes or debates. My fear about using subordinate legislation as the means to implement all the details at later stages is that the Parliament as a whole will not engage in the debate and will not be fully aware of the issues. At the final stage, when it is necessary to approve a statutory instrument, relatively few people will have been engaged in that process.

Mr MacAskill's amendment, which is not hostile in any way, would allow the Parliament a greater role and would require the Executive to listen and respond to the points that members make. As Kenny pointed out, there is no procedure for the Parliament to amend the designation order stage by stage. Amendment 28 will allow concerns to be expressed more clearly at the designation order stage, and will give local members—who might have serious points to make about the precise designations of boundaries and powers—the opportunity to bring those concerns before the Parliament. At that stage, the Parliament could be informed and involved, and its support could be sought in attempting to influence the final orders.

That is what is at stake here. The amendment is not trying to spike the national parks or frustrate the Executive's intentions—I repeat: I accept the Executive's amendments and commend them—but is about involving the Parliament and giving it a greater say. Kenny MacAskill has made a good point this afternoon. If, in the spirit of the consultative steering group principles, ministers are genuinely seeking to share the power, this is an area in which they should seek to share the power with the Parliament. There is nothing in amendment 28 that ministers need to fear, but there is a lot to commend it. Therefore, I ask members to support amendment 28 when Mr MacAskill moves it.

Nicol Stephen: It is unfair to suggest that only a small number of individuals have been involved in the development of these proposals, as a wide range of MSPs and others have been involved.

Members who were not members of the Rural Affairs Committee or the Subordinate Legislation Committee attended meetings on the bill. Many of them spoke eloquently and at great length at those meetings. We should recognise that the bill is the result of a very wide consultation process and that it has been met by a great deal of unanimity. There is a high level of support across Scotland for the proposals. We should welcome that.

The issue is whether we should go further than the current procedures go. I have explained that we have gone far further than was envisaged at stage 1. There has been a significant move. A whole new stage has been introduced and the level of public consultation has been widened. The issue is whether we adopt what has been called a super-affirmative procedure. Such a procedure has been used only very rarely. In the instance of which I am aware, it gave very sweeping and wide-ranging powers to ministers. I do not think that it is appropriate in every instance, although it is up to Parliament to judge when it is appropriate.

There is no doubt that the Parliament will wish to return to this issue. It will be discussed by the Procedures Committee and the Subordinate Legislation Committee. I have no doubt that over time, and quite appropriately, the procedures of the Parliament will develop. For the purposes of the bill, we have gone a long way to answer the concerns that exist.

Alasdair Morgan: The minister said that one of his objections to the super-affirmative procedure was that it gave sweeping powers to ministers. I do not understand how that can be an objection to amendment 28. Rather than giving sweeping powers to ministers, that amendment gives Parliament some way of checking those ministers. Can the minister come up with a better argument?

Nicol Stephen: Alasdair Morgan misunderstands me. The super-affirmative procedure was introduced in a Conservative piece of legislation. Ministers were given sweeping discretion by that legislation to introduce statutory instruments that affected existing legislation. Therefore, the extra reassurance of the super-affirmative procedure was introduced. The bill is a different kind of legislation, for which a super-affirmative procedure is not necessary but for which the wide-ranging consultation process that we have introduced is entirely appropriate.

Amendment 7 agreed to.

Amendments 8 to 14 moved—[Nicol Stephen]—and agreed to.

Amendment 28 moved—[Mr MacAskill].

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

Members: No.

The Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
Campbell, Colin (West of Scotland) (SNP)
Canavan, Dennis (Falkirk West)
Crawford, Bruce (Mid Scotland and Fife) (SNP)
Cunningham, Roseanna (Perth) (SNP)
Douglas-Hamilton, Lord James (Lothians) (Con)
Elder, Dorothy-Grace (Glasgow) (SNP)
Ewing, Dr Winnie (Highlands and Islands) (SNP)
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
Ewing, Mrs Margaret (Moray) (SNP)
Fergusson, Alex (South of Scotland) (Con)
Gallie, Phil (South of Scotland) (Con)
Grahame, Christine (South of Scotland) (SNP)
Hamilton, Mr Duncan (Highlands and Islands) (SNP)
Harding, Mr Keith (Mid Scotland and Fife) (Con)
Harper, Robin (Lothians) (Green)
Hyslop, Fiona (Lothians) (SNP)
Ingram, Mr Adam (South of Scotland) (SNP)
Johnston, Nick (Mid Scotland and Fife) (Con)
Johnstone, Alex (North-East Scotland) (Con)
Lochhead, Richard (North-East Scotland) (SNP)
MacAskill, Mr Kenny (Lothians) (SNP)
MacDonald, Ms Margo (Lothians) (SNP)
Marwick, Tricia (Mid Scotland and Fife) (SNP)
Matheson, Michael (Central Scotland) (SNP)
McGugan, Irene (North-East Scotland) (SNP)
McLeod, Fiona (West of Scotland) (SNP)
Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
Mundell, David (South of Scotland) (Con)
Neil, Alex (Central Scotland) (SNP)
Paterson, Mr Gil (Central Scotland) (SNP)
Quinan, Mr Lloyd (West of Scotland) (SNP)
Robison, Shona (North-East Scotland) (SNP)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, John (Ayr) (Con)
Swinney, Mr John (North Tayside) (SNP)
Tosh, Mr Murray (South of Scotland) (Con)
Wallace, Ben (North-East Scotland) (Con)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
Baillie, Jackie (Dumbarton) (Lab)
Barrie, Scott (Dunfermline West) (Lab)
Boyack, Sarah (Edinburgh Central) (Lab)
Brankin, Rhona (Midlothian) (Lab)
Brown, Robert (Glasgow) (LD)
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Curran, Ms Margaret (Glasgow Baillieston) (Lab)
Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
Finnie, Ross (West of Scotland) (LD)
Galbraith, Mr Sam (Strathkelvin and Bearsden) (Lab)
Gillon, Karen (Clydesdale) (Lab)
Godman, Trish (West Renfrewshire) (Lab)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (Edinburgh Pentlands) (Lab)
Henry, Hugh (Paisley South) (Lab)
Home Robertson, Mr John (East Lothian) (Lab)
Hughes, Janis (Glasgow Rutherglen) (Lab)
Jackson, Dr Sylvia (Stirling) (Lab)
Jackson, Gordon (Glasgow Govan) (Lab)
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
Kerr, Mr Andy (East Kilbride) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Livingstone, Marilyn (Kirkcaldy) (Lab)
Macdonald, Lewis (Aberdeen Central) (Lab)

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

ABSTENTIONS

Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)

The Presiding Officer: The result of the division is: For 38, Against 63, Abstentions 1.

Amendment 28 disagreed to.

Amendments 15 and 16 moved—[Nicol Stephen]—and agreed to.

Section 6—Designation orders: further provisions

The Presiding Officer: We move to amendment 30, which is grouped with amendments 37, 41, 42, 43, 45, 27, 48, 53, 55, 59, 61, 62, 64, 66, 67 and 68.

Mr Rumbles: Legislating for national parks is one of the first major achievements of the Scottish Parliament and addresses an issue that could not be addressed in the 50 years since equivalent legislation was passed south of the border. The National Parks (Scotland) Bill has cross-party support and was agreed to unanimously at stage 1. As we have agreed the key principles of the bill, it can be seen that many of the stage 3 amendments are technical. Indeed, the 15 amendments in my name on the membership of the national park authorities have been lodged to ensure that what the Rural Affairs Committee agreed at stage 2 is translated into effective legislation.

Presiding Officer, you will remember that when the Rural Affairs Committee produced its stage 1 report, it said:

"The committee agrees that the principle of direct representation of local community interests should be guaranteed, and distinct from both the local authority nominees and those directly appointed by Ministers."

Those words were chosen very carefully and were endorsed by every member of the committee, from all four parties. We came to that clear conclusion as a result of carefully analysing the consultation process and by taking evidence from witnesses.

At stage 2, to achieve the aims of our stage 1 report, the Rural Affairs Committee decided to support my amendment to ensure that 20 per cent of the members of national park authorities would be elected directly by local people. Local representation was the most contentious issue identified by the Executive's consultation process. Part of my constituency lies in the area of the proposed Cairngorms national park and many of my constituents have approached me directly on the issue. My proposals for direct elections to secure local support for national parks are radical—an innovative departure from the normal way in which quangos are set up. I am convinced that such innovation will be successful. Is not our new Parliament radical and innovative? Is not this a manifestation of our new approach to doing things differently and better?

15:00

It took some people longer than others to come round to accepting the proposals and to recognising that the committees of this Parliament have a genuine, major role to play in the formulation and improvement of legislation. As we come to the end of the legislative programme in the first year of the Parliament's having its powers, what better example have we than this bill for demonstrating the effectiveness of the committee system? By instituting the direct election of at least 20 per cent of the membership of a national park authority, the Rural Affairs Committee has shown that radical improvements can be made to legislation.

There are concerns that direct elections could lead to politicisation, so I have framed my amendments to allow ministers flexibility in the practical arrangements for local polls. It is very important that those arrangements make it clear that politicisation should be avoided. I hope that the minister will comment on that.

I thank my colleagues on the Rural Affairs Committee for supporting my amendments at

stage 2, and I hope that the Parliament will support my further technical amendments in this grouping today. I express my sincere thanks to ministers of both parties for giving their full support to the amendments that are before us. They are designed to ensure that the changes that the Rural Affairs Committee accepted at stage 2 are implemented properly and that the National Parks (Scotland) Bill becomes an effective, successful piece of legislation.

I move amendment 30.

Nicol Stephen: I am grateful to you for allowing me to speak at this stage, Presiding Officer. There are a number of amendments in the name of Mike Rumbles that the Executive supports, and it would be helpful to explain them in more detail at this point.

The majority of the amendments relate to the direct election of at least a fifth of the total number of members of the national park authority. On 13 June, at stage 2, the Rural Affairs Committee agreed to a number of amendments requiring direct elections for a fifth of the membership of the authority. Today's amendments refine those amendments and lay the foundation for a workable scheme of elections to be set out in subordinate legislation at a later stage.

The first substantive amendment is amendment 43, which increases the maximum number of members of a national park authority to 25. That is simply to recognise the arithmetical reality. If a fifth of the membership of an authority is to be directly elected, it is preferable for the maximum number of members to be divisible by five, and for the remaining number—20—to be divisible by two, to reflect the equal split between local authority and Scottish minister representation.

Amendment 45 reshapes subparagraphs (2) to (2D) of paragraph 3 of schedule 1, in order to make it clearer who would be entitled to vote in the direct elections—in other words, the local government electors of the national park area.

Amendment 53 inserts after paragraph 3 of schedule 1 a new paragraph containing further provisions about what an order that sets out a scheme of elections would contain. Those provisions are deliberately wide ranging, as, if the amendments are passed, the Executive will wish to consider carefully and to consult very widely on the detail and the kind of electoral system to be put in place.

The order-making power contains general provision about elections and candidates, with particular regard to such matters as the conduct of elections—whether postal or in person—the registration of electors, possible combination with other elections, dates of polls, appeals against the outcome of an election, and other similar matters.

Fergus Ewing: Can the minister confirm that ministers will use that power to prescribe maximum limits of expenditure for each candidate? That concern was expressed by the Highland Council and by others. It is felt that some wealthy voluntary organisations might be able to take advantage of the system if such expenditure limits are not in place.

Nicol Stephen: The answer to Fergus Ewing's question is yes, as I shall outline shortly.

It is not essential for all the issues that I have mentioned to be covered by a particular order. Different orders could make different provisions, and could give different solutions for each park.

The remainder of the amendments lodged by Mike Rumbles are technical and consequential on the main provisions. At stage 2, Mike Rumbles argued successfully in favour of the principle of a system of direct elections for some of the national park authority members. That was in response to widespread concern about the need for the greater involvement of local people in the running of each park. Direct elections are not the only way of achieving that aim, and the Executive amendments that were lodged at stage 2 remain, allowing for 20 per cent of the overall membership of the national park authority to be local members.

I do not want to comment in any detail on the kind of elections that might be introduced. This is a new concept and we must have full consultation, as people will have different ideas about how elections should be carried out. However, I should mention one or two general principles that are appropriate and that the Parliament can agree with.

In the main, we should try to depoliticise the elections and we should also avoid their being dominated by individual interest groups or individuals with significant wealth. We want to make them more like community council or school board elections. There should be appropriate limitations on expenditure. In Mike Rumbles's initial proposals, there would have been a close link between the elections and the date of the local authority elections. For some of the reasons that I have mentioned, I am glad that he is willing to break such a link.

We should carefully consider whether postal voting would be preferable to a system based on voting in person. Pilot schemes for all-postal local authority ballots in other parts of the UK, as recommended by the Howarth committee, have been considered very successful, particularly in increasing the proportion of the electorate voting. That can only be a good thing, and we will consider the possibility very carefully.

National parks are unique in many respects. In particular, they will be able to take over a number

of functions that are currently discharged by local authorities. That is part of the correct justification for including an elected element.

It is probably appropriate for me to address the issues raised in Ben Wallace's amendment now, as that will avoid the need for me to make any final comments before we move on from this group. Amendment 27 would require at least two of the local people appointed to the national park authority to be representatives of community councils. Existing provisions on local members already allow for the possibility of members of community councils to be appointed as members of the national park authority. We fully accept the logic of the argument that community councils should have considerable influence on the membership of national park authorities, as indeed on other matters concerning the national park. The bill contains extensive provisions on consultation with community councils. However, a requirement for two of the local members to be members of community councils is over-rigid and would be difficult to meet in areas where community councils are not strong or well organised. Furthermore, it might lead to certain geographical imbalances. It is not clear how we would identify people who are, as Ben Wallace phrases it, "representative" of community councils. As a result, we cannot support amendment 27.

Alasdair Morgan: We are all glad that the Government has accepted the principle of elected members on the national park authority. We all saw the danger of an us-and-them culture growing as the parks were established, with some perhaps seeing the national park as having been imposed on the people living in the area. Fergus Ewing tried to introduce the idea of a referendum to get round that problem. Certainly the introduction of direct elections will help to minimise the danger of conflict between two groups of people.

More important for the future, we have gone some way towards creating a precedent that will lead to the end of the quango culture in Scotland. If members can be elected to a national park authority, why cannot members be elected to health boards and the other dozens of quangos throughout Scotland? If the national park authority is a success, that idea will be carried forward.

The fact that Mike Rumbles lodged one or two amendments in committee and has now had to lodge a dozen perhaps more complicated amendments serves as an object lesson for all committee members who think that it is fairly simple to lodge an amendment that will achieve a desired effect.

Amendments 55 and 64 remove provisions regarding financial interest disqualification and removal of members. On a technical point, I would like to check that it is the intention that those matters will be catered for by orders under the proposed new paragraph under schedule 1.

Although we all subscribe to democracy and the introduction of a democratic element, we have to accept, if we are honest, that the proposed arrangement is not guaranteed success. I was concerned when the minister compared the elections with the elections to school boards and community councils, which are not uniformly successful in Scotland. We have to do a lot to ensure that the electors in national park areas participate in the elections and that there is adequate publicity to encourage their participation in decision making.

There will be practical difficulties in some of the suggested national park areas because of geography, particularly in the Cairngorm area, where there are many districts on the periphery that have no commonality with each other apart from the fact that they have the mass of the Cairngorms between them. Interesting conundrums will arise for the electoral register. I can imagine the electoral register of a polling district being broken down into two parts, depending on which bits of the district are in the national park area and which are not. However, we wish this provision well and we will all help to make it work in practice.

