

MEETING OF THE PARLIAMENT

Wednesday 22 January 2003
(*Afternoon*)

Session 1

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Scottish Parliament

Wednesday 22 January 2003

(Afternoon)

[THE PRESIDING OFFICER *opened the meeting at 14:30*]

Time for Reflection

The Presiding Officer (Sir David Steel): To lead our time for reflection this afternoon, we welcome Mrs Dianna Wolfson, who was formerly head teacher at the Jewish primary school in Glasgow.

Dianna Wolfson (Former head teacher, the Jewish primary school, Glasgow): About a year ago, I translated some articles from French to English. I was fascinated by the subject matter: the first musician in history, Jubal, to whom reference is made in Genesis 4:21. He is credited with inventing the harp and the flute. As a shepherd, he used the instruments as tools of his trade, either soothing the cattle to help them graze quietly or stimulating them to move on. He was in complete harmony with nature.

For some reason, that made me think how I react to music. When I am abroad, the sound of Scottish music evokes nostalgia for home. Music can speak to the heart. As a second-generation Scot on my father's side, I am amazed at how easy it is to feel part of the culture and tradition of this country. If I hear a Scottish accent when I am waiting at a foreign airport, I need to speak to that person. Who are you? Where are you from? As if someone from Inverness is going to know me!

As national Holocaust memorial day is almost upon us and the national event will be here in our own capital, I reflect on the history of anti-Semitism that stretches back to the Bible. Set in the 4th century before the common era, the book of Esther, which Jews read on the festival of Purim, records that Haman, who would have been the equivalent of the First Minister of his day, said to King Ahasuerus of Persia:

"There is a certain people scattered abroad and dispersed among the peoples in all the provinces of your realm. Their laws are different from every other people's. They do not observe the King's laws; therefore it is not fitting for the King to tolerate them. If it pleases the King let it be recorded that they be destroyed."

Echoes of the Wannsee conference.

The Jews of Germany played their part in all aspects of civil life. They loved German music, poetry and art. Yet we know what was to be their tragic fate. The media of the day ensured that they

were vilified, that the loyal, law-abiding citizens were seen as pariahs—Untermenschen, lowlier even than animals. It would all have turned out so differently had placards proclaimed: "One Germany, many cultures". We are fortunate that we live in a society that values the worth of every individual.

I pray that we can all live together in harmony in the Scotland that is dear to people of many faiths and cultures, all of us proud of being Scots and at the same time proud of our own traditions and heritage. I pray that your deliberations will continue to help realise this goal. Sir David, I thank you for the privilege of addressing the Parliament today. [*Applause.*]

Business Motion

The Presiding Officer (Sir David Steel): The next item of business is consideration of motion S1M-3793, in the name of Patricia Ferguson, on behalf of the Parliamentary Bureau, setting out a timetable for stage 3 consideration of the Land Reform (Scotland) Bill.

Motion moved,

That the Parliament agrees that, during Stage 3 of the Land Reform (Scotland) Bill, debate on each part of the proceedings shall be brought to a conclusion by the time-limits indicated (each time-limit being calculated from when the Stage begins and excluding any periods when other business is under consideration or when the meeting of the Parliament is suspended or otherwise not in progress)—

Groups 1 to 3 – no later than 1 hour 15 minutes

Groups 4 to 8 – no later than 2 hours

Groups 9 and 10 – no later than 2 hours 30 minutes

Groups 11 to 13 – no later than 3 hours 15 minutes

Groups 14 to 18 – no later than 3 hours 45 minutes

Groups 19 to 21 – no later than 4 hours 15 minutes

Groups 22 to 27 – no later than 5 hours 15 minutes

Groups 28 and 29 – no later than 5 hours 45 minutes

Group 30 – no later than 6 hours 15 minutes

Groups 31 to 34 – no later than 7 hours 15 minutes

Motion to pass the Bill – 7 hours 45 minutes.—[*Euan Robson.*]

Motion agreed to.

Land Reform (Scotland) Bill: Stage 3

14:34

The Presiding Officer (Sir David Steel): The next item of business is stage 3 consideration of the Land Reform (Scotland) Bill.

Dennis Canavan (Falkirk West): On a point of order, Sir David. I note that my amendment 212 has not been selected by you. I feel that—

The Presiding Officer: Sorry—could you hold on a second until I have finished my introductory remarks? I will then call you on your point of order.

This is the first time that stage 3 proceedings have been scheduled over more than one day. For today, members should have with them copies of the Land Reform (Scotland) Bill, as amended at stage 2, the marshalled list, which contains all the amendments that have been selected for today's debate, and the groupings of amendments.