Des McNulty (Clydebank and Milngavie) (Lab): I wish to pick up a few points. First, I am not clear how the elections can be depoliticised, a point that Mike Rumbles raised. I do not see how there can be a process of election that does not have a political dimension. That may not be a party political dimension, but it could be. Once an electoral process is created, that possibility exists.

A second important issue, which I raised at stage 2, is boundaries. In the context of Loch Lomond, it is easy to see that the elections will be significantly influenced if Balloch is included in the boundaries of the national park. If it is included, it will skew the electoral structure. I would like Mike Rumbles to address how that issue might be handled.

Fergus Ewing: Will the member give way?

Des McNulty: I am sorry, but I am going to make four points and I would like Mike Rumbles to respond to them.

Ben Wallace's amendment raises a third important issue—the position of community councils. Mike Rumbles raised that matter at the Rural Affairs Committee when he lodged amendments on the 20 per cent representation of community councils on national park authorities. My reading of his current proposals is that they actually make it more difficult for community councils to be represented on those authorities. Given that Mike was facing in both directions, I am

interested to know the basis on which he is settling down.

Richard Lochhead (North-East Scotland) (SNP): I appreciate that Des McNulty has some questions on local representation, but he lodged amendments of his own, which he withdrew in time for today's debate, just as he did at the Rural Affairs Committee. Why did he withdraw his own amendments?

Des McNulty: I am asking questions about community councils. I am glad that Richard Lochhead did not contribute to that.

I have a final important issue to raise, which concerns quangos. There is a principle of local democratic accountability in local government that cuts across the UK, and it is important that we sustain it. Quangos can be rendered accountable in all kinds of ways—through local government, through this Parliament and through a process of direct election. One form of democratic accountability is not intrinsically superior to another. There is a debate to be had on the most appropriate form of democratic accountability and how it will work. That is particularly important in relation to the way in which planning powers will be exercised and the effectiveness of that. I am posing those issues as questions and I am genuinely interested in how Mike Rumbles will respond.

15:15

Mr Tosh: In the most recent debate—

The Presiding Officer: Order. There is too much conversation going on on my right.

Mr Tosh: In the previous debate, Nicol Stephen said that national park proposals had been extensively debated, that many members had shared in the discussion and that it was wrong to suggest that any element of the proposals was narrowly based. In fact, the proposals that we have been given through the agency of Mike Rumbles were debated initially by 10 members of the Rural Affairs Committee, two ministers and two other MSPs—it may have been three—who happened to be at the committee at the time. It is a pity that we have not had the opportunity to debate the substantive issue in the Parliament—indeed, that is at the heart of some of the barracking from the Scottish National Party about the disappearance of certain amendments this week.

There is a lot to be said for and against the principle of direct elections. Many of the practicalities that arise from that discussion could usefully have occupied some parliamentary time this afternoon. As things stand, the committee agreed to Mr Rumbles's amendments. He has quite brilliantly gone through the bill in great detail and come up with scrupulous, detailed and refined consequential amendments—I am sure that he had no assistance in doing that. [*Laughter.*]

All the amendments have to be accepted, because they represent how the process—as defined at the committee—can be refined in practice. On the minister's comments about Ben Wallace's amendment, it would have been equally possible, had ministers been prepared to guarantee community council representation, to lay down guidance on how representative the selection of the two representatives might have been.

That process could have applied if ministers had had a will to promote community council representation as opposed to direct community representation. Let us face it—in some places, the people who are elected to the boards might be more high profile than some community councillors. Will we find that councillors are eligible to be elected to the national park authorities? Will MSPs and MPs be eligible? Presumably, that will be defined when the guidance comes out, but those are important questions, which we could usefully have discussed today. I would like to think that somewhere down the line there will be a mechanism to ensure that the people who are elected are not high-profile political people. Des McNulty is right—we will not get the politicians out of this; one way or another, they will be there. I would like to think that high-profile political people will not be elected. We want genuine community representatives. One way of achieving that is to ensure community council representation.

I accept the wisdom of Solomon in the increase in the nominated members from 19 to 20, to avoid the difficulty of dividing 19 by two—that seems reasonably sensible. Mr Morgan, I think, raised a point—I raised the same point with the minister this morning—relating to amendment 64 and precisely how the disqualification procedures might be framed. It is important for us to know that—the minister should be able to clarify it in summing up. With those comments, I should add that the Conservatives find the amendments in their entirety acceptable.

Dr Sylvia Jackson (Stirling) (Lab): I am not a member of the Rural Affairs Committee, but I felt that I needed to speak today because my area, Stirling, will be one of the largest parts of the first national park, Loch Lomond and the Trossachs. The national park authority and the representation on it is therefore a critical issue to me.

During the bill's passage, I have been contacted by a number of constituents, including councillors, members of the Loch Lomond and Trossachs interim committee, community councillors and others. Most of the concerns that have been

expressed latterly arise from what happened at stage 2 in the Rural Affairs Committee.

My first point relates to the changes that were made to schedule 1 at stage 2. It is about Mike Rumbles's proposals, which form the subject of most of this debate, on the election of 20 per cent of the members to the national park authority. It was agreed that, in addition to that election, a fifth of the remaining 80 per cent appointed by the minister would also be local members. My understanding, and, I think, that of other members who were at that committee meeting, was that the two aspects of local representation—20 per cent by election and a further fifth of the 80 per cent—were seen not as existing together but as alternatives. However, they have come through together in the bill as amended at stage 2. I would like to hear Mike Rumbles's ideas on that.

The result of that coming together has been that councils, especially Stirling Council, if I may speak on its behalf, perceive their role as having diminished from what was the position before the stage 2 debates in the Rural Affairs Committee.

Much must be done to retrieve the situation so that councils can feel that they are moving forward in partnership with other groups. I hope that it will be possible to do that in the discussions that Nicol Stephen mentioned—on, for example, how the elections will be conducted. Unless we do that and take on board the concerns of councils in the park areas about services and community planning, the national parks will not exist as we planned for them to exist.

My other reservation concerns how the elections will take place, about which Des McNulty made some good comments. I was pleased to hear from Nicol Stephen that considerable debate will take place on that issue. I agreed with much of what Murray Tosh said about how we would have liked much more of the debate on this important matter to have taken place in the chamber. Could the minister, when he sums up, at least say that he will consider this important aspect? How do we get representation from different parts or areas within a national park authority? I worry that we might get over-representation from some parts rather than an even distribution.

Ben Wallace: I want to speak to amendment 27 and to point out that, in effect, this will be our last opportunity to recognise the role of community councils in the national parks.

We need to consider the context of my amendment. The future is local government reform. We may see changes to the electoral system—for example, through proportional representation—that mean that the local link between an area and its councillor will be lost. We may also see cabinet-style local authorities. There is nothing in the bill to prevent local authorities from placing on the national park authorities their own members, or members of the local authority governing party. That brings in Des McNulty's point about politicising. We cannot escape that, so it is appropriate that we maintain, for the future, the link between community councils and the park authorities.

The bill implies that direct elections may lead to community council members being represented on the national park authority, but there is nothing to guarantee that. I am trying merely to ensure that there are guarantees that members of community councils will be on the national park authorities.

If the Executive had had the will to ensure that community councils were represented on the national park authorities, it could, undoubtedly, have given me some of the help that it gave to another member with his amendments on a previous occasion.

Nicol Stephen: Does the member accept that his amendments were not carried by the Rural Affairs Committee at stage 2?

Ben Wallace: My amendments or Mike Rumbles's?

Nicol Stephen: Yours.

Ben Wallace: I believe that, at stage 2, the minister gave a number of assurances that the questions raised by my amendments would be reflected in the bill. As that did not happen, I thought it appropriate to lodge further amendments; obviously, the Presiding Officer agreed with me in his selection of amendments for stage 3.

This is our last opportunity to debate how we treat community councils and their position in local government. For example, in Braemar where I lived last year, and in Donside where I live now—both of which will be included in the Cairngorms national park—this issue is very important. The community council is everything to such places; it is their tourist board and it is from the community council that people run the village. To neglect that necessary tie between community councils and the national park authority will do such places a disservice. I hope that members will back my amendment.

The Presiding Officer: I am used to members complaining when I do not select amendments, but I would be grateful if members did not pray me in aid when I do.

Fergus Ewing: All members would agree that they do not wish the park authority to become politicised, although I suspect that that wish may be difficult to fulfil. I support amendment 45, which is Mike Rumbles's principal amendment, although it seems to me to be rather arbitrary to elect only

20 per cent of an authority. Be that as it may, amendment 45 should be supported.

I wish to raise some points that have been raised outside the chamber. I hope that the minister will be able to provide an assurance that the ministerial appointments to the authority will include a number of distinguished community councillors who have shown an interest and who have developed experience and expertise in the issues that are germane to the successful operation of national parks. Similarly, I hope that ministerial appointments will not be restricted to those who live outwith the area and who have no local connection. The minister indicated at stage 2 that such considerations were in her mind and that community councillors might be appointed by ministers rather than by local authorities. I suspect that local authorities will wish to select their own members to serve on the park authority.

On the other ministerial appointments, there is particular concern that some bodies in Scotland seem to think that they have a natural right to serve on every board that considers the environment. People in my constituency are concerned that the authority may become dominated by some of those voluntary organisations. All parties expressed concerns on that point at stage 2.

I say both to the minister and to the chamber that the royal society for the protection of people does not exist; if it did, it would be this Parliament. I hope that those members who represent urban constituencies appreciate and understand the fears that have been expressed by members such as Rhoda Grant, John Farquhar Munro and me. People have serious fears that decisions will be taken by powerful, well-funded groups that are not willing to compromise and, ultimately, that take their disputes to the jaws of the Court of Session, where they are usually thoroughly thrashed. I see one or two members on the Labour benches smiling in recognition of past battles, which the Government won.

No one wants a repeat of those battles. The way in which to avoid them is for the minister to give an assurance that she will not appoint to the authority voluntary organisations that profess to be the conservationists in Scotland. I submit that the true conservationists in Scotland are the farmers and crofters who live on the land, as have their fathers and their fathers' fathers before them—generation unto generation. I hope that the minister will look to them when making ministerial appointments.

Sarah Boyack: I want to respond to some of the fears that have been raised in the chamber this afternoon. We will be going through a complex process, but the electoral order that will accompany the establishment of our national parks gives us the opportunity to debate in more depth and with more time some of the issues that members have raised. For example, I am happy to give Alasdair Morgan and Murray Tosh an assurance that we intend to address directly the issue of disqualification, which they raised, through the electoral order. The process will be challenging because we will be doing something different with the decision that, given the support of the chamber, we will take this afternoon.

The details will be challenging. We will ensure that we have widespread discussion. The affirmative electoral order will be voted on by Parliament, so all members will have the opportunity to be involved in the process. Murray Tosh's point about local representation and Sylvia Jackson's point about involving people from across the national park areas are fundamentally important. We will need to have a debate to decide how best the elections will be conducted.

15:30

I want to address the points that Murray Tosh and Sylvia Jackson raised. It is clear that the principle of involving local people and representatives of local interests will be retained in the nominations by local authorities and the Scottish ministers. Specifically, before the Scottish ministers consider appointing any member, they must consult every local authority and community council in the national park area. There is therefore an explicit commitment that the Scottish ministers will consult community councils on nominations, which is important.

I remind members who have followed the bill from day one that it contains a provision that we will consult people who appear to be representative of the interests of those who live, work or carry out business in the national park. Consultation and the invitation to people to nominate themselves or others who they think would be strong and helpful members of the national park authority are part of the bill. It is important to put that on record. Community councils will, therefore, be part of the process of nominating people with expertise and interests that could help the national park authority.

Des McNulty's point about representation from throughout the park area is critical. We will have to ensure that we get the form that the election process takes—the type of ballot, whether postal or other, and the amount of publicity that is circulated throughout the park area—right in the electoral order. It will be important to consult on that so that people feel that they are part of the process.

I want to make a couple of points about issues that Fergus Ewing raised. There will not be room for everyone on the national park authority. We will

set a limit of 25 people, and they will need to be people with vision and broad experience who are tapped into a range of issues. The national parks will be challenging bodies to be part of, as they are being set up from first principles, but I do not subscribe to the negative comments made by Fergus Ewing. It is important that there is an appropriate place for people who can add weight and expertise to the national park authorities.

I do not pretend that every debate in the Cairngorms has gone without difficulty or that every issue that has been resolved has been resolved with everybody's absolute agreement, but the point of national parks is to resolve difficult issues through consensus, where possible, in line with the aims of national parks as set out in the bill. The process must be inclusive.

Mrs Margaret Ewing (Moray) (SNP): Will the minister give way?

Sarah Boyack: No, thank you. I am winding up.

I remind people that the national park advisory bodies will provide another way in which to involve people who represent special interest groups or local interests and for whom there is no room on the national park board. That is important. There are many ways in which a range of people will be involved. We must involve them as far as possible in a consensual way. We must do things differently and meet the aims to which we have all signed up, which kicked off the bill.

When I suggest to members that they should support all the amendments, it is because I want to get the process right. The process is complex. We have taken on board the arguments that were raised at stage 2. We must get it right in practice. This is not the end of the game. There will be further discussion.

I hope that that reassurance will encourage members to vote for the raft of amendments lodged by Mike Rumbles. All of them are integral—we need all of them to make the complex process work properly.

Mr Rumbles: I am glad that Nicol Stephen addressed the depoliticisation of elections to the park authority. Des McNulty raised a few points that I want to address directly. Examples of depoliticised elections have been mentioned. We have talked about community councils and school boards as depoliticised. The elections we are considering would come into that category. I do not believe anyone here would want them to be politicised.

In this group of amendments, we are proposing to give ministers the leeway to sort out the practicalities of such issues as boundaries. Community councils—crikey. Local democratic accountability is the key to my amendments. They are all about ensuring that we get local people securely involved in our national parks so that the parks will work. It is a move away from quango culture.

Sylvia Jackson spoke about councils having a diminishing role. Let me reassure her and our local authorities that that is not intended. The original proposal was for a maximum of 10 representatives appointed by the minister and 10 appointed by local authorities. The intention is to add five local members. We are not taking representation away, but adding to it. Local authorities have nothing to fear; we are not talking of removing any of their input into local parks.

I am afraid that Ben Wallace did not seem to know that his amendments were not successful at stage 2. Is that because he was not there? Fergus Ewing, Sylvia Jackson, Murray Tosh and others were able to attend.

Mr Tosh: That is unfair. I explained this morning that Mr Wallace was at another committee at that time. I moved his amendments and after the minister's guarantees I withdrew them. That is a perfectly fair way for members to act.

Mr Rumbles: The point is, Murray, that he did not know. The other point is about prioritisation—if he really thought that the issue was important. There have been complaints about members not being able to be involved. Let us get our priorities right—if a member is lodging amendments, that member should be there to move them.

Sarah Boyack used the word—

Richard Lochhead: Did Mr Rumbles not move Tavish Scott's amendments when he was absent from the Rural Affairs Committee?

Mr Rumbles: Sarah Boyack used the word—[MEMBERS**:** "Answer the question."] The point I was trying to make—

Ben Wallace: It is obvious that Mr Rumbles is not going to apologise. The people in Braemar will probably understand about the community council. The idea of Mr Rumbles's direct election is to create that directly elected link on the park authority. That link exists—it is called the community council. They are already elected. He wants new elections and a new layer when there are community councils in position and ready to be involved.

Mr Rumbles: Murray Tosh, Ben Wallace's colleague who is sitting in front of him, has accepted all of these amendments. I believe Ben is voting for them. Let me get back to my speech. Sarah Boyack used the word "vision". I said earlier that our new Parliament is radical and innovative and that these proposals for the membership of the national park boards are exactly that. Let us have the vision to do something different. I hope

that we will agree to the amendments.

Amendment 30 agreed to.

Amendment 25 not moved.

Section 8—General purpose and functions

The Presiding Officer: We now move to amendment 31, which is grouped with amendments 18 and 32.

Dr Sylvia Jackson: Amendment 31 relates to section 8(1), which provides:

"The general purpose of a National Park authority is to ensure that the National Park aims are collectively achieved in relation to the National Park in a co-ordinated way."

The amendment would add:

"and to high standards of design and environmental stewardship."

I lodged amendment 31 because our national parks will include some of the finest landscapes in Scotland. It is clear that in managing national parks, a balance should be struck between local needs and the protection of great national assets. We should think about all aspects—social, economic and environmental—of sustainable development.

The ability to maintain our finest national landscapes and resources is of the utmost importance. Therefore it is imperative that a general purpose of a national park authority should be to ensure that the national park's aims are achieved with

"high standards of design and environmental stewardship."

That imperative applies to the four aims that are set out in the bill.

It is not intended that the promotion of

"high standards of design and environmental stewardship"

should be detrimental and restrictive—quite the opposite. Managing national parks in that way should enhance the parks' roles in every way, especially for those who live in the park areas.

Alasdair Morgan: Perhaps I have missed something. What does Dr Jackson refer to the design of?

Dr Jackson: I refer to the design of any aspect of national parks, for example building, planning and more general matters.

I point members to the policy memorandum for the National Parks (Scotland) Bill. Paragraph 6 outlines the advice to Government from its statutory advisers—Scottish Natural Heritage—which said:

"National Parks should secure high standards of environmental stewardship."

Another paragraph refers to the fact that, in relation to planning issues and so on, there will need to be

"enhanced design standards which may need to be adopted by the planning authority within the National Park area."

I suggest that

"high standards of design and environmental stewardship"

are vital components in maintaining and enhancing the special qualities of national parks via the aims of the parks. I recommend that members agree to amendment 31, which originated from the Scottish Council for National Parks.

I move amendment 31.

Fergus Ewing: Amendment 18 seeks to provide balance and to make national parks work. The aims of the national parks are set out in section A1. It is important to begin by reflecting on the fact that there has been added to that section a word that completely alters the sense of what was in the original bill, which said that the first purpose of a national park would be

"to conserve and enhance the natural and cultural heritage of the area."

The original drafting also said that the fourth purpose of a park would be

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

The significant word that has been added is "sustainable". The fourth purpose of the park as set out in the bill now reads:

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

That word alters completely the sense of the original bill because any development that is pursued as an aim of the park must now be sustainable. I contend that the phrase "sustainable development" means development that does not harm the environment.

If I am correct, it follows logically from the only ordinary interpretation of the words that there cannot be conflict between the aims in section A1(a) and section A1(d). The first says that we want to conserve the environment—everybody wants that. The second says that, none the less, we will pursue the aim of sustainable development. Sustainable development is development that does not detract from, harm or hamper conservation. That point was not made during stage 2. I want to emphasise it today, in the hope that members of all parties will find it possible to support my amendment, which is not being pursued in a party political way.

15:45

I have three further arguments that I will put briefly. First, what sort of message does it send if we fetter the decision-making power of the authority so that, if it appears that conflict exists, it must give greater weight to conservation considerations, even if the conflict is with sustainable development? As I say, I do not believe that, by definition, such conflict can possibly occur. Having appointed members of a park authority, we should surely trust them. We should trust the local people and the members who are on the authority to do the job and to take each decision on its merits. That is surely what sensible, intelligent people—people with vision, as the minister said—should do, will do, and will always seek to do. Devolution should not end in Edinburgh. Unless we accept this amendment, we are constraining the decision-making powers by the application of the Sandford principle, which I believe to be unnecessary.

Secondly, there is no definition of what conflict means. The Sandford principle must be applied where it appears to the park authority that there is conflict. But what constitutes conflict? If two voluntary organisations object to a proposal, I submit that that could well be construed as conflict. If the park authority says that it is not conflict, will voluntary organisations seek a judicial review and go to the Court of Session? A similar thing has happened, in one instance, three times in three or four years. Will they then try to block the park authority, saying that it has exercised its discretion inappropriately by refusing to hold that there is conflict? I have raised at stage 1 and stage 2 the point that there is no definition of conflict; there has been no attempt to amend the bill to indicate what that word means. Without a definition of that word, I believe that we are in serious difficulty.

Thirdly, there are existing designations of land—national scenic areas, of which there are more than 40 in Scotland; sites of special scientific interest; Ramsar sites; and sites designated under the habitat directive. All of those designations are in effect now; all of them will continue to be in effect the day after the national park is created. The purpose of the designation of a national park is not to confer further protection on land; it is to enable the management of areas of special importance from the point of view of conservation.

In my constituency, there is growing concern about some aspects of the bill and especially about what will happen if the Sandford principle is to be applied in the way that is described. My constituents have seen many battles in the past between the people and powerful voluntary organisations; no one wants to see them again. It seems to me that those battles are as though between David and Goliath. If we reject this amendment, we are taking the sling from David and handing it to Goliath.

The Presiding Officer: Mr Harper, are you aware that your amendment—amendment 32—is being debated with this group?

Robin Harper (Lothians) (Green): Yes.

The Presiding Officer: Then it would be helpful if you pressed your to request-to-speak button.

Robin Harper: I am sorry.

Beware the Wolf of Badenoch—even though he comes before us in sheep's clothing. He tells us not to worry, saying that it will not make any difference if one little phrase is removed from the bill by means of his amendment. I put it to members that removing it would eviscerate the bill. I would contend that, if anything, the bill should be strengthened.

The Executive is to be congratulated on bringing this bill to Parliament, not just 50 years after similar legislation came into force in England, but nearly 100 years after the great John Muir started his campaign for national parks in the United States.

Dr Winnie Ewing (Highlands and Islands) (SNP): A senior Labour Western Isles councillor said of the American national parks that the first action was to get rid of all the Indians.

Robin Harper: I shall rise to Dr Ewing's challenge. That was part of a persistent policy of the United States Government to get rid of the Indians from just about everywhere in the United States, not just the parks—and it was certainly not a policy of John Muir's.

Dr Ewing: He allowed it.

Robin Harper: John Muir did not allow it to happen; the United States Government pursued that policy.

I have a feeling that there are still some members who do not understand the international significance of national park designation. It is internationally accepted that parks can be graded from 1 to 6. It is my fear that, even with the bill as it stands, our national parks may be graded only at 5 or 6. It remains to be seen whether, once they are set up, they will achieve higher status. The idea behind the Sandford principle is not a complete ban on activity; it is simply that all developments in a park, whatever they are, should be consistent with the conservation of the natural aspects and human geography of the park.

The Transport and the Environment Committee, which has hardly been mentioned so far today, also considered the bill in detail and agreed that the socio-economic aims of the national park

should always be met in accordance with the aim of conservation. I lodged a previous amendment in an attempt to give effect to that opinion by placing all other aims on an equal footing with the conservation aim, but it was not accepted by the Rural Affairs Committee at stage 2.

My new amendment introduces the original recommendation of the Sandford report and would provide a safety net whereby if the park authority perceived a conflict, the conservation aim would prevail rather than just be given greater weight. I have lodged amendment 32 to give the minister an opportunity to assure us that the Executive wording that my amendment is intended to replace is sufficiently robust to ensure that the Sandford principle will be effectively introduced by the bill and adhered to when the parks are set up. I still fear that the bill is not sufficiently robust but, if the minister can assure me that the present wording of the bill incorporates the Sandford principle, I may decide not to move my amendment.

The Presiding Officer: Would you like to respond now, minister, or would you prefer to wait until the end of the debate?

Sarah Boyack: I am happy to let the debate continue.

The Presiding Officer: In that case, I call Dr Elaine Murray.

Dr Murray: I must take issue with Fergus Ewing's definition of "sustainable". I question whether his definition has any legal force. It could be argued that something is sustainable if it can be sustained in the longer term.

Alasdair Morgan: Does Elaine Murray accept that if "sustainable" is in the bill—nobody is suggesting that we delete it—it will have legal force once the bill is passed and must therefore have legal meaning?

Dr Murray: I am saying that the legal meaning of "sustainable" is not necessarily what Fergus Ewing wants it to be when he argues for the Sandford principle to be removed from the bill.

We are discussing what happens when the national park authority exercises its functions; what happens when two voluntary sector organisations fall out is not relevant. If there is a conflict between the various aims of the national park, the national park authority is to give greater weight in the exercise of its functions to environmental considerations.

We are seeking to strike an appropriate balance between conservation and development. Sylvia Jackson spoke about some of the concerns in the Loch Lomond and the Trossachs area, which to me—as an outsider—appear to centre on possible misuse of the environment. People feel that the institution of a national park might damage the environmental heritage that they want to sustain. Equally, it is quite clear to me from talking to people from the Cairngorms area that their main concerns relate to the communities that live and work in the area. They are worried that their interests will be subordinated to those of the conservation minded and of environmentalists.

When drafting enabling legislation, the Executive needs to strike the right balance. I believe that in this bill the Executive has done that. It is saying that if there is a conflict between the aims of a national park, the national park authority must in the exercise of its functions give greater weight to environmental considerations. I know that Robin Harper feels that that phrasing does not have quite the strength of "prevail", but I believe that it has the same intention. The intention is quite clear—that if there is a problem in the functioning of the park, environmental considerations must take precedence over everything else. That is probably the right approach, given that we are talking about national parks. Robin Harper was quite right to make that point. In our discussions of direct representation, we have concentrated on the local perspective, but our intention is to establish national parks with a national and international reputation. We must not lose sight of the importance of that.

Mr Tosh: Fergus Ewing made a number of significant points that go to the heart of the discussion that took place in the Conservative group when we considered the correct approach to take to section 8. Throughout this process, we have seen it as important that, when framing the objectives of this bill, the Executive should recognise that development of local communities is vital and must not be prevented. All along we have been concerned by the possibility that national park areas might be set in aspic and that we might not be able to move forward in those areas to meet the requirements of the communities that live there.

We feel that the line that the Executive has come to as the bill has evolved is balanced. The difficulty that I have with some of the points that Fergus Ewing made is that there is not yet sufficient clarification in the bill of how ministers will regulate this matter. At stage 2, I moved an amendment that would have put on the face of the bill the concept of zoning. The subject was discussed extensively in committee. It is clear that what is sustainable in one zone may be unsustainable in another. I assume that if someone wanted to develop an hotel in Aviemore on an existing commercial site, that would be regarded as sustainable development, whereas if they tried to build it in Glen Derry, that would not be considered sustainable or acceptable. The principle of zoning is central.

At stage 2, the minister would not accept that zoning should be included in the bill, so I withdrew my amendment. I hope that she will make it as clear in the debate on these amendments as she did in the earlier discussion on electoral arrangements that when we reach the stage of considering zoning in practice—when we have the necessary subordinate legislation and regulations—there will be full consultation on what that involves. We need to know how zones will be determined and how precise they will be. Will they be very broad band, or will they be like local plan zones, where tightly defined policies are laid down to guide development in communities?

The committees did not really examine those issues; we all fell foul of the timetable at various points in this process. It would be interesting to hear what Sarah Boyack's intentions are when it comes to putting flesh on the skeleton concept of zoning in the national park areas. If she is able to give reassurance on that, I think that there is no requirement for Fergus Ewing's amendment.

Fergus Ewing also addressed conflict. As I read the bill, it is for the national park authority to decide whether proposed actions are in conflict with its aims. In that respect, it is no different from what planning authorities all over the country do when they review development proposals. They consider whether development proposals accord with or conflict with the approved development plans. If local authorities consider that they conflict, there will generally be a presumption against approval and there may, in certain circumstances, be referral on to ministers. Conflict should not give us particular cause for concern.

Robin Harper: Does Murray Tosh accept that the National Parks (Scotland) Bill is designed to be a robust method of solving conflict, which will inevitably arise?

Mr Tosh: I cannot speak for the minister, but I understood that the bill tries to give the national park authority the lead role in resolving conflict—it is to be vested within the community, its representatives and the various people on the national park boards. I think that what is in the bill to resolve conflict is perfectly adequate.

The problem with Fergus Ewing trying to found entirely on sustainability is, as I said earlier, that sustainability has a different precise meaning in different locations. There may be a meaning of sustainability, but I am not sure that it is possible to found on the meaning of the word. I would rather leave it to local people, the local plan authorities—the people on the ground, as it were—to resolve this for themselves through the interpretation of where there is conflict and where and when they should apply what we know as the Sandford principle, although that is not in the bill and is not legal either.

I am sure that Fergus Ewing does not intend to do this but, in effect, his amendment seems to strike out the central concept of the national park. What is the point of having the national park if we are not prepared to give primacy to conservation where that is the prime consideration? In other zones of the park area, where there is building and economic development, it is appropriate to put that first so long as we are happy that it accords with the overall principles.

Robin Harper's amendment goes too far the other way. They are perhaps the mirror image of each other—equally extreme in different directions—Mr Nasty and Mr Nice in their approaches. I suspect that Robin Harper's amendment is not really necessary either. I have no specific view on Sylvia Jackson's amendment. I am not sure that it adds anything to the bill. Ministers and the Rural Affairs Committee have evolved this to the stage where it is about as right as we can get it.

I suggest that we should not accept any of the amendments in this group.

16:00

Alasdair Morgan: During the debates in the Rural Affairs Committee there was felt to be—as has been alluded to—tension between conservation and development, which are two of the four aims. Those tensions are illustrated by amendments 18 and 32.

Some of the arguments on both sides are somewhat exaggerated. It strikes me that we cannot necessarily give any proposal that comes forward either a tick or a cross against not just the two aims, but the four aims that are laid down in section A1 of the bill. Those are conservation and enhancement of the natural and cultural heritage; promoting sustainable use of the natural resources; promoting—before it was amended—recreation in and understanding and enjoyment of the area; and promoting sustainable economic and social development.

It is oversimplifying life too greatly to say that a proposal does not meet one criterion but does meet another. I thought that the balance in the bill was about right at stage 2, but I confess—I am speaking personally—that I am somewhat persuaded by Fergus Ewing's argument. Some of the responses that I have heard today have persuaded me even more to agree with Fergus's argument. I do not think that Murray Tosh's argument that sustainability means different things in different parts of a park area necessarily goes against Fergus's argument, as we could say exactly the same of the other aims that are laid down in section A1: in different parts of the park, the interpretation of the other aims will also vary.

It concerns me that we are still arguing about what sustainable economic and social development means. Given that that is one of the main aims of a national park, as stated in section A1 of the bill, we are in a sorry state if we do not yet know what it is. I look forward to the minister explaining to us the official line on the definition of sustainable development in different areas of the park. I take on board what Fergus Ewing said and would be inclined to support his amendment 18.

I am not convinced that amendment 31 is needed. If it is needed, I am not convinced that it is in the correct place. It is not obvious what "design" means and I think that the amendment might be withdrawn.

Sarah Boyack: We have had as thorough a debate today as we had at stage 2. At that point, I said that the success of the national parks would depend on getting the balance right. I agree with Elaine Murray on that point.