A new marshalled list and groupings will be published for tomorrow. They will include three additional amendments that were lodged on Monday, which I have selected for tomorrow's debate but which do not appear in the list that members have before them. As usual, I will allow extended voting periods of two minutes for the first division that occurs after each debate on a group of amendments.

I invite Mr Canavan to return to his point of order.

Dennis Canavan: I note that my amendment 212 does not appear on the list of amendments that you selected. The amendment was lodged on Friday of last week, before the deadline, but did not appear in Monday's business bulletin among the list of amendments published therein. My office was informed that that was due to a mistake by the clerk, and that the amendment was submitted in time. Has the non-selection of my amendment got anything to do with the alleged lateness, which was certainly not through any fault of mine or of my staff?

The Presiding Officer: I entirely accept that last point, Mr Canavan—it was not your fault. Your amendment was published in yesterday's business bulletin. It had been omitted in error on Monday, but I can assure you that it was among the amendments that my two colleagues and I considered very carefully on Monday afternoon and evening. I am sorry that it has not been selected but, as you know, I do not give reasons for the selection of amendments. I can assure you that the fact that your amendment was not selected had nothing to do with the fact that there was a misprint.

Section 1—Access rights

The Presiding Officer: Let us proceed with the first group. Amendment 166, in the name of Ross Finnie, is grouped with amendments 176 and 211.

The Minister for Environment and Rural Development (Ross Finnie): For information—I apologise for not informing you of this earlier, Sir David—the odd numbered groupings will be led by Allan Wilson; the even numbered will be led by me. We promise not to lead for any longer than seven hours and 15 minutes.

The Presiding Officer: What an interesting allocation. Did you say that odd groupings are yours, Mr Finnie?

Ross Finnie indicated disagreement.

The Presiding Officer: In that case, I call Mr Wilson.

The Deputy Minister for Environment and Rural Development (Allan Wilson): I promise not to take seven and a half hours to deal with any individual—[*Interruption.*]

The Presiding Officer: Order. I am sorry to stop you right away, minister. This is a complex procedure, which is not helped if there are conversations going on around the chamber. We really have to concentrate on this.

Allan Wilson: There was a considerable amount of debate at both stage 1 and stage 2 about the purpose of part 1 of the bill. There are those who argue that there is an existing common law right of access to land, and that the purpose of the bill is to enshrine that right in statute. On the other hand, there are those who argue there is no such common law right of access; that trespass is part of the law of Scotland; and that access to land is currently granted only with the explicit or implied consent of the owner. At least some members of the Justice 2 Committee share the former view. As we have explained at stage 1 and stage 2, the Executive is satisfied that trespass is part of the law of Scotland.

It was to get away from that confusion that we decided to legislate. This is the purpose of the bill: to establish clear and unambiguous rights of responsible access to land. As members will recall, the decision to legislate followed advice from Scottish Natural Heritage, which was based on the views of the access forum. Let me quote from SNH's advice:

"the existing law may be understood by lawyers but it is not clear to members of the public, who are deterred from exercising reasonable access by uncertainty about their rights and by the fear of, or previous experience of, confrontation with owners and land managers who in their turn have difficulty in protecting their interests in the face of irresponsible or provocative behaviour by the public".

In other words, no one is quite sure where they stand.

The recommendation of SNH and the access forum was to cut across the confusion about the current law and to establish new rights of access to land and water for informal recreation and passage. The recommendation was not in favour of legislation to clarify the existing law. The access forum specifically rejected that approach. It stated:

"Above all, the Forum believes that clarifying the law in this way would not address the fundamental weaknesses of the law that have been identified and would not help the Government to meet its commitment to give people greater opportunity to enjoy the countryside. The Forum agreed, therefore, to drop this option."

I agree entirely with that conclusion. The purpose of the bill is to establish new rights of responsible access. For that reason, the bill as introduced opened with the clear statement:

"Everyone has the rights created by this Part of this Act."

As I said at stage 2, I believe that that statement accurately encompassed the purpose of the bill. However, the Justice 2 Committee took the view that the word "created" should be replaced by "secured". As I understand it, at least part of the thinking behind the amendment was that the bill should be about securing existing rights of access, whatever those might be.

As I have explained, I do not consider that to be the proper purpose of the bill. First, such an approach would run counter to the advice that was given by SNH and the access forum. Secondly, instead of cutting across the current confusion and uncertainty, it would simply perpetuate that unsatisfactory state of affairs. Thirdly—and perhaps most important—there is a risk that a court could determine that the bill does no more than attempt to regulate rights that do not exist. There is a real danger that the bill would achieve nothing. I cannot believe that anyone in the chamber wishes that.

For those reasons, I have lodged amendments to the first line of the bill. It is important that the bill is clearly seen to establish new statutory rights of responsible access. As the bill states, those new rights do not diminish or replace existing rights of access. Rightly, in my view, the bill says nothing about the current legal position in respect of access. What it does is establish clear and unambiguous rights of access that will provide the public with the confidence to go out and enjoy the countryside with a firm understanding of where they can and cannot go. That clarity will also benefit landowners, who will know exactly what the public can and cannot do on the land.

This bill is the opportunity to create in Scotland a modern approach to access that meets in a balanced way the needs both of the public and of owners and managers of land. It is important that we get that right. For that reason, I commend amendment 166 to the chamber.

Amendment 211, in the name of Stewart Stevenson, would have the effect of inserting the word “statutory” after “establish” in the long title and mirrors the amendment that we propose to the first line of the bill. Although all rights that an act establishes are necessarily statutory rights, I am prepared to accept amendment 211 in the interests of consistency. I intend to not move amendment 176 and to support amendment 211.

I move amendment 166.

The Presiding Officer: We are starting on a note of harmony.

Stewart Stevenson (Banff and Buchan) (SNP): I thank the minister for his gracious acceptance of my amendment 211. Our shared objective is to open up the countryside to responsible access. At a later stage, the Scottish National Party will criticise certain elements of the bill for their lack of ambition, but in respect of access the bill comes close to striking a reasonable balance.

It is true that in its deliberations after taking evidence the Justice 2 Committee came to the conclusion that although there is a law of trespass—an act dealing with the matter was passed in the 1860s—there is no criminal offence associated with access. The common man and woman of Scotland assert the right to roam and to take access to land, and have done so for many years.

The bill and amendment 166 simply say either that we are creating new rights in statute or that we are securing the ones that we have. In the light of the minister's gracious acceptance of amendment 211 and of the fact that we will have many other interesting things to debate in other groupings, I will leave it at that and thank the minister.

14:45

The Presiding Officer: Thank you. You will in fact be moving amendment 211 right at the tail end of tomorrow.

Pauline McNeill (Glasgow Kelvin) (Lab): I support amendment 211 in the name of Stewart Stevenson, having lodged a similar amendment. I am pleased that the minister has accepted amendment 211, because I think that it is consistent with amendment 166.

The Justice 2 Committee rejected the word “create” and favoured the word “secure”, as we thought that it was consistent with the position that we took in our stage 1 report, which is that there is no common law of trespass. We have a longstanding disagreement with the Executive, the Law Society of Scotland and others on that matter. However, amendment 166 is a good suggestion

and it provides a good position for the Executive to take, because the word “statutory” simply reflects the legal position that we have just now. The amendment does not prevent those members who support the Justice 2 Committee's position from continuing to hold that view and it does not prevent those who support the Executive's interpretation of the law of trespass from holding that view.

I still support the Tom Johnson position of 1942, which is that there is no law of trespass. There is a presumption of the right to roam in Scotland, but I support amendments 166 and 211. I commend the Executive for its sensible approach.

The Presiding Officer: Before I call the next speaker I appeal again for conversations in the chamber to be limited to the bill. Any other conversations can take place in the coffee lounge, because there will be a two-minute break for divisions. Please let us have as much quiet as possible.

Bill Aitken (Glasgow) (Con): I regret to perhaps introduce a note of controversy into the proceedings, but amendment 166 encapsulates the difference between the Conservative party's viewpoint and the viewpoints held by other parties in the Parliament.

In the Conservative view, part 1 of the bill is largely unnecessary. Those who wish to access the countryside responsibly have been able to do so for years, almost invariably without let or hindrance. Although there might have been the odd local difficulty from time to time, when witnesses to the Justice 2 Committee were urged to be specific, as opposed to relating the apocryphal, there was little to suggest that land managers sought to frustrate those who wish to walk through Scotland's countryside and hills.

Some of the attitudes that exist beggar belief. To listen to some members of the Parliament speaking on this matter when it was previously debated, one would have thought that land managers had been producing mantraps to prevent people accessing the land.

The plain fact is that common sense has prevailed for many years with regard to access to the countryside. Just as there is very little evidence to suggest that ramblers or others have at any time behaved irresponsibly, there is a similar dearth of evidence to suggest that land managers have attempted to deny them access.

The problem is that by seeking to legislate, problems can be created where none previously existed. In Yorkshire parlance, “if it ain't broke, don't fix it.” The entire part 1 of the bill is living testimony to the Executive's obsession with legislating on and interfering in every aspect of Scottish life.