Murray Tosh said that he thought that we have got the bill about as right as we can get it. I would like to keep that comment for posterity. Alasdair Morgan said that it was important that we do not exaggerate fears. I would like to hang on to that sentiment, as I believe that amendments 32 and 18 typify the polar opposites of the debate and are not representative of the balance that we are trying to achieve. Amendment 32, in the name of Robin Harper, reflects a fear that the principle in section 8(6) is not strong enough and will not prevent unfettered development. The fear behind amendment 18, in the name of Fergus Ewing, is that the principle will always be invoked and will stifle all forms of development to the detriment of local people. Both fears were debated at stage 2, when the committee's opinion was that we had the balance right. I feel that we have.

Robin Harper asked whether our national parks would be national parks as defined by the International Union for the Conservation of Nature and Natural Resources. If we manage to maintain the balance that we have in the bill, the answer would be yes. However, if we tinker with the bill and attempt to remove the Sandford principle, the answer might be no.

The key objective is to deliver a national park authority that is required to act to achieve all four of its aims: conservation of the natural and cultural heritage; the sustainable use of natural resources; enjoyment and recreation; and the sustainable economic and social development of communities. At stage 2 we added not only the word "sustainable", but the word "communities". It is important that we remember that we are talking about the economic and social development of communities.

Following consultation on the draft bill, we added the provision that those four aims are to be pursued collectively and in a co-ordinated way. That is important. The national park authority must not pursue one of those aims to the exclusion of the others. We have made it clear all along that we must have an integrated approach, not the old-style approach that automatically sees development as being contrary to conservation interests. The bill has been drafted to ensure that the national park authority looks for an integrated approach, tries to avoid conflict and reconciles competing interests. Only after failing to resolve a conflict would it be required to give greater weight to conservation. The Sandford principle is not the first port of call; it is what guides the park authority once it has exhausted the other avenues. Every opportunity must be taken for negotiation and mediation before the principle set out in section 8(6) is invoked. That is what will be new about the national park areas. In answer to Murray Tosh, I will say that I am prepared to use the statutory guidance to the national park authorities to make it clear that we expect the number of instances when the principle bites to be kept to a minimum and that they should try to reconcile different viewpoints.

Zoning will help us to do that. It will ensure that, if appropriate, different approaches will be taken in different parts of the park area. The construction of the national park plan will be subject to wide consultation which will bring the community into the discussion. People will be able to air their views about where zoning should occur and what the nature of the zones should be. Careful planning and positive management, as provided in the national park plan, will be vital to the balance that we must deliver.

Despite all the care, there will be times when conflicts are difficult to resolve. In such cases, it is right that the conservation of a park's special qualities should be given greater weight. The wording is significant: it is not "take precedence", as the matter concerns the judgment of the national park authority in dealing with difficult issues. I do not agree with amendments 18 and 32. The bill strikes the right balance at the moment.

Amendment 31 is similar to an amendment that Sylvia Jackson lodged at stage 2. I gave a commitment then to think carefully about the points that she made. I support the aspirations behind the amendment. Of course we want good design in buildings and good stewardship. However, this is not the right place in the bill to address that, or the right way in which to achieve those aspirations.

The amendment refers to two specific issues: the design of buildings and environmental stewardship or land management issues. Section

8 is more concerned with the collective and co-ordinated pursuit of the bill's aims, and the question of sustainability is already encapsulated in those aims, both in terms of natural resources and in the promotion of sustainable economic and social development. There are more appropriate vehicles for delivering what Sylvia Jackson's amendment seeks to ensure. Planning guidance, management schemes and guidance for national park authorities will allow us to achieve the appropriate balance and set the appropriate agenda for those issues. Good design is sought in all buildings, and is an aspiration that all members would share. However, that should be encouraged through planning and the associated guidance; it should not be in statute.

The bill as drafted strikes the right balance; nevertheless, this has been a useful debate, as it has illustrated the difficulties and challenges that the national park authority will face. Statutory guidance will help the authority in that respect. I hope that the commitments that I have given will encourage Sylvia Jackson not to press her amendment when we come to vote on it.

Dr Sylvia Jackson: Given those reassurances, I withdraw amendment 31.

Amendment 31, by agreement, withdrawn.

Amendment 18 moved—[Fergus Ewing].

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

Members: No.

The Presiding Officer: There will be a division.

FOR

Campbell, Colin (West of Scotland) (SNP)
Crawford, Bruce (Mid Scotland and Fife) (SNP)
Elder, Dorothy-Grace (Glasgow) (SNP)
Ewing, Dr Winnie (Highlands and Islands) (SNP)
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
Ewing, Mrs Margaret (Moray) (SNP)
Grahame, Christine (South of Scotland) (SNP)
Ingram, Mr Adam (South of Scotland) (SNP)
Lochhead, Richard (North-East Scotland) (SNP)
McGugan, Irene (North-East Scotland) (SNP)
Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
Neil, Alex (Central Scotland) (SNP)
Paterson, Mr Gil (Central Scotland) (SNP)
Quinan, Mr Lloyd (West of Scotland) (SNP)
Swinney, Mr John (North Tayside) (SNP)
White, Ms Sandra (Glasgow) (SNP)
Wilson, Andrew (Central Scotland) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
Baillie, Jackie (Dumbarton) (Lab)
Barrie, Scott (Dunfermline West) (Lab)
Boyack, Sarah (Edinburgh Central) (Lab)
Brankin, Rhona (Midlothian) (Lab)
Brown, Robert (Glasgow) (LD)
Canavan, Dennis (Falkirk West)
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Cunningham, Roseanna (Perth) (SNP)
Curran, Ms Margaret (Glasgow Baillieston) (Lab)
Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
Douglas-Hamilton, Lord James (Lothians) (Con)
Eadie, Helen (Dunfermline East) (Lab)
Fabiani, Linda (Central Scotland) (SNP)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
Fergusson, Alex (South of Scotland) (Con)
Finnie, Ross (West of Scotland) (LD)
Galbraith, Mr Sam (Strathkelvin and Bearsden) (Lab)
Gillon, Karen (Clydesdale) (Lab)
Godman, Trish (West Renfrewshire) (Lab)
Goldie, Miss Annabel (West of Scotland) (Con)
Gorrie, Donald (Central Scotland) (LD)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (Edinburgh Pentlands) (Lab)
Hamilton, Mr Duncan (Highlands and Islands) (SNP)
Harding, Mr Keith (Mid Scotland and Fife) (Con)
Harper, Robin (Lothians) (Green)
Henry, Hugh (Paisley South) (Lab)
Home Robertson, Mr John (East Lothian) (Lab)
Hughes, Janis (Glasgow Rutherglen) (Lab)
Hyslop, Fiona (Lothians) (SNP)
Jackson, Dr Sylvia (Stirling) (Lab)
Jackson, Gordon (Glasgow Govan) (Lab)
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
Johnston, Nick (Mid Scotland and Fife) (Con)
Johnstone, Alex (North-East Scotland) (Con)
Kerr, Mr Andy (East Kilbride) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Livingstone, Marilyn (Kirkcaldy) (Lab)
Lyon, George (Argyll and Bute) (LD)
MacAskill, Mr Kenny (Lothians) (SNP)
Macdonald, Lewis (Aberdeen Central) (Lab)
Macintosh, Mr Kenneth (Eastwood) (Lab)
MacKay, Angus (Edinburgh South) (Lab)
MacLean, Kate (Dundee West) (Lab)
Macmillan, Maureen (Highlands and Islands) (Lab)
Martin, Paul (Glasgow Springburn) (Lab)
Marwick, Tricia (Mid Scotland and Fife) (SNP)
McAveety, Mr Frank (Glasgow Shettleston) (Lab)
McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
McGrigor, Mr Jamie (Highlands and Islands) (Con)
McIntosh, Mrs Lyndsay (Central Scotland) (Con)
McLeod, Fiona (West of Scotland) (SNP)
McLetchie, David (Lothians) (Con)
McMahon, Mr Michael (Hamilton North and Bellshill) (Lab)
McNeill, Pauline (Glasgow Kelvin) (Lab)
McNulty, Des (Clydebank and Milngavie) (Lab)
Monteith, Mr Brian (Mid Scotland and Fife) (Con)
Morrison, Mr Alasdair (Western Isles) (Lab)
Muldoon, Bristow (Livingston) (Lab)
Mulligan, Mrs Mary (Linlithgow) (Lab)
Mundell, David (South of Scotland) (Con)
Munro, Mr John (Ross, Skye and Inverness West) (LD)
Murray, Dr Elaine (Dumfries) (Lab)
Oldfather, Irene (Cunninghame South) (Lab)
Peacock, Peter (Highlands and Islands) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Radcliffe, Nora (Gordon) (LD)
Robson, Euan (Roxburgh and Berwickshire) (LD)
Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, John (Ayr) (Con)
Scott, Tavish (Shetland) (LD)
Simpson, Dr Richard (Ochil) (Lab)
Smith, Elaine (Coatbridge and Chryston) (Lab)
Smith, Iain (North-East Fife) (LD)

Smith, Margaret (Edinburgh West) (LD)
Stephen, Nicol (Aberdeen South) (LD)
Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
Thomson, Elaine (Aberdeen North) (Lab)
Tosh, Mr Murray (South of Scotland) (Con)
Wallace, Ben (North-East Scotland) (Con)
Wallace, Mr Jim (Orkney) (LD)
Watson, Mike (Glasgow Cathcart) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)
Wilson, Allan (Cunninghame North) (Lab)
Young, John (West of Scotland) (Con)

ABSTENTIONS

MacDonald, Ms Margo (Lothians) (SNP)

16:15

The Presiding Officer: The result of the division is: For 17, Against 90, Abstentions 1.

Amendment 18 disagreed to.

The Presiding Officer: I call Robin Harper to move amendment 32.

Robin Harper: In view of the minister's cast-iron and copper-bottomed assurance that the Sandford principle is embedded in the legislation, I will not move amendment 32.

Amendment 32 not moved.

Section 11—National park plans: procedure

Amendment 19 moved—[Sarah Boyack]—and agreed to.

Section 11A—National park plans: review

The Presiding Officer: We now move to amendment 33, which is grouped with amendment 34.

Des McNulty (Clydebank and Milngavie) (Lab): Members of the Transport and the Environment Committee will be pleased to see amendment 33, because it arises from the deliberations of that committee. It was the committee's view that there should be a regular review process for national park plans. We suggested that reviews should take place every five years, and the amendment says that a review should take place not more than five years after the adoption of the plan or after a previous review.

The objective of the amendment is simply good governance. We need a structure for the process of consultation. A regular process of review is sensible. Essentially, the amendment is a technical measure to provide for reviews.

I move amendment 33.

Dr Sylvia Jackson: Amendment 34 arises from debate in the Rural Affairs Committee at stage 2. It is about the importance of audits in the review procedure. Des McNulty said that on-going reviews are important for good governance. Amendment 34 goes alongside his amendment.

Amendment 34 relates to the importance of audits in ascertaining whether the aims have been achieved and the programmes of work carried out to the requisite standards. Audits should be part of an on-going process of monitoring and review, which is essential for development.

The funding arrangements for a national park authority are equivalent to those of a Government agency. All Government agencies are from time to time subject to audits of their performance by their supervising departments and by the National Audit Office. The amendment provides the facility for an audit assessment of a national park authority. That is an important mechanism to ensure that a national park authority achieves its purposes and programmes of work to the standards that are set out in its national park plan.

I commend amendment 34, in the absence of an assurance that that aspect will be covered at a later stage of the process for setting up individual national parks.

Mr Rumbles: I support Des McNulty's amendment 33. It is important, and ensures that a review will take place at least every five years. I believe that that is an improvement on the bill, which states:

"A National Park authority must from time to time review its National Park Plan".

The amendment is an absolutely first-class idea.

Sarah Boyack: I am aware that amendment 33 was inspired by the stage 2 debate on national park plan reviews. Everybody accepted that it is important to review national park plans and that we must get the balance right between a review period that is too long and one that is too short. I appreciate Des McNulty's concern, which he expressed at stage 2, that not to specify in the bill how often reviews should take place might leave some uncertainty. Amendment 33 takes forward the discussion that we had at stage 2 about whether guidance or directions would be appropriate. I believe that his amendment provides a suitable balance. The maximum period for which a plan can operate without being reviewed is now five years, but the amendment allows flexibility for directions to be given to review a plan more frequently, if that is considered necessary. Therefore, I support amendment 33.

I move on to Sylvia Jackson's amendment 34. As we discussed at stage 2, the auditing and monitoring of the activities of national parks is important. It is equally important that that information is publicly available. I assure Sylvia Jackson that her amendment is unnecessary because the bill already provides Scottish

ministers with sufficient powers to require audits of various kinds. For example, section 20(1) states:

"The Scottish Ministers may make grants to a National Park authority for such purposes, of such amounts and on such terms as they think fit."

That empowers Scottish ministers to attach conditions to the national park authorities' grant-in-aid settlements. Almost certainly, those conditions will include audits and monitoring.

Section 24 ensures that national park authorities issue annual reports on their activities. I would expect those reports to include any audit findings and information about the monitoring of performance against targets. Those reports would have to be published and laid before Parliament. Furthermore, Scottish ministers can issue guidance or give directions to a national park authority under section 14.

There are many ways in which we can demonstrate that Scottish ministers can ensure that audit arrangements are in place and that they are followed. I hope that that reassures Sylvia Jackson that the bill provides amply for audit and monitoring arrangements and that her amendment is not required.

Amendment 33 agreed to.

Amendment 34 not moved.

Section 12—Duty to have regard to National Park Plans

The Presiding Officer: We move to amendment 35, which is grouped with amendment 36, both in the name of John Farquhar Munro.

Mr John Munro (Ross, Skye and Inverness West) (LD): In simple terms, my amendments seek to ensure that we have complete regard for the national park plan.

Amendment 35 places a duty on all bodies that operate within the national park to notify the national park authority of any departure from the plan. That notification procedure ensures that although the plan will be followed generally by everyone within the boundaries of the national park, the Scottish Executive will retain the flexibility to override it if it considers that to do so is in the national interest or that there are special circumstances. The mechanism ensures that any decision to override the national park plan is taken at a national level, by those who are responsible for its approval and who are accountable to the national Parliament. It is a straightforward amendment, which would give complete control to the national park body and ultimately to the Scottish Executive.

I move amendment 35.

Alasdair Morgan: Having read the amendments, I cannot work out why such provision needs to be in the bill. I have not heard much to convince me that the amendments would greatly improve the bill. They seem to be an unnecessarily bureaucratic addition to the measures that it already contains.

Mr Tosh: I agree with Alasdair Morgan. If taken literally, the amendments seem to give huge powers to the Minister for Transport and the Environment to intervene in almost anything that happens in the national park area. Although we all have utter faith in the ability of the minister, we might have questions about her successors and about her ability to answer any letters or parliamentary questions ever again if she were burdened with such heavy duties. The amendments go too far.

I would like the minister to address the issue of notification, which came up extensively in committee debate. Will she assure us that there will be adequate notification procedures for planning applications to be referred to ministers when there appears to be conflict between the national park authorities and the local authorities? Surely any proposal for a national park area that is likely to cause severe concern will be identified in that.

Nicol Stephen: The amendments are very similar to amendments lodged by John Munro at stage 2. They relate to the duty on public bodies to "have regard to" the national park plan—a matter on which we have had a great deal of discussion already.

Amendment 35 would place an obligation on local authorities and public bodies to notify the national park authorities of any proposed act that might be contrary to the national park plan. It also seeks to make it a requirement that the national park authority must publicise the proposals, as it sees fit, and refer them

"to the Scottish ministers for determination".

Amendment 36 would achieve a similar aim, but in a slightly different way, by requiring public bodies to seek the prior approval of ministers before doing anything contrary to the national park plan.