Despite having taken evidence from a number of erudite sources, the question of the law of access and trespass remains undoubtedly vague. Pauline McNeill, the deputy minister and Stewart Stevenson were right to correct that problem. The most recent case law is 100 years old and relates to a hackney carriage entering land owned by some long-defunct railway company. The obvious and logical conclusion that one must draw is that if there had been problems, there would have been litigation. The fact that there has been no litigation is evidence that there is no need to establish statutory rights. The legal concept of the reasonable man should have prevailed. Unfortunately, the Executive is less than reasonable.

It is inevitable that the introduction of such legislation will create problems. This part of the bill will simply make lawyers rich and judges famous and it will bring ridicule on the law of Scotland. The Executive must consider the matter seriously and must leave the people of Scotland to behave as adults, as they have behaved for many years. There have been no significant problems. Why interfere with something that works?

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): I hope that it is not out of order to begin by saying that, following my father's recent death, my family and I much appreciate the support that we have had from all members of all parties.

It gives me great pleasure to support the principle of a statutory right of access. The current law is undoubtedly as clear as mud. Therefore, for the Scottish Parliament to bring clarity where previously there was only confusion is an excellent act.

It is interesting that although the first Conservative speaker said that the existing law is vague, he also said that there was no need to end that vagueness. I suspect that we will hear many more such contradictions. Bill Aitken argued that there was no need to create a statutory right of access because no one had gone to court.

Phil Gallie (South of Scotland) (Con): On a point of order, Presiding Officer. I make my point of order in a reasonable fashion. It was an omission for Fergus Ewing not to declare an interest. As a lawyer, he will obviously be affected by the bill, given what Bill Aitken said.

The Presiding Officer: It is not necessary for Fergus Ewing to declare an interest.

Fergus Ewing: I had no intention of failing to declare an interest. Contrary to what Bill Aitken said, although I am a lawyer, I assure members that I have no expectation of becoming rich as a result of the bill.

I should perhaps also declare that, for about 15 years, I was a member of a mountain rescue team. I know that, in contrast to the Conservative party, that team will be delighted by the establishment of a statutory right of access.

If Bill Aitken's argument is that there have been no bad landowners over the years and that no one has tried to stop folk having access to our hills, all I can say is that he must have been in Glasgow city chambers for far too long. The reason for the lack of litigation might be that people who have been prevented from getting access to our hills and mountains might have taken the not unreasonable position of not wanting to make lawyers rich by litigating on the issue.

I understand that Ross Finnie's amendment 176 is not being moved, but I am delighted to support his amendment 166 and Stewart Stevenson's amendment 211, which bring clarity where there has been utter confusion.

George Lyon (Argyll and Bute) (LD): I would like to add the Liberal Democrats' support for amendments 166 and 211. Bill Aitken said that the law is not broken, so there is no need to fix it. I disagree with that point of view. For many years, there has been a dispute about whether there is a law of trespass in Scotland or whether there is a right to roam. The fact that the bill will create a statutory right of access once and for all should be welcomed by all sides in the debate.

During the Justice 2 Committee's deliberations, it became clear that there were arguments on both sides about whether there is a law of trespass in Scotland. The Law Society of Scotland made it clear that there is a law of trespass in Scotland, which is extremely difficult for landowners to enforce. If landowners wish to stop individuals from roaming over their land, they need to seek an interdict to do so.

I support the Law Society's view and I welcome the bill's creation of a statutory right of access for everyone in Scotland who wishes to roam over Scotland's land. I support the Executive's amendment 166 and Stewart Stevenson's amendment 211.

Scott Barrie (Dunfermline West) (Lab): The comments of preceding speakers have already illustrated the lines of the different parties. I, too, speak in favour of amendments 166 and 211. I was the member who lodged amendment 19 at stage 2, which was successful in replacing the word "created" with the word "secured". The Executive is to be congratulated on lodging amendment 166, which will provide a better wording than that which the Justice 2 Committee established at stage 2.

The bill will provide a statutory right of access but, as Pauline McNeill accurately explained, that

will in no way eliminate or diminish existing common law rights of access. That is an important point. By agreeing to amendment 166, I hope that we can get away from the confusion that has existed for so long about whether Scotland has a law of trespass. The Executive has done well in the wording that it has proposed.

It is equally important that we support Stewart Stevenson's amendment 211, which will ensure that the long title accurately reflects what is in the bill. I am glad to see that the Executive will support that amendment.

Mr John Home Robertson (East Lothian) (Lab): There is, of course, a trespass act from the 19th century—the Trespass (Scotland) Act 1865—but it is very restricted, as it refers only to camping and the lighting of fires within a certain distance of public roads. It has always been commonly understood that pedestrians have a right of responsible access to the open countryside of Scotland.

Contrary to what Bill Aitken said, a problem has arisen because, in many parts of Scotland, what I describe as new-age landowners have come into rural areas and have sought to obstruct that commonly understood public access to the open countryside. Over the years, I have had to deal with some quite nasty cases of confrontation, which responsible walkers have experienced in the Lammermuir hills on the edge of my constituency. I remember raising the issue at Westminster. It would have taken years to find a legislative opportunity to get the necessary legislation through Parliament down at Westminster.

It is very good news that this new Scottish Parliament is addressing this fundamental issue. Frankly, I do not know or care whether we are creating or restoring that right. The important thing is that we are establishing what most people believe to be the proper and reasonable position of responsible pedestrian access to Scotland's open countryside. That access needs to be properly regulated, and it will be regulated by the access code. I am delighted that we are taking this step. I strongly support the bill and I support Ross Finnie's amendment 166.

Brian Fitzpatrick (Strathkelvin and Bearsden) (Lab): I support the Executive's position on the amendments. At citizenship courses in Scotland in the future, people will remember sentences of some of our legislation:

"There shall be a Scottish Parliament."

Similarly:

"Everyone has the rights secured by this Part of this Act."

The Scottish Labour party was founded on a demand for law reform: for a local Parliament in

Scotland with a Scottish Executive; for the minimum wage; and, indeed, for prohibition. We may have moved on from prohibition, but the assertions and claims that were made when the Scottish Labour party was founded are being realised today.

I also commend the important establishment of the security of rights. Unlike Bill Aitken—I am delighted to see that the dividing lines in Scottish politics remain—I do not accept the notion that the bill creates uncertainty or that it creates work for lawyers. The bill crystallises and improves on existing rights. If nothing else, the bill assists in dispensing with the confusion.

There has, of course, been an almost theological divide in Scotland as to whether Scotland has a law of trespass, but that should not be the fault line that runs through this debate. We see where that fault line lies. It lies with those who are now bidding to be the landowners' party, or Laidlaw's party, or whatever they wish to call themselves.

Mr Aitken asked for evidence of instances where people have been put off land. Anecdotal evidence is always bad, but I was part of a group of parents and children who were turned back from an estate on new year's day. It transpired that the people who turned us back were not even the landowners, but were simply renting a lodge from the landowner. They thought that that gave them the entitlement to turn back people who were exercising a right to roam.

At that stage, the question was whether one should proceed to try and summon the police from God knows where. Should one try and proceed to serve an interdict while out walking with one's children? Should one bother to take up that time? The answer was no. In part—aside from the cost and delay—that explains the absence of litigation. People do not like being disrupted, inconvenienced or put off when they are only seeking to exercise their responsible right to roam.

15:00

Bill Aitken: As Mr Fitzpatrick is a member of the Faculty of Advocates, would he suggest that courts should accept the sort of anecdotal evidence that he appears to be happy to accept? Is that not indicative of a degree of prejudice on his part?

Brian Fitzpatrick: I am always delighted to take interventions from Mr Aitken because he always makes the argument for me. It was Mr Aitken who invited the evidence, but when he was given that evidence he did not like it because it did not fit with his ideological position. He therefore finds himself making inane interventions in a serious debate.

The Tories will sit where they sit. The Tories will adopt the stance that they adopt. However, the majority of members will welcome the chance to put beyond peradventure rights that some thought that they held, and to improve rights for many of Scotland's people. We should welcome the fact that everyone's access rights will be secured and I have no difficulty in doing that.

The Presiding Officer: As the minister does not want to respond, I will put the question.

The question is that amendment 166 be agreed to. Are we all agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 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)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 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)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Harper, Robin (Lothians) (Grn)
 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)
 MacDonald, Ms Margo (Lothians) (SNP)
 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)
 McAllion, Mr John (Dundee East) (Lab)
 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)
 McLeish, Henry (Central Fife) (Lab)
 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)
 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, John Farquhar (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 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)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Reid, Mr George (Mid Scotland and Fife) (SNP)
 Robison, Shona (North-East Scotland) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Russell, Michael (South of Scotland) (SNP)
 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, Mrs Margaret (Edinburgh West) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Thomson, Elaine (Aberdeen North) (Lab)
 Ullrich, Kay (West of Scotland) (SNP)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)
 Wilson, Andrew (Central Scotland) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Davidson, Mr David (North-East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (South of Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Johnstone, Alex (North-East Scotland) (Con)
 McGregor, Mr Jamie (Highlands and Islands) (Con)
 McIntosh, Mrs Lyndsay (Central Scotland) (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)

The Presiding Officer: The result of the division is: For 103, Against 18, Abstentions 0.