I will reiterate some of the comments made at stage 2, and some of the comments already made by Opposition members in this afternoon's discussions. John Farquhar Munro's two amendments would give the Scottish ministers very wide-ranging powers to intervene in a huge range of circumstances.

Dr Winnie Ewing: I wish to mention a burning problem in much of the Highlands—the provision of local housing. I put a case to the minister for

him to consider: what if the local authority needed to provide housing, but the national park authority said no, on the ground that it was not sustainable development? In such cases, surely ministers would be well advised to have the power to agree to have that housing built. I give that as an example.

Nicol Stephen: I think that the right reassurance for such cases was that which Murray Tosh was seeking: that there will be appropriate notification procedures, and there will be mechanisms for dealing with such issues.

Concentrating so much power—as could be the case were Mr Munro's amendments to be accepted—in the hands of ministers would not, in my view, be a good thing. That would be particularly inappropriate in relation to the planning issues that Dr Ewing highlighted.

The planning authority already has discretion to make decisions, and is required to pay special attention to the national park plan. Amendments 35 and 36, however, would require the planning authority to seek ministerial views every time it wanted to exercise that discretion in a particular way. They would also give ministers two planning roles: one at this stage, with regard to the national parks legislation, and another at the call-in stage, regarding the planning legislation.

Although I recognise the intention of amendments 35 and 36, to strengthen the role of the national park plan, their effect would be to put an enormous amount of power in the hands of the Scottish ministers, which I am sure that the Parliament would not wish—despite Murray Tosh's vote of confidence in our Minister for Transport and the Environment.

I wish to give a firm assurance to John Farquhar Munro: there are already effective safeguards in the bill for the integrity of national park plans, which we want to be effective. There will be adequate notification procedures and I hope that, on that basis, I have persuaded John Farquhar Munro that his two amendments are not necessary.

Mr Munro: Having listened to the minister, I am persuaded that there is every good intent in the bill as currently worded, and I am prepared to withdraw amendment 35 and not to move amendment 36.

Amendment 35, by agreement, withdrawn.

Amendment 36 not moved.

Section 28—Modification and revocation of designation orders

The Presiding Officer: Amendment 37 was debated in the fifth group of amendments. Mr McNulty is not here. Would someone else care to move it?

Nicol Stephen: I will move it.

Mr Rumbles: I ought to move it.

The Presiding Officer: Mike Rumbles has already indicated his support for amendment 37—which was a most moving experience. [*Laughter.*] Mr Stephen is moving it, and I will put the question.

Amendment 37 moved—[Nicol Stephen]—and agreed to.

Section 29—Application in relation to marine areas

16:30

The Presiding Officer: Amendment 40, in the name of Tavish Scott, is grouped on its own.

Tavish Scott (Shetland) (LD): I can assure Mike Rumbles that I am here. I am present. I also hope that, in future, the chamber will obey the Rumbles doctrine, "Thou shalt always be present to move thine amendments." I have therefore referred the British Airways service between Shetland and Edinburgh to the Standards Committee.

In moving amendment 40, I want to refer to the wider context of fishing interests and marine national parks. When the Transport and the Environment Committee took evidence on that particular proposal, it was clear particularly from Scottish Natural Heritage, as the Government's adviser on the matter, that marine national parks were somewhat of an afterthought. They were not proposed in the first stages of consultation and members were aware that it was felt that they should be added at a later stage. However, having read the stage 2 debate, I feel that there is still a need to tighten up the measure for fishing interests, which is what my amendment seeks to do.

As Murray Tosh has pointed out, there is concern about the scope of the bill's measures in the future. Although there might be considerable faith in the present ministers, no one knows who will follow. As a result, we must ensure that section 29 is appropriately tightened.

One of the organisations that have provided copious evidence in support of marine national parks has said that objectives for management of our best marine areas should include matters such as

"the use of zoning to deliver a different balance of objectives in different areas . . . promotion of economic development compatible with sustainable management of sensitive and valuable natural resources . . . the need for active management and proactive intervention to ensure habitat protection"

and

"the judicious use of controls and incentives to support duties placed upon managers and users".

Those four points illustrate the bill's need for full and adequate consultation with fishing interests if and when a marine national park is considered.

The amendment simply ensures that the consultation process must always include consultation with representatives of fishermen who could fish in a potential marine national park.

Having reread the *Official Report* of the evidence given by the minister at stage 2, I welcome his assurance

"to strengthen the consultation and make very sure that all the key fishing interests were appropriately involved before moving to a designation proposal".—[*Official Report, Rural Affairs Committee*, 19 June 2000; c 1008.]

In that light, it is important that, having discussed the issue with fishing representatives such as the Scottish Fishermen's Federation, we ensure adequate coverage in the bill and that the measure is enshrined in the legislation.

In that spirit, I move amendment 40.

Richard Lochhead: I want to say a few words indicating the SNP's support of amendment 40, in the name of Tavish Scott. In the chamber—of all places—we should know that ignoring proper consultation with the fishing industry will always come back to haunt us, when it comes to legislation that might impinge on fishermen's livelihoods. There is a perception that marine national parks were bolted on to the bill and that not much thought was given to consequences or implications. Indeed, the minister and SNH admitted as much when they came before the Rural Affairs Committee.

However, the SNP recognises that there is a case for referring to marine national parks in the bill, and the fishing industry has worked with environmental interests to agree the wording of Tavish Scott's amendment. I am sure that all members will welcome such a development.

That said, the initial e-mail that the Scottish Fishermen's Federation sent to the Rural Affairs Committee stated:

"If measures were planned for the near shore, they should have been granted specific and separate time for discussion and legislation. It is conceivable that if that had been done, the bill before the parliament would have been significantly different and may have gone further in addressing the needs of Scotland's fragile coastal communities."

Those comments highlight fishing communities' concern about the bill.

However, things have moved on. We now have Tavish Scott's amendment, which is supported by both environmental and fisheries interests. It offers a degree of comfort and assurance to the fishing communities, and I urge Parliament to support it.

Nicol Stephen: We propose to accept Tavish Scott's amendment. The issue was debated at stage 2 and we agreed to return to it at stage 3.

The amendment reflects the concern raised at stage 2 that the bill gives powers to the Scottish ministers under section 29 to modify the bill for the establishment of marine national parks, which might result in a reduction in the consultation process. I gave reassurances, which I am happy to reiterate, that that was never the intention. Indeed, because of the particular circumstances relating to marine national parks, we wish to have these powers so that we can extend the consultation to include fishing organisations.

I reassure the committee and Parliament that it has always been the intention that fishing organisations would be consulted on marine park proposals, but to underscore that point, and to make it clear in the bill, I am happy to accept the amendment. It should reassure fishing organisations and their members that they will be central to any consultations that are undertaken on marine national parks.

Finally, I congratulate Tavish Scott on his excellent drafting skills, and especially on the final words of his amendment, which are:

"in the part of the area consisting of the sea."

The Presiding Officer: Is Tavish Scott happy?

Tavish Scott: Yes.

Amendment 40 agreed to.

Section 32—Orders

Amendments 41 and 42 moved—[Mr Rumbles]—and agreed to.

After section 33

The Presiding Officer: We now come to amendment 26.

Irene McGugan (North-East Scotland) (SNP): I wish to speak to and move amendment 26, in the name of Michael Russell. This amendment in support of Gaelic is part of a much wider approach to building and securing the language—a language that is spoken probably by fewer than 50,000 people in Scotland, but which is as much a part of our heritage and our future as any other aspect of Scottish culture. All new structures that are established in Scotland must recognise the linguistic diversity of the country.

A number of amendments were brought forward at stage 2 to introduce into the management, operation and interpretation of national parks the

concept of the use of Gaelic. None of them was accepted. This amendment would show that national parks intend to be inclusive, and to bring Gaelic speakers into the main stream. Mainstreaming is vital, because Gaelic has to be part of our daily lives if all of us are to accept its claims and validity. In many countries, for example Ireland, all material is bilingual. Surely it is not too much to ask that there should be a commitment to Gaelic in national parks in Gaelic-speaking areas of Scotland.

The amendment seeks to ensure that the visible presence of the park is available, and is seen to be available, in Gaelic, so that the parks have a Gaelic dimension and a Gaelic benefit. It is a small step forward, at limited cost, but it is of great symbolic significance.

I move amendment 26.

Mr Tosh: The Conservative party is not convinced that the amendment is necessary. We are not sure that Gaelic is spoken in either of the national park areas that have been identified so far, but we would like a commitment from the minister that if, following scrutiny, that proves not to be the case in the Cairngorms national park area, or if it proves not to be the case—as clearly it will not—in any prospective national park in Wester Ross, Gaelic versions of all documentation will be produced where appropriate. However, it is not appropriate that all documentation should automatically be produced in Gaelic in every case.

Euan Robson (Roxburgh and Berwickshire) (LD): The amendment would make it compulsory for documents to be published in Gaelic. While that might be good practice in Gaelic-speaking areas, I fail to see the necessity to publish documents in Gaelic if there was, for example, a proposal that the southern uplands should become a national park, or Orkney or even Shetland.

While the sentiment behind the amendment might be appropriate in Gaelic-speaking areas, I see no reason why it should be compulsory for parts of the country where Gaelic is not spoken.

Dr Winnie Ewing: If the Lib-Lab Government is at all serious about trying to nurture Gaelic, which we all know has been in grave danger for a long time, it must use every legislative opportunity to do so.

I have listened to the debate with great interest. Many people fail to understand the situation of Gaelic speakers and those who sympathise with them. I speak as a learner who has not found it easy to get to the stage I am at. Because I am a learner, when I go around places such as Strathspey I try to find people with whom to practise Gaelic. I find them with no difficulty—Gaelic speakers can be found at any shinty match in Strathspey.

However, it is not only Gaelic speakers who have the confidence to burst into Gaelic, but their relatives, friends and their sympathisers—a huge body of people. I was interested in the example of the southern uplands. We could make a national park out of Glasgow, which is where we would find the largest number of Gaelic speakers. That argument does not wash well. Gaelic has not gone from all parts of Argyll but I have not had much success finding it around the shores of Loch Lomond, although I am sure it must be there.

The principle is that the Lib-Lab Government should use legislative opportunities to show that it is serious. If it does not take those opportunities, it is only putting another nail in the coffin of this distinguished language.

Rhoda Grant: Our linguistic heritage was debated in the Rural Affairs Committee and the Executive proposed an amendment to section 33 to include language in cultural heritage, which is mentioned in the first of the park aims.

I am sympathetic to the amendment, as it aims to promote Gaelic, but I feel that the Executive's amendment takes that into account. I prefer "language" to "Gaelic" because, historically, more than one language has been spoken in Scotland. During the committee stages of the debate, reference was made to Gaelic and Scots, but those are limiting. A national park could be set up in, say, Shetland, which might consider its linguistic heritage, Norse, rather than Gaelic or Scots.

While I would do everything I could to promote Gaelic, that does not mean that I demean other people's linguistic heritage. Although I support the sentiments behind the amendment, I do not support it.

Nicol Stephen: As has been said, we went a considerable way at stage 2 to give assurances about Scotland's linguistic heritage. A key element of that is Gaelic. We did not want to be prescriptive on the face of the bill because, as Rhoda Grant said, other languages have been spoken in Scotland, which are part of Scotland's history. However, we wish to promote the live, vibrant and active Gaelic language.

Amendment 26 proposes to include in the bill a requirement that reports and statements, the national park plan, directions and guidance by the Scottish Executive to the national park board, annual reports and orders should all be published in English and Gaelic. Many of us would question whether the amendment is the best and most effective way in which to support Gaelic in Scotland.

Alasdair Morrison, the minister responsible for Gaelic, would use stronger words than me in rebutting the amendment and some of the remarks

made by Winnie Ewing, for example, about the aim of the Parliament and the Executive to help to encourage Gaelic.

16:45

What we need is real, meaningful action. For example, we need interpretative material for school visits by Gaelic-medium education pupils and students. We see that as essential. We need signage of Gaelic names in national parks, where that is appropriate, but many of the names are Gaelic in the first place. We need acknowledgement of the linguistic heritage of national park areas, for example in parts of the Trossachs.

Those initiatives should, and will, come from the national park authority itself. It would be inappropriate to specify them in the sort of prescriptive detail that we have in the amendment. The real challenge is to ensure that we support Gaelic in a practical and effective way. That is why the Executive sets so much store on access to Gaelic through Gaelic-medium education.

Gaelic should have its rightful place and status acknowledged. That is why the amendment is misconceived and would be a costly diversion of funds from initiatives that really matter and that really can make the difference.

We recognise fully the importance of the Gaelic tradition and language in Scotland's cultural heritage. It is a vital part of our national inheritance. I hope, on that basis, that I have persuaded Mike Russell, or Irene McGugan in his place, that amendment 26 is not needed and I invite him not to press the issue to a vote.

Irene McGugan: I want to press the amendment.

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

Members: No.

The Presiding Officer: There will be a two-minute division.

FOR

Campbell, Colin (West of Scotland) (SNP)
Canavan, Dennis (Falkirk West)
Crawford, Bruce (Mid Scotland and Fife) (SNP)
Cunningham, Roseanna (Perth) (SNP)
Elder, Dorothy-Grace (Glasgow) (SNP)
Ewing, Dr Winnie (Highlands and Islands) (SNP)
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
Ewing, Mrs Margaret (Moray) (SNP)
Fabiani, Linda (Central Scotland) (SNP)
Grahame, Christine (South of Scotland) (SNP)
Hamilton, Mr Duncan (Highlands and Islands) (SNP)
Hyslop, Fiona (Lothians) (SNP)
Ingram, Mr Adam (South of Scotland) (SNP)
Lochhead, Richard (North-East Scotland) (SNP)
MacAskill, Mr Kenny (Lothians) (SNP)
MacDonald, Ms Margo (Lothians) (SNP)
Marwick, Tricia (Mid Scotland and Fife) (SNP)
Matheson, Michael (Central Scotland) (SNP)
McGrigor, Mr Jamie (Highlands and Islands) (Con)
McGugan, Irene (North-East Scotland) (SNP)
McLeod, Fiona (West of Scotland) (SNP)
Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
Munro, Mr John (Ross, Skye and Inverness West) (LD)
Neil, Alex (Central Scotland) (SNP)
Paterson, Mr Gil (Central Scotland) (SNP)
Quinan, Mr Lloyd (West of Scotland) (SNP)
Robison, Shona (North-East Scotland) (SNP)
Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
Swinney, Mr John (North Tayside) (SNP)
White, Ms Sandra (Glasgow) (SNP)
Wilson, Andrew (Central Scotland) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
Alexander, Ms Wendy (Paisley North) (Lab)
Baillie, Jackie (Dumbarton) (Lab)
Barrie, Scott (Dunfermline West) (Lab)
Boyack, Sarah (Edinburgh Central) (Lab)
Brankin, Rhona (Midlothian) (Lab)
Brown, Robert (Glasgow) (LD)
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Curran, Ms Margaret (Glasgow Baillieston) (Lab)
Douglas-Hamilton, Lord James (Lothians) (Con)
Eadie, Helen (Dunfermline East) (Lab)
Fergusson, Alex (South of Scotland) (Con)
Finnie, Ross (West of Scotland) (LD)
Galbraith, Mr Sam (Strathkelvin and Bearsden) (Lab)
Gallie, Phil (South of Scotland) (Con)
Gillon, Karen (Clydesdale) (Lab)
Godman, Trish (West Renfrewshire) (Lab)
Goldie, Miss Annabel (West of Scotland) (Con)
Gorrie, Donald (Central Scotland) (LD)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (Edinburgh Pentlands) (Lab)
Harding, Mr Keith (Mid Scotland and Fife) (Con)
Henry, Hugh (Paisley South) (Lab)
Home Robertson, Mr John (East Lothian) (Lab)
Hughes, Janis (Glasgow Rutherglen) (Lab)
Jackson, Dr Sylvia (Stirling) (Lab)
Jackson, Gordon (Glasgow Govan) (Lab)
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
Johnston, Nick (Mid Scotland and Fife) (Con)
Johnstone, Alex (North-East Scotland) (Con)
Kerr, Mr Andy (East Kilbride) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Livingstone, Marilyn (Kirkcaldy) (Lab)
Lyon, George (Argyll and Bute) (LD)
Macdonald, Lewis (Aberdeen Central) (Lab)
Macintosh, Mr Kenneth (Eastwood) (Lab)
MacKay, Angus (Edinburgh South) (Lab)
MacLean, Kate (Dundee West) (Lab)
Macmillan, Maureen (Highlands and Islands) (Lab)
Martin, Paul (Glasgow Springburn) (Lab)
McAveety, Mr Frank (Glasgow Shettleston) (Lab)
McCabe, Mr Tom (Hamilton South) (Lab)
McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
McIntosh, Mrs Lyndsay (Central Scotland) (Con)
McLetchie, David (Lothians) (Con)
McMahon, Mr Michael (Hamilton North and Bellshill) (Lab)
McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
McNeill, Pauline (Glasgow Kelvin) (Lab)
McNulty, Des (Clydebank and Milngavie) (Lab)