Amendment 166 agreed to.

The Presiding Officer: We come to amendment 61, which Mr Finnie will deal with. To save time, I will not read out all the amendments in the group; they are on the marshalled list.

Ross Finnie: Amendment 62 addresses concerns raised by educational groups that the bill as drafted could result in confusion about which group activities fall within access rights. For example, a school hillwalking group or a geological society outing would clearly be recreational and fall within access rights. However, a school geography or biology field trip or a university geology field trip might be considered more educational than recreational, and might be deemed to fall outwith access rights.

I accept that the distinction should be clarified because it is potentially confusing. Amendment 62 would bring within access rights being on or crossing land for the purposes of carrying out a relevant educational activity. Amendment 66 would provide a definition of "relevant educational activity" as furthering the understanding of natural or cultural heritage. Amendments 61, 64, 65 and 86 are consequential on amendment 62.

Amendments 66A, 66B and 66C seek to modify the definition of "relevant educational activity". Amendments 66A and 66C would widen the definition to refer to furthering not only the understanding of natural or cultural heritage, but the exercise of any activity within access rights. I assume that the intention is to ensure that outdoor educational courses are included within access rights. However, I am satisfied that the bill already provides for such courses. The right to be on land for recreational purposes must include being on land when being instructed in such activities as hillcraft and map reading. Similarly, a scout leader or other voluntary group leader who provides such instruction would come within access rights. If the instructor was paid for his or her services, he or she would be within access rights by virtue of section 1(2A), which was inserted at stage 2. Accordingly, amendments 66A and 66C are unnecessary and I hope that they will not be moved.

Amendment 66B appears to intend to bring within access rights people who carry out activities to enable or assist other people who are not with them to further their understanding of natural or cultural heritage. I am not clear that the proposed alternative wording would make any real

difference to the scope of the provisions, but nevertheless I am content to accept amendment 66B.

Amendment 66D would remove paragraph (b) of the definition in amendment 66, which would require that relevant educational activities are

"not carried on for the purposes of deriving a profit directly attributable to the carrying on of the activity."

I am satisfied that activities carried on for profit will be covered by section 1(2A), but I am happy to accept amendment 66D if it clarifies the situation.

Amendments 177 and 178, in the name of Roseanna Cunningham, seek to extend access rights to artistic and scientific activities that are not intended to yield a profit. I am not clear which such artistic activities would not be considered to be recreational and therefore already included within access rights. Similarly, amateur naturalists, ornithologists and the like would already fall within the access rights in the bill as it stands. I assume that the intention may be to provide that staff of conservation organisations or other bodies, such as Scottish Natural Heritage, should have a right to access land for the purposes of, say, survey work. In my view, that would not be appropriate. SNH's powers of entry to land are set down in statute. We are satisfied that those powers provide SNH with the means of carrying out its duties and that a general right of access for such a body to enter any land at any time would not be appropriate and I can see no reason why other organisations should have greater access to someone's land than official bodies such as SNH. I hope that amendments 177 and 178 will not be moved.

Amendment 63 addresses concerns that were raised at stage 2, when we lodged amendments to bring within access rights such people as mountain guides. The principal amendment was the insertion of section 1(2A). However, concerns remained that commercial activities such as professional photography would continue to be excluded from access rights and we agreed to look at that issue again at stage 3. We have decided against a specific provision to include professional photographers and artists within access rights. Instead, amendment 63 adopts the same approach as an amendment that was lodged by Rhona Brankin at stage 2. Amendment 63 would bring within access rights all those commercial activities that could also be carried on non-commercially. I accept that that is a fairly wide provision, but I hope that such activities will be subject to the general requirement that they are conducted responsibly and in line with guidance provided in the access code. Amendment 167 is consequential on Executive amendment 63.

I move amendment 61.

The Presiding Officer: If amendment 167 is agreed to, amendment 178 will be pre-empted.

Roseanna Cunningham (Perth) (SNP): The SNP intends to vote for the Executive amendments in the group, but we think that some aspects need to be clarified. Amendment 177 was lodged because, if amendments 61 and 62 are agreed to, the public will have a right of access to private land for recreational, educational and some commercial purposes, but—arguably—not for scientific or artistic purposes.

The minister asked for examples of what we were talking about. Under the scientific heading might fall scientific work that is undertaken by several non-governmental organisations and which cannot be regarded as educational, recreational or commercial. For example, such work could include an NGO monitoring animal migration or the occurrence of pollutants in a river or soil.