Monteith, Mr Brian (Mid Scotland and Fife) (Con)
Morrison, Mr Alasdair (Western Isles) (Lab)
Muldoon, Bristow (Livingston) (Lab)
Mulligan, Mrs Mary (Linlithgow) (Lab)
Mundell, David (South of Scotland) (Con)
Murray, Dr Elaine (Dumfries) (Lab)
Oldfather, Irene (Cunninghame South) (Lab)
Peacock, Peter (Highlands and Islands) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Radcliffe, Nora (Gordon) (LD)
Robson, Euan (Roxburgh and Berwickshire) (LD)
Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, John (Ayr) (Con)
Scott, Tavish (Shetland) (LD)
Simpson, Dr Richard (Ochil) (Lab)
Smith, Elaine (Coatbridge and Chryston) (Lab)
Smith, Iain (North-East Fife) (LD)
Smith, Margaret (Edinburgh West) (LD)
Stephen, Nicol (Aberdeen South) (LD)
Thomson, Elaine (Aberdeen North) (Lab)
Tosh, Mr Murray (South of Scotland) (Con)
Wallace, Ben (North-East Scotland) (Con)
Wallace, Mr Jim (Orkney) (LD)
Watson, Mike (Glasgow Cathcart) (Lab)
Whitefield, Karen (Airdrie and Shotts) (Lab)
Wilson, Allan (Cunninghame North) (Lab)
Young, John (West of Scotland) (Con)

ABSTENTIONS

Harper, Robin (Lothians) (Green)
Sheridan, Tommy (Glasgow) (SSP)

The Presiding Officer: The result of the division is: For 31, Against 80, Abstentions 2.

Amendment 26 disagreed to.

Schedule 1

CONSTITUTION ETC OF NATIONAL PARK AUTHORITIES

Amendments 43 and 45 moved—[Mr Rumbles] and agreed to.

Amendment 27 moved—[Ben Wallace].

The Presiding Officer: The question is, that amendment 27 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

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

AGAINST

Barrie, Scott (Dunfermline West) (Lab)
Boyack, Sarah (Edinburgh Central) (Lab)
Brankin, Rhona (Midlothian) (Lab)
Brown, Robert (Glasgow) (LD)
Campbell, Colin (West of Scotland) (SNP)
Canavan, Dennis (Falkirk West)
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
Crawford, Bruce (Mid Scotland and Fife) (SNP)
Cunningham, Roseanna (Perth) (SNP)
Curran, Ms Margaret (Glasgow Baillieston) (Lab)
Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
Eadie, Helen (Dunfermline East) (Lab)
Elder, Dorothy-Grace (Glasgow) (SNP)
Ewing, Dr Winnie (Highlands and Islands) (SNP)
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
Ewing, Mrs Margaret (Moray) (SNP)
Fabiani, Linda (Central Scotland) (SNP)
Galbraith, Mr Sam (Strathkelvin and Bearsden) (Lab)
Gillon, Karen (Clydesdale) (Lab)
Godman, Trish (West Renfrewshire) (Lab)
Gorrie, Donald (Central Scotland) (LD)
Grahame, Christine (South of Scotland) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (Edinburgh Pentlands) (Lab)
Hamilton, Mr Duncan (Highlands and Islands) (SNP)
Harper, Robin (Lothians) (Green)
Henry, Hugh (Paisley South) (Lab)
Home Robertson, Mr John (East Lothian) (Lab)
Hughes, Janis (Glasgow Rutherglen) (Lab)
Hyslop, Fiona (Lothians) (SNP)
Ingram, Mr Adam (South of Scotland) (SNP)
Jackson, Dr Sylvia (Stirling) (Lab)
Jackson, Gordon (Glasgow Govan) (Lab)
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
Lamont, Johann (Glasgow Pollok) (Lab)
Livingstone, Marilyn (Kirkcaldy) (Lab)
Lochhead, Richard (North-East Scotland) (SNP)
MacAskill, Mr Kenny (Lothians) (SNP)
Macdonald, Lewis (Aberdeen Central) (Lab)
Macintosh, Mr Kenneth (Eastwood) (Lab)
MacKay, Angus (Edinburgh South) (Lab)
MacLean, Kate (Dundee West) (Lab)
Macmillan, Maureen (Highlands and Islands) (Lab)
Martin, Paul (Glasgow Springburn) (Lab)
Marwick, Tricia (Mid Scotland and Fife) (SNP)
Matheson, Michael (Central Scotland) (SNP)
McCabe, Mr Tom (Hamilton South) (Lab)
McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
McGugan, Irene (North-East Scotland) (SNP)
McLeod, Fiona (West of Scotland) (SNP)
McMahon, Mr Michael (Hamilton North and Bellshill) (Lab)
McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
McNeill, Pauline (Glasgow Kelvin) (Lab)
Morrison, Mr Alasdair (Western Isles) (Lab)
Muldoon, Bristow (Livingston) (Lab)
Mulligan, Mrs Mary (Linlithgow) (Lab)
Munro, Mr John (Ross, Skye and Inverness West) (LD)
Murray, Dr Elaine (Dumfries) (Lab)
Neil, Alex (Central Scotland) (SNP)
Oldfather, Irene (Cunninghame South) (Lab)
Paterson, Mr Gil (Central Scotland) (SNP)
Peacock, Peter (Highlands and Islands) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Radcliffe, Nora (Gordon) (LD)
Robison, Shona (North-East Scotland) (SNP)
Robson, Euan (Roxburgh and Berwickshire) (LD)

Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
Scott, Tavish (Shetland) (LD)
Sheridan, Tommy (Glasgow) (SSP)
Simpson, Dr Richard (Ochil) (Lab)
Smith, Elaine (Coatbridge and Chryston) (Lab)
Smith, Iain (North-East Fife) (LD)
Smith, Margaret (Edinburgh West) (LD)
Stephen, Nicol (Aberdeen South) (LD)
Swinney, Mr John (North Tayside) (SNP)
Thomson, Elaine (Aberdeen North) (Lab)
Wallace, Mr Jim (Orkney) (LD)
Watson, Mike (Glasgow Cathcart) (Lab)
White, Ms Sandra (Glasgow) (SNP)
Whitefield, Karen (Airdrie and Shotts) (Lab)
Wilson, Allan (Cunninghame North) (Lab)
Wilson, Andrew (Central Scotland) (SNP)

The Presiding Officer: The result of the division is: For 18, Against 84, Abstentions 0.

Amendment 27 disagreed to.

The Presiding Officer: I now propose to put the question on the following amendments en bloc: 48, 53, 55, 59, 61, 62, 64 and 66 to 68.

Amendments 48, 53, 55, 59, 61, 62, 64 and 66 to 68 moved—[Mr Rumbles]—and agreed to.

Schedule 5

MODIFICATION OF ENACTMENTS

The Presiding Officer: We now come to amendment 69, which is grouped with amendment 70. Members will be pleased to hear that this is the last group of amendments. I call Sarah Boyack. [*Interruption.*] I beg your pardon—I call Nicol Stephen.

Nicol Stephen: That is an easy mistake to make, Presiding Officer.

Amendment 69 strengthens the proposed new section 264A of the Town and Country Planning (Scotland) Act 1997 proposed by paragraph 15 of schedule 5. The amendment sets out that in the exercise of any power under the planning acts with respect to any land in a national park, special attention shall be paid to

"the desirability of exercising the power consistently with"

the national park plan, as adopted. It strengthens the duty to have regard to the national park plan, under section 12 of the bill, to which planning authorities are already subject. It may also be of interest to John Farquhar Munro. It puts beyond question the fact that planning authorities must, in exercising any of their powers under the planning acts, consider carefully the contents of the national park plan and take into account the extent to which it is material. Planning authorities will not be able simply to ignore a national park plan.

Amendment 70 would delete subsection (2) of new section 264A proposed by the same paragraph of schedule 5, which was inserted at stage 2 by an amendment lodged by Murray Tosh—although, as I recall, it was moved by Alex Fergusson. The concern behind that amendment was that the national park plan should be fully considered in the context of the town and country planning system. However, the amendment does not have that effect; indeed, it has caused some concerns. I shall try to explain why.

Subsection (2) gives a national park plan the same status as any relevant local plan or plans as a material consideration. As there can be different plans at different stages, or plans of different ages to which different effect is given—quite appropriately—because of their age or their stage of development, difficulties or restrictions may be caused.

There is also the issue of material consideration: the plan does not necessarily become a material issue in relation to the facts and circumstances of a particular case just because the bill contains a statement that the national park plan should be a material consideration.

The final and most important reason is best explained by quoting Mr John Rennilson, who says:

"I strongly believe, both in my capacity as Director of Planning & Development for Highland Council and as the Chairman designate of the Scottish Society of Directors of Planning, that an important technical change remains to be made in the Bill with respect to Planning.

Schedule 5 at paragraph 15 is proposing to insert into the Town and Country Planning (Scotland) Act 1997 Section 264A(2)"—

if I am able to read this fax accurately—

"as a result of an amendment approved in Committee at Stage 2. The text of the amendment is such as to give a National Park Plan 'the same status as any relevant local plan or plans as a material consideration'. Cross-reference to Section 25 of the 1997 Planning Act however makes it quite clear that development plans—Structure and Local Plans—-have a higher status than material considerations. Accordingly the current position in the National Park Bill explicitly down-grades the status of Local Plans. I am sure that that was not the intention of the mover of the amendment nor would be the intention of the Minister."

I am sure that Mr Rennilson is correct and that that would not be the intention of the Parliament.

I move amendment 69.

Mr Tosh: The original amendment that appeared before the Rural Affairs Committee in my name was framed entirely by me, so any technical deficiency in it is my responsibility. The amendment was lodged to reflect concerns expressed by a number of parties in evidence to the Transport and the Environment Committee about the precise status of the national park plan in relation to the approved development plan.

At the committee, the minister undertook to

address the issue. I had intended to oppose amendment 70, but having heard the minister's explanation and the cross-references to other issues, I am happy to accept that subsection (2), as inserted in committee, does not meet my objective in lodging the amendment. Amendment 69, in so far as it strengthens that objective and helps to clarify the status of national park plans, should be accepted.

I stress that the phrase "material consideration" picked up directly concerns that were raised by many witnesses, in particular about the imprecision of the phrase "special attention". The bill is now stronger and clearer. I hope that it will address adequately the concerns that were expressed by a variety of planning interests—but that perhaps remains to be seen in the interpretation and in the guidance and subordinate legislation that will be introduced later. I understand that considerable planning matters arising from the bill will be dealt with in secondary legislation.

I will not press amendments 69 and 70 to a vote. I am content with what the minister has said.

Amendment 69 agreed to.

Amendment 70 moved—[Nicol Stephen]—and agreed to.

The Presiding Officer: That concludes the consideration of amendments.

National Parks (Scotland) Bill

The Presiding Officer (Sir David Steel): We turn to motion S1M-957, which seeks agreement to the passing of the National Parks (Scotland) Bill. I am not sure that there should be commercials from the chair but, in view of the circumstances and the late hour, I inform members that the Scottish Environment LINK reception in the city chambers, which some members want to attend, has been extended until 7 o'clock. I call Sarah Boyack to speak to and move the motion.

16:58

The Minister for Transport and the Environment (Sarah Boyack): Thank you Presiding Officer. It is with a real sense of pride that I rise today to propose that the Parliament pass this bill, which is a landmark bill.

Several times in recent years, people have observed that it is deeply ironic that Scotland should be one of the few countries in the world that does not have national parks. As Robin Harper mentioned, Scotland is the birthplace of John Muir, acknowledged as the founder of national parks in north America and, by extension, throughout the world. Scotland has some of the finest landscapes in the world. It is high time that we had national parks.

The National Parks (Scotland) Bill sets in place a framework for national parks in Scotland. Some people feared that a blueprint would be imposed on all areas put forward for national park status. They made the point that what is right for Loch Lomond and the Trossachs is not necessarily what is wanted in the Cairngorms.

We have listened to those points. The bill provides a framework, a set of common values and principles and a set of processes to ensure that the designation of an area as a national park can happen only after full consultation. Within that framework there is scope for differences between parks, for setting different priorities in national park plans, which reflect the needs and characteristics of the particular area and, crucially, for innovative thinking and ways of involving people.

If there is one theme that has emerged consistently throughout the discussions and the consultation on the bill, it is that people have feared that they would not be allowed to be involved. We understand those worries, which is why we have made many changes to the bill to strengthen the consultation provisions.

We have heard the points made that consultation must be approached properly—that it should involve people and seek their ideas, not

simply become a matter of rubber-stamping the only option put forward. We have taken those points to heart and agree with them. We will be working over the coming months, in partnership with many others, on the guidance to national park authorities.

There is scope for innovation. We will be encouraging people to think of new ways of doing things. The preparation of the park plan is a particularly good example. It is essential that that is prepared in partnership. It will only be meaningful if everyone affected by it has ownership of it and feels that they have contributed to it.

We have also provided in the bill a requirement on every national park authority to set up advisory groups, to ensure that there are mechanisms in place to allow the voices of the many people with an interest in national parks to be heard. The groups will be vital to the success of a national park.

A further theme that has emerged is integration. National parks will have four aims. Those aims must operate together in a co-ordinated and integrated way. We do not regard them as polar opposites. One of the challenges for national park authorities is to integrate those key aims and to reach agreement in a co-ordinated way.

We all agree that we must get the balance right. That is our job in setting the framework and the job of the national park authorities and their partners. We must not rely on the old-style system in which economic development was weighed up against nature conservation. We have lived with that approach for years. In the new national park areas the challenge will be integration. It underpins the objectives of national parks and comes from an aspiration to do things better and to make the most of the opportunities provided by our natural areas.

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

If an example is needed, I have a prop—a bottle of mineral water. It is on sale in a major retail chain in Edinburgh. It is a national park bottle of mineral water from the Brecon Beacons National Park in Wales. It illustrates the argument that national parks can sell produce created in them that can be branded and is an example of the opportunities that a national park will create. Some people fear that national park status will stifle development, prevent progress and preserve areas in aspic. Nothing could be further from the truth. The aims make quite clear the importance of communities and sustainable economic development. The example of produce from the Brecon Beacons National Park could be taken up in Scotland.