As for artistic purposes, the question is arguable, but would all artistic work fall within the three categories of educational, recreational or commercial activity? I know that that debate cannot really be held in the context of land reform, but I assume that we all accept that an argument exists over art for art's sake, not primarily for any other purpose. If George Wylie were to decide to float another paper boat down the Clyde, would that be a recreational, commercial or educational activity? I am not sure. That is what we are considering and I am interested in the minister's response.

I intend to support Dennis Canavan's amendment 66A, which is part of the argument about extending clarification, particularly on educational visits. Amendment 66A would rectify weaknesses in the Executive's amendment 66, which deals with educational visits. Many such visits are not solely for the purpose of understanding natural or cultural heritage. They may be aimed at educating the public in the practice of skills that are required for various activities that have been mentioned, such as hillwalking and horse-riding, or in how to exercise access rights responsibly and safely. I assume that we all hope that such courses can take place.

A school might organise a Duke of Edinburgh's award trip to the outdoors to practise navigation. Such activities must remain within access rights; otherwise, landowners might try to restrict them or to argue that they do not fall within the categories in the bill. Failure to expand access rights in such a way might make it difficult to educate the public about responsible or safe exercise of access rights.

The comments that I made about amendment 66A also apply to Dennis Canavan's amendment

66C. My amendment 178 is consequential on amendment 177.

I have asked the minister for further clarification. We are trying to make it clear in the bill which activities are excluded and which are not.

Dennis Canavan: I support Executive amendment 62, which would include educational activities in the activities for which access rights may be exercised. Executive amendment 66 attempts to define educational activity, but it is too restrictive, as it confines a "relevant educational activity" to one that has the aim of furthering someone's

"understanding of natural or cultural heritage".

I lodged amendments 66A and 66C because of that restrictive definition.

We can all think of examples of educational visits and excursions that would not be made solely for the purposes of understanding natural or cultural heritage but that are nevertheless educational visits or excursions. They may be aimed at educating the public about the practice of skills that are required for activities such as hillwalking, cycling, canoeing or horse-riding that are within access rights, or about the responsible and safe exercising of those access rights. They should all be included in the bill, as they are all legitimate educational activities.

15:15

A school might organise an excursion to practise navigation, for example. Surely such excursions must remain within access rights; if not, landowners might try to restrict them. Further, failure to expand access rights in such a way might make it very difficult to educate the public about how to exercise them responsibly. Education on safe and responsible access has always been one of the central planks of the discussions that have taken place on access. In particular, education on how to exercise access rights responsibly should help to allay the concerns of landowners.

I listened carefully to what the minister said and I do not agree with his statement that my amendments 66A and 66C are unnecessary. If the Executive deems it necessary to spell out a specific reference to an understanding of natural or cultural heritage, surely the bill should also include an explicit reference to educating people on—or helping to promote an understanding of—the exercise of any activity that is within the access rights that are provided for. My fear is that, without such a specific reference, some landowners might seek to bring legal challenges against certain educational excursions. The specific references that are included in my

amendments 66A and 66C are not only desirable but necessary.

Murdo Fraser (Mid Scotland and Fife) (Con):

The issue of commercial access is the one on which there is the prospect of controversy. I think that the principle that people should be allowed to come on to the land and exercise access is accepted by all sides of the debate—by landowners and farmers as well as by those taking up access rights. The principle is reasonable in the case of mountain guides, for example. However, we should not have situations in which people access land to derive profit from it by, for example, holding events or setting up stalls.

In general, the Conservatives welcome the amendments in the grouping because we think that they make sense. I have concerns about one of them, however, which I put to the minister for his response. I am concerned about amendment 63 and in particular how it would work in practice.

Amendment 63 seeks to include the words:

“which the person exercising the right could carry on otherwise than commercially or for profit”.

I will give two examples that illustrate my concerns.

The first example is of someone who comes on to land and starts to peddle hamburgers. If they said that they were giving away the hamburgers, not selling them for profit, would that activity be excluded from access rights?

Secondly, it would be possible to hold a rave on someone's land and not charge people admission and yet the people organising the rave could be doing so for profit. Would amendment 63 allow raves to be held without the landowner's permission if people were to derive their profit other than by charging admission? Those points require clarification and I would welcome any comments that the minister may make on amendment 63.

The Presiding Officer: Four other members have asked to speak. I warn the chamber that we are running a wee bit tight for time. We have another group of amendments to deal with before the guillotine comes down at 10 minutes to 4. I ask members who are to speak to show brevity, please.

Pauline McNeill: This group of amendments is important, not least because of the number of representations that many back benchers across the parties have made on this aspect of the bill.

Members should note that there will be an access code that will ensure that guidance is given on the meaning of the provisions. Distinguishing those activities that would benefit from statutory access rights, which will be exercised individually

or collectively, was the subject of a lot of discussion between the Justice 2 Committee and the Executive. Many other back benchers were also interested in the debate.

In our attempt to formulate our view on that distinction, the committee often referred to it as the “T in the Park distinction”. We meant that activities should be allowed to proceed as they do at present: ordinary activities, such as school trips, would be unaffected but landowners would make the normal arrangements for big events, including pop concerts such as T in the Park.

We have done well to achieve all that we have achieved to date. The Executive has also done well—I know that amendment 66 was drafted and redrafted. We are trying to achieve something that is no more or less than what existed previously, and we want to preserve the status quo, as we understand it, so that landowners are able to take advantage of the arrangements that I outlined. On Dennis Canavan's points, the bill, if passed, would make no difference to schools and whether they will be able to take advantage of trips to the countryside.

Amendment 86 is a minor amendment that relates to golf courses. During our consideration of the bill, there was much discussion of golf courses, and I think that we have reached a sensible position on the issue. There is no general right of access to golf courses, except to cross over them. However, some MSPs have received representations from people who have made use of golf courses during the sledging season. Notwithstanding the fact that Allan Wilson is the minister with responsibility for global warming and that people may not be able to enjoy sledging for much longer, I ask him to confirm that, where local agreements exist for people to take part in that activity, it will be unaffected, although such arrangements are not prescribed in the bill.

Mr Duncan Hamilton (Highlands and Islands) (SNP): I shall be brief. I ask the minister to answer two specific questions in his summing up.

I support the Executive's amendments and I particularly welcome the minister's support for amendment 66B. However, will he reflect on some of the examples that have been given in the debate, such as scientific activities, activities under the Duke of Edinburgh's award, or activities by NGOs that seek access to land for pollution control? In order to allow members to make an informed decision about his interpretation of the bill, I ask him to outline for the Parliament which of the examples that have been mentioned would not be included or whether they would all be included.

Further, will the minister clarify his interpretation of amendment 66? I do not seek to tell him his job; however, he might argue that where the bill defines a “relevant educational activity” as that

"which is carried on by a person for the purposes of"

a certain activity, that activity must be the sole or main purpose of access. On the other hand, perhaps he means that such an activity might be a by-product of access and one of several reasons for, or an intended or unintended result of, that access. If he intends that wider definition, the minister might have a case. However, if the activity must be the sole or main purpose of access, his definition might be more restrictive, which would probably mean that we would have to support the amendments to amendment 66.

George Lyon: Members received the maximum correspondence from constituents who were concerned about the impact of commercial access. We need to find the right balance between the genuine needs of mountain guides or the staff of outdoor centres who accrue some commercial benefit from escorting clients on hillwalking expeditions to the countryside, and the interests of landowners, who do not want themselves or their land to be financially exploited by the setting up of raves and so on without accruing any financial benefit themselves. Indeed, it is absolutely essential that we find that balance. I am interested to hear the minister's response to the examples that Murdo Fraser and other members raised and I hope that he can reassure us that the correct balance has been achieved in amendment 63 and the amendments that were agreed to at stage 2.

Fergus Ewing: Last year, during the foot-and-mouth crisis, the sole group of people in Scotland who received no compensation but lost almost all of their income for weeks if not months included mountain guides, climbing instructors, canoe instructors and a variety of other people, most of whom work for themselves and have a modest income. Although those people lost their entire livelihood for a long period, they behaved to a person—as far as I know—with total responsibility. I am delighted that the Executive is now persuaded that those people should not be punished for their good behaviour. I welcome the minister's aim that such people can continue to play the essential role that Duncan Hamilton, George Lyon and others have described. The question is whether, technically, the minister's aim is being achieved.

If mountain guides, climbing instructors, canoe instructors, dry-stane dyke instructors and others—all of whom must have access to the outdoors to earn their modest livelihoods—are to be protected by the amendments, that is fine. However, I understood that the minister's argument was, "Well, if the amendments that we are talking about today"—which we agree with—"do not cover those people, they are covered by the fact that access can be exercised for recreational purposes." If a mountain guide takes

a class to Ben Nevis, the class is there for recreational purposes, but the mountain guide is not. He or she is not there to make a lot of money, but because he or she needs to get money to survive and to continue doing what he or she wants to do. That is a possible loophole. I hope that I am wrong and that the minister will address my point in his closing remarks.

Ross Finnie: I will be as quick as I can.

I will deal first with Fergus Ewing's last point. We are absolutely clear about the general right of access. It was the clear wish of the committee that guides of any shape, size