We can learn from experience and best practice elsewhere. In France, when farmers sell their produce, it is branded as national park produce. Certainly tensions have been identified in the national parks in England. The challenge for the national park authorities will be to manage such tensions. We must lift our heads above the fears that have been expressed and identify the prizes and the opportunities and make the most of them.

I am not aware of anywhere in the world—and almost everywhere bar Scotland has national parks—where once a national park designation is in place, people have demanded that it be taken away. This bill is about looking to the future; it is about managing, integrating and looking to the four aims and the conditions of the parks. It is about asking whether we can do better and aspiring to do better than we are doing at the moment. It is about knowing why we have designated the parks in the first place, then setting up the mechanisms that involve all those with an interest and a contribution to make to deliver on the aims in the bill.

I have one formal task. For purposes of rule 9.11 of the standing orders, I am pleased to advise the Parliament that Her Majesty, having been informed of the purpose of the National Parks (Scotland) Bill, has consented to place her prerogative and interests, so far as they are affected by the bill, at the disposal of the Parliament for the purposes of the bill.

This is an important day, as we enter the final stage in the process of establishing the concept of national parks in Scotland. As the debate has illustrated, we must now look forward to the designation and electoral orders. That will involve more debate, but I believe that the debate so far has been time well spent. I urge Parliament to pass the bill. I look forward to the next stage of discussion.

I move,

That the Parliament agrees that the National Parks (Scotland) Bill be passed.

17:05

Irene McGugan (North-East Scotland) (SNP): First, I record my appreciation for the hard work of the clerking team of the Rural Affairs Committee in particular. They guided the committee ably through a complicated process, in what I consider to be an unreasonably short time scale.

The reason for establishing national parks in Scotland is to conserve and enhance the national and cultural heritage of the park areas. That aim has enjoyed support from all parties in the chamber. It is true to say that the SNP was—or is—cautious about some elements of the concept of national parks, but we have attempted, through the various stages of the bill, to ensure that the legislation will truly conserve Scotland's countryside while preserving local economic control.

We have supported proposals that seek genuinely to conserve and protect Scotland's resources and landscape, while protecting local economic interests. The SNP is pleased, as are others, that the bill now allows for greater local involvement and accountability. It also allows for a better understanding about what will constitute a marine park and it allows for a more fitting reflection of the local heritage in national park areas.

Local involvement is especially important because, although national parks are for the benefit of the nation, we cannot ignore the interests of those who live and work in national parks. By allowing local people to have the opportunity to play a major role in planning and managing parks, we can instil a sense of local ownership. That must be created and nurtured. If we fail, we risk instilling resentment and distrust.

We have waited for about 40 years to get around to setting up national parks in Scotland, so I hope that Parliament does not, at some point down the line, regret that it did not spend more time on scrutiny. That might have avoided any difficulties that might arise when designation orders come before Parliament. The difficulty with subordinate legislation is that it creates difficulties in relation to parliamentary scrutiny.

I am disappointed that amendment 28, which was lodged in Kenny MacAskill's name on behalf of the Subordinate Legislation Committee, was not agreed to. As was mentioned during the debate, agreement to that amendment would have allowed for more involvement of individual MSPs and would have allowed Parliament more scope to influence subsequent designation orders.

One thing is guaranteed: the passage of the designation orders that will establish each national park will generate at least as much interest as the passage of the primary legislation. With those comments and reservations, I am happy to confirm that the SNP will support the motion.

17:08

Mr Murray Tosh (South of Scotland) (Con): I associate myself with Irene McGugan's comments about the Rural Affairs Committee's clerks. We should also thank those who work for the Transport and the Environment Committee, which did a great deal of work on the bill. I was present at meetings of both those committees and I thank their conveners for the way in which they encouraged and facilitated good debates.

The Conservative group will support the motion to pass the bill. We are content that the bill is sound and that it represents a basis on which to develop national parks in Scotland. However, many procedural issues have arisen in relation to the bill. I made a number of critical comments when we debated stage 1 in Glasgow. I adhere to most of what I said then in relation to the time scale of the bill's passage, what happened to committee reports and the extent to which committee reports were built into the bill at later stages. I realise that the Transport and the Environment Committee's report was a report to the lead committee, the Rural Affairs Committee, and that it may not, technically, have been a matter for the Executive. I think, however, that the Executive should have responded to the Transport and the Environment Committee.

Des McNulty, Tavish Scott and I have raised a number of points in amendments. The responses to our concerns from the Executive have been haphazard, although the work that went into those amendments merited a thorough response. I am not criticising ministers; I am simply saying that we have to consider how we handle these things and how we divide work among the committees in future.

Although the Rural Affairs Committee carried out the whole stage 2 process very well, it inevitably focused more on the issues that it had studied than on the issues that were raised by other committees. That is a procedural weakness that we have to address. I am also unhappy about the time scale that was allowed for amendments. It was a pity that amendments were lodged up until quite late on Monday, a day when most members were not likely to be here.

Perhaps there ought to be an understanding that Executive amendments in particular, which are always likely to be passed, should be available to members a little bit earlier so that they have a chance to decide whether to seek to amend those amendments. A lot of amendments came in very close to the wire. I am not sure that that is a sign of a transparent and power-sharing Parliament.

The Presiding Officer raised some points this morning. I am pleased that he is writing to me—because if I had to write to myself, I would wonder whether I were turning into Fergus Ewing.

I regret that some of the issues that have been raised have not been taken on board in the bill—for example, the points about community councils,

and the points raised during discussion of Kenny MacAskill's amendment for super-affirmative procedures. I am glad that Nicol Stephen acknowledged that the latter issue will be reconsidered for future bills. By and large, when committees have expressed substantial concerns, if ministers have not accepted the actual amendments put forward by committees or members, they have come back with a form of words to try to take account of those concerns.

I would like to touch on a point that arose earlier about the dog that did not bark. I refer to the substantial raft of amendments that were lodged at the beginning of the week by Des McNulty and that were pulled yesterday, signifying a shorter political career, I suspect, than even that of Tasmina Ahmed-Sheikh in the SNP. The amendments raised substantial issues; it is a matter of regret that we have not had the opportunity in the Parliament to debate the principle of direct elections. From the soundings that I have taken around the place, I am not convinced that there is a majority in favour of them.

We therefore have to congratulate Mr Rumbles on his success not just in winning the vote in committee, but in winning the tug-of-war and tug-of-willpower yesterday. Mr Rumbles has had a remarkable triumph. A year or so ago, he was a threatened species, hunted almost to the point of extinction. Today, he is responsible for putting a lot into this bill. In America, bills are conventionally named after their originators or shapers. If we adopted that convention today, we would be referring to this as the Boyack-Rumbles bill. I put it that way round rather than the other way.

The Minister for Rural Affairs (Ross Finnie): It gets worse.

Mr Tosh: I will keep going, although I have been knocked off my stride. When Ross Finnie begins to barrack, one begins to worry.

I point out to Labour members the way in which the coalition has worked this week, with the Liberal tail wagging the Labour dog, making us wonder how proportional representation for local government, as well as other issues, will develop later on. However, I want to finish on a positive note. I would like to congratulate the minister on her achievement today. This is a milestone for this Parliament, and she has done extremely well in the debates.

I note that the minister's refrain has been, "Let's do better." I hope that, when we come to consider secondary legislation and the designation orders that will follow this bill, we will do better in terms of procedure, and that we might be able to feel, as the process comes to its final stage, that we have all had a share in it and been fully involved. I am happy to end on that positive note, and to support the bill.

17:14

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): I am delighted that the Parliament has accepted the amendments that it has done this afternoon. I hope that we can now proceed to pass this bill with all-party support. That is first class.

This bill is an enabling bill, which means that very soon—next year, I hope—we will have our first national park. That is long overdue. I am particularly pleased that the main issue of contention, during the months of the consultation exercise and through stages 1 and 2, about the membership of the national park authorities has been successfully addressed. The bill now contains a truly innovative and radical measure. I refer, of course, to the direct election of local people to the national park authorities. That will go a long way towards reassuring local people who live and work in the proposed national parks that their interests will not be forgotten in what will be parks for the whole nation.

I know that there have been procedural difficulties and problems with the time scale. As convener of the Procedures Committee, Murray Tosh should have stuck to addressing the procedural points, on which I am in full agreement with him. However, he became a little bit partisan towards the end of his speech, and I dissociate myself from those comments.

I am proud of the way in which our Parliament has worked to deliver the bill through the consultation process, through the work of the Executive in drafting the bill, through the committee processes—I am particularly pleased with the way in which the Rural Affairs Committee worked at stages 1 and 2—and finally here in the whole Parliament. This is a very good bill indeed. It is long overdue, it is good for Scotland, and I hope that we can support it unanimously.

17:16

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): At the Drumochter pass, as some members may be aware, there are two hills: the southerly one is called the Sow of Atholl and the northerly one, which marks the boundary of my constituency, is called the Boar of Badenoch. Rather than be known as the bore of Badenoch, I am happy to accept the alternative sobriquet of the Wolf of Badenoch from my friend Robin Harper. I must confess that I did not understand Mr Tosh's remark that I enjoyed writing to myself, but if I ever write to him, I shall address the letter to "Utter Tosh".

It has been a long afternoon, and I pay tribute to all those who have been involved, not least the two ministers, who have undertaken a huge work load, and all the members who have pursued their arguments with sincerity, passion and conviction. However, the procedure has been seriously defective and that gives us a good deal of food for reflection. Sarah Boyack said that no one in a national park had ever asked for national park status to be removed. I remind her that it was not for nothing that 10,000 people signed a petition in the late 1980s calling for the abolition of the Brecon Beacons National Park, for some of the reasons that have been debated today.

It is unfortunate that more was not done to address the concerns that were raised during this afternoon's business. Looking forward positively, I hope that some of the fears that I have expressed are never realised. However, I know that history repeats itself, and the problems of the past will be encountered in the future. I hope that, when it comes to ministerial appointments, membership of the park authorities will reflect the aspirations and needs of the local communities, and will not be dominated by bodies whose members' idea of assisting the environment is to spend their lives attending conferences on the environment, rather than working in overalls in the field to shape it.

People in my constituency fear that this legislation has been shaped and driven by the needs of the proposed Loch Lomond and the Trossachs national park area. To some extent those fears are justified, as the needs of that proposed park area have influenced the way in which the legislation has been framed. However, we must look forward and work together to ensure that the national parks are a success for Scotland.

As we look forward to 2002 being the international year of mountains, we have a good opportunity to promote the Cairngorm national park as a world centre for tourism. That will allow us to promote and encourage tourism, as happens in national parks in many other parts of the world. I hope that the minister will agree that that is consistent with sustainable development, whatever that phrase may mean.

17:19

Alex Johnstone (North-East Scotland) (Con): It is appropriate for me, as convener of the Rural Affairs Committee, to say one or two words in tribute to those who have helped us to get through the stages of this bill.

I recall the time when Tom McCabe first mentioned to me that he would like this bill to complete its stages in advance of the summer recess. To say that that was something of a shock would be a bit of an understatement. Although I made it clear to him all along that it might be difficult to do that, I also made it clear that the Rural Affairs Committee would try, and try we did. We tried extremely hard. One or two members have already paid tribute to the staff of the committee, and I will do so again in a moment. However, I would like first to pay tribute to the members of the committee, who did some quite extraordinary work during stage 2 in particular.

We began stage 2 on a Wednesday evening, in order to make an immediate start on it. It happened to be the same Wednesday that the voting and microphone system failed in Parliament. We had hoped to start at half-past 6, but it was nearly 7 o'clock by the time we eventually did. That was one of the few committee meetings so far to take place in the evening. We also met on Fridays, Mondays and in our usual Tuesday slot. We met in some very strange places. We put in the effort that was required to get this bill through in the time scale that had been laid down. The press likes to think that the members of this Parliament who were elected a year ago have done very little since then. I assure those in the press gallery that the members of the Rural Affairs Committee worked extremely hard to get this bill through.

I must repeat the tribute to the staff who, if anything, worked even harder than members of the committee. I am sure that all members of the committee will confirm that on many occasions marshalled lists were e-mailed out to us with a time of between 9 and 10 in the evening. I know that committee staff spent many a long evening preparing for meetings as we proceeded.

It would be inappropriate of me to end without paying tribute to the minister for the effort that she has put in to keep us informed. She was available to us at stage 1 and whenever required during stage 2. Information was passed to us whenever we needed it, without any attempt to disrupt the process. We were only to achieve what we have by virtue of the fact that everyone pulled together.

The bill that has been produced by this process is different from the one that was introduced. It is, without doubt, radical. It has been described today as in some respects experimental. There is a great deal to be learned from the way in which it is enacted and how it appears when it is implemented. Every member is entitled to feel that the bill that we have produced today is the property not only of the minister and the Executive, but of the whole Parliament.

17:23

The Deputy Minister for Enterprise and Lifelong Learning (Nicol Stephen): On behalf of the Executive, I echo the thanks that have been

expressed by others. I start by thanking the various committees that have considered the bill—the Transport and the Environment Committee and, especially, the Rural Affairs Committee. I also thank Alex Johnstone, the convener of the Rural Affairs Committee, and all the clerks who were associated with the committee's work, for working so hard to ensure that stage 2 was completed in time to allow the bill to be passed before the recess—Parliament willing. As Alex Johnstone said, some marshalled lists became available only at 9 o'clock or 10 o'clock in the evening. People should remember that that was when members of the Parliament and officials of the Scottish Executive had to start their overnight work to ensure that there was adequate briefing and information on the bill as it moved forward.

I also thank those people who have been involved in the consultation and development stage of the bill, those who gave evidence during its passage and all those who have worked so hard behind the scenes to make the bill, so long awaited, a reality.

Our biggest thanks of all ought to go to the campaigners who have been so determined to keep alive the hope—indeed the dream—of having national parks here in Scotland. Today, we can deliver. When we do, there will still be much work to be done. We have still to arrive at the first national parks in Scotland, but we now know where they will be—in the Loch Lomond and the Trossachs area and in the Cairngorms. The passing of the bill will achieve that.

This is a strong note—and the right note—on which to end the first year of the Scottish Parliament. It is an historic step forward. The bill has been a long time coming. Our challenge now is to go out and make a success, not simply a reality, of Scotland's first national parks.

I call on all members of the Parliament, for once with some confidence, to support overwhelmingly—and, I hope, unanimously—the National Parks (Scotland) Bill.

The Minister for Parliament (Mr Tom McCabe): I seek the chamber's permission to move a motion without notice.

The Deputy Presiding Officer (Patricia Ferguson): Do we agree that a motion without notice should be moved?

Members *indicated agreement.*

Motion moved,

That decision time be taken at 17:27.—[*Mr McCabe*.]

Motion agreed to.

The Deputy Presiding Officer: That means that there will be a slight hiatus.

Decision Time

17:27

The Deputy Presiding Officer (Patricia Ferguson): There are two questions to be put at decision time today.

The first question is, that motion S1M-1079, in the name of Mr Jim Wallace, which seeks agreement that the Bail, Judicial Appointments etc (Scotland) Bill be passed, be agreed to.

Motion agreed to.

That the Parliament agrees that the Bail, Judicial Appointments etc (Scotland) Bill be passed.

The Deputy Presiding Officer: The second question is, that motion S1M-957, in the name of Ms Sarah Boyack, which seeks agreement that the National Parks (Scotland) Bill be passed, be agreed to.

Motion agreed to.

That the Parliament agrees that the National Parks (Scotland) Bill be passed.

West Kilbride

The Deputy Presiding Officer (Patricia Ferguson): The final item of business today is a members' business debate on motion S1M-756, in the name of Allan Wilson, on West Kilbride: Scotland's craft town. The debate will be concluded after 30 minutes without any question being put.

Motion debated,

That the Parliament welcomes the consultant's report confirming the feasibility of establishing West Kilbride as Scotland's Craft Town; congratulates Councillor Elizabeth McLardy and the West Kilbride Initiative on the vision and persistence with which they have pursued this objective; recognises the economic and social impact which the initiative can secure for West Kilbride; believes that it can provide a new and important focal point for the Scottish crafts industry as a whole, and looks forward to rapid progress towards a successful outcome.

17:28

Allan Wilson (Cunninghame North) (Lab): It has been a long day and I have no wish to prolong business unnecessarily. However, I will make several points in support of the motion. I wish to put on record my personal tribute to Liz McLardy, Dale Hughes, Ashley Pringle and the West Kilbride community initiative more generally for their persistence and vision in promoting West Kilbride as Ayrshire's, and prospectively Scotland's, craft town.

I take responsibility at the outset for promoting the aims and aspirations of the initiative beyond the immediate boundaries of Ayrshire to incorporate Scotland as a whole. I do so because I believe the concept to be, in the current jargon—as Fergus Ewing most recently said—sustainable. The consultant's report and feasibility study supports that view.

For the uninitiated, West Kilbride is a small town of 5,000-odd souls in my constituency of Cunninghame North. As the report says, it enjoys a favourable location on the edge of Clyde Muirshiel regional park, on the shores of the Firth of Clyde, looking out to the isle of Arran.

The area comprises West Kilbride and the small suburb of Seamill. It is a few miles from the larger towns of Largs and Ardrossan and roughly 20 miles from each of the regional centres of Greenock, Ayr and Kilmarnock. Its geographical location and the sociological trend towards out-of-town shopping and commerce have combined to the extent that there is concern about the quality of West Kilbride's townscape and fears that accelerated decline will destroy the busy hub of community life that has hitherto been valued as a key element in the character of the town.

I want to be positive—like the community—but I will give members a depressing statistic. In the 1980 official guide to West Kilbride and Seamill, 46 local businesses placed adverts. Thirty of those have since closed, with others coming and going over the period. That trend is anything but unique to West Kilbride, but what is unique is the community's response. It has turned adversity in on itself and converted West Kilbride into Ayrshire's—or Scotland's—craft town as the principal, but not the only, means of regenerating the town centre and the wider community. I recognise the impact that the initiative can have for West Kilbride and its residents.

The study that demonstrates the financial feasibility of the project was jointly funded by Enterprise Ayrshire, North Ayrshire Council and British Energy, which is a key local employer. Given that tomorrow we are debating the enterprise network, it is opportune to praise the partnership as a model example of the promotion of traditional enterprise—the crafts—in a modern business setting. The initiative is a prime example of how traditional values, culture, skills and heritage can be welded to modern marketing and promotional activity to boost economic activity. It can do so principally in the area of tourism, but it can also boost local enterprise, entrepreneurship and skills training as an integral part of enhancing our cultural heritage. The cluster strategy that underpins the initiative is one that is favoured by the Executive and the chief executive of Scottish Enterprise. It can succeed.

Niche marketing, an important part of the Executive's tourism strategy, is relevant to what we are discussing. West Kilbride's inspirational model is Wigtown in Kirkcudbrightshire, which has prospered since acquiring the title of Scotland's book town. The success of local crafts fairs in West Kilbride, allied with the level of craft work in the area and the growing interest among the area's public agencies in the economic potential of crafts, all suggest that the crafts theme is appropriate to West Kilbride and has great potential. All the bodies with responsibility for community regeneration must respond to the challenge of the initiative and realise that potential.

That challenge can be quantified. The report says that the most recent estimate is that the initiative requires a capital-funding package of £1.7 million. Although that challenge should not be underestimated, it should not be considered unachievable. All that is needed is for the agencies and funding bodies—including the Executive and Scottish Enterprise—to work together to promote the economic regeneration of Scottish communities. However, West Kilbride is a community with a unique and eminently marketable concept. I am sure that we can take the idea of West Kilbride as Scotland's craft town

out of the realm of the feasibility study and into reality.

17:34

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): I congratulate Allan Wilson on securing this debate on behalf of his constituency. North Ayrshire Council's proposal to designate West Kilbride as Scotland's craft town is to be welcomed as an innovative approach to creating economic development through tourism, retail and the manufacture of traditional crafts.

The implications of this debate travel far wider than the boundaries of North Ayrshire Council. Allan Wilson mentioned the Scotland-wide aspect of the issue and touched on Wigtown, Scotland's book town. It is hoped that Wigtown will attract more than 38,000 visitors and £713,000 of tourist expenditure over the three years to 2001. Such developments are to be welcomed, and they fit in with the idea of niche marketing—an idea that is being pursued by the Scottish Executive and our tourist boards.

I hope that one specific group in my constituency will watch with interest the progress that is made in West Kilbride. There is a project to establish a Highland clearances memorial centre at Helmsdale. The group is working hard to develop a monument and archive resource centre, which will play a big part in the context of international tourism. I would like to go on record as supporting the aim of that project, which is the brainchild of Mr Dennis MacLeod, an expatriate gentleman from Sutherland who has returned to join us. He is putting money and his moral support behind the project.

Such a centre would be a genealogical masterpiece for Scotland. For far too long, we have sold ourselves short. Our history, culture, crafts and literature are of the highest quality, but they do not sell themselves. We should be more effective in reaching out to people of Scottish descent across the water. We should not be shy about profiting from the international good will and friendship that we enjoy: our Scottish accent is an international passport to smiles and recognition wherever we travel in the world.

I hope that many more members will be good enough to join the 25 who have backed my motion to extend the hand of friendship to Scotland's diaspora, which resulted from the clearances. Scotland has many attributes and riches, but our greatest asset—and, perhaps tragically, our greatest export—has always been our people. Initiatives such as craft towns, book towns and the proposed clearances project in my constituency will go a long way towards providing the quality and added value that is sought by international and domestic tourists. I fully support Allan Wilson's motion and the idea of moving out and selling what we are best at. I hope that something similar will happen—albeit in a different context—in my constituency.

17:37

Irene Oldfather (Cunninghame South) (Lab): I congratulate Allan Wilson on securing a debate on this topic, and I join him in acknowledging the role that has been played by Councillor Elizabeth McLardy and the West Kilbride initiative team in developing and supporting the proposal of West Kilbride as a craft town. The proposed project, as Allan has outlined, is a story of community-based partnership, which is why it has all the ingredients for success if it is given the right support.

As the member for the adjoining constituency, I am happy to support the proposal. As well as further encouraging the principle of town-centre regeneration—something of which I very much approve—it would enhance and support the tourism infrastructure of the area. North Ayrshire is developing and competing in traditional tourist markets and niche markets such as green tourism and sport tourism. The contribution that Harbourside in my constituency is making in the provision of facilities is substantial. In addition, the Big Idea inventor centre, the Magnum leisure centre and the proposed Southern Gailles golf complex are contributing to the growing reputation of Ayrshire as a tourist centre. A craft town in North Ayrshire would provide a further tourism boost and would be welcomed.

I know West Kilbride well. When I drove through it recently, the "For sale" and "For lease" signs in the town centre reminded me of the town centre of Kilwinning four or five years ago. At that time, Kilwinning was in a similar position, but, through the incentive of becoming a college town, the hard work of the development association and local councillors, and the good will of the local people, Kilwinning became a joy to visit. I am proud to say that last year it won the Scotland in bloom award for attractive town-centre displays. The project that Allan Wilson has outlined today, with the support of the community, should be adopted. I am sure that, if the town is given the opportunity to develop a niche market in crafts, we will soon see West Kilbride in bloom. I am happy to support Allan Wilson's motion.

17:40

Kay Ullrich (West of Scotland) (SNP): I welcome the fact that this issue is being debated today in Scotland's Parliament. I cannot imagine Westminster ever making the time to address the interests and concerns of one of Scotland's villages.

As Allan Wilson said, if it were not for the vision and determination of Councillor Liz McLardy and the members of the West Kilbride initiative, the West Kilbride craft town concept would probably not have got beyond the drawing board. Thanks to their efforts, the concept can become a reality, and they are all to be congratulated on their work.

Like most towns and villages in North Ayrshire, West Kilbride has not escaped the ravages of unemployment and industrial and economic decline. In Main Street and Ritchie Street, which are the streets on which the craft town initiative would be centred, there has been the closure of shop after shop. Nothing better signals a town or village in decline than the shutters going up on the windows in its commercial heart.

That is why it is important to remember that the West Kilbride craft town initiative is not just about attracting craft-based projects and exhibitions to the town. It is not just about enhancing West Kilbride's tourism potential. It is also about re-establishing the heart of the village and securing a prosperous future for its residents. Of course, using the Barony church for permanent exhibitions and sales of craftwork, relocating the West Kilbride museum from the public hall, and bringing musical and drama productions to the village, are central to the initiative. However, the opportunity that the initiative presents to act as a catalyst for the social and economic regeneration of the village is the most exciting aspect.

There are challenges ahead, but I believe that the commitment that has been shown by Liz McLardy and everyone involved in the initiative will, with the support of the local council, the local enterprise company and members of the Parliament, lead to the success of the West Kilbride initiative. West Kilbride must not become yet another dormitory town. The villagers of West Kilbride, including Seamill, need and deserve a vibrant community. This initiative can help to deliver that and it deserves the full support of the Parliament.

17:43

Hugh Henry (Paisley South) (Lab): I agree with Kay Ullrich that one could not imagine this debate taking place at Westminster. Kay Ullrich and I, and other members, campaigned for a devolved Parliament, within the United Kingdom, so that we could debate such issues here.

However, when Allan Wilson listed all the attributes of West Kilbride—its proximity to the Clyde and to Muirshiel park—he inadvertently forgot to mention that one of its strengths was its proximity to Renfrewshire, and all the benefits that that brings. Although Allan Wilson, as the local member for Cunninghame North, is right to advance the claims of West Kilbride and the wider area, he does the Parliament a service by raising the fundamental issue of the contribution that craft makes to the Scottish economy and to tourism. We often undervalue individual craft and artistic skills—Allan Wilson has described their value to West Kilbride and the surrounding communities.

As Jamie Stone said, craft makes a contribution to Scotland's standing abroad and shows the wider diaspora that there is still something with which it can identify. That interest encourages local people to develop craft skills. Although there are several places in Scotland that might claim to be Scotland's craft town or village, Allan Wilson has said to the Scottish Executive and the Parliament that we need to take the matter seriously. I hope that what will come from the debate is a recognition that we need to be more strategic in our work. Over the coming years, I hope that we will be able to say that the Parliament has contributed to Scotland's craft industries, which in turn contribute to Scotland's economy, artistic image and tourist reputation.

17:45

The Deputy Minister for Highlands and Islands and Gaelic (Mr Alasdair Morrison): I see that I have some 13 minutes to respond, but I suspect that I shall use only seven.

Like previous speakers, I thank Allan Wilson, not for securing a debate, but for securing a discussion on the establishment of West Kilbride as Ayrshire's craft town. On behalf of the Scottish Executive, I welcome the consultants' report on the feasibility of establishing West Kilbride as Ayrshire's craft town.

I would also like to congratulate Councillor Elizabeth McLardy and the West Kilbride initiative on the vision and persistence with which they have taken forward their project, which is an excellent example of local initiative driven forward by local people.

We are delighted that Scottish Enterprise Ayrshire helped to part-fund the positive consultants' report that examined the feasibility of establishing West Kilbride as Ayrshire's craft town. I understand that potential funding sources have been identified in the consultants' report for the West Kilbride initiative project and that those will be pursued in due course. Scottish Enterprise Ayrshire is ready and happy to engage in further discussions with the West Kilbride initiative, to help it to move the project forward. We welcome that involvement. I stress that the consultants' report clearly identified the economic and social impact that the initiative can secure for West Kilbride.

The project is a good example of a cross-cutting initiative. As Hugh Henry said, it brings together tourism, arts and crafts, economic development and area regeneration. There is a particular focus on the regeneration of West Kilbride's town centre, which, as Irene Oldfather said, complements the council's local plan.

Although the proposal is to establish West Kilbride as Ayrshire's craft town, it will act as a new and important focal point for the Scottish crafts industry as a whole. Allan Wilson has already made a pitch for the national status of West Kilbride and I am confident that he and other colleagues will continue to strive for that status.

I emphasise the importance of crafts and the beneficial economic effect of a crafts cluster. It has been well evidenced that the cluster effect in any sector creates strong and important linkages leading to valuable business synergies. It presents an ideal opportunity for West Kilbride to benefit through establishing itself as a leading location for Scottish crafts.

It is worth noting that Scotland accounts for more than its expected share of the British crafts community—14 per cent as compared to 9 per cent of the adult population as a whole. Around 1 per cent of self-employed adults in Scotland are estimated to earn their living through crafts. I had the pleasure of visiting the Orkney islands only yesterday, where I saw some excellent examples of such work. There are people working in that important industry throughout the country. The Scottish Arts Council is committed to raising the profile of crafts, to strengthening the network of organisations that promote and present them, and to encouraging makers to develop their creative, technical and business skills and to participate in international networks.

Much reference has been made to Wigtown, Scotland's book town, in Dumfries and Galloway. That is a fine example of a successful local initiative, which has provided inspiration for West Kilbride's proposal, as Allan Wilson said. The Wigtown book town project started in 1996 with one large shop in the town square, and by late 1999 it had expanded to 16 book or book-related shops. The targets set for Wigtown include attracting about 42,000 extra visitors over the three years to 2001. The town is comfortably on course to exceed that, and I have every confidence that that successful model can be replicated in West Kilbride.

Jamie Stone highlighted the potential for his constituency, and I am sure that he will be doing so after the summer recess.

The nucleus for the idea of establishing West Kilbride as a craft town came out of the successful craft fairs held in the community centre over the past three years. Those craft fairs alone also helped to raise the profile of a number of craft workers who were already operating in or near West Kilbride.

We are all delighted that the initiative has secured local private sector support, which is important, and we are impressed by the wider range of activities undertaken under the initiative, featuring economic and community development and environmental protection and improvement. They include the provision of sports facilities, community facilities, guided walks, arts development and traffic management.

Allan Wilson rightly referred to the new strategy for Scottish tourism, launched by my department, the enterprise and lifelong learning department, earlier this year. Scotland has the assets to be a world-class tourism destination: it has magnificent scenery, a pristine natural environment, cultural and historical richness, world-class sporting attractions and beautiful, vibrant cities.

Employment in tourism-related industries is estimated to have increased by 58 per cent over the past 30 years. The establishment of West Kilbride as Ayrshire's craft town can only reinforce the town's position on Ayrshire's tourism map as a prominent visitor attraction.

This is an excellent example of a locally led, organic initiative—a well thought through, detailed proposal. It is key to improving West Kilbride's town centre environment while creating a craft cluster that benefits all businesses, increases the number of visitors and enhances West Kilbride's position in Ayrshire and Ayrshire's position in Scotland.

I sincerely hope that the West Kilbride community initiative partnership can continue its exemplary work and can secure the necessary funding to take the project forward. I look forward to learning about its future progress.

Meeting closed at 17:52.

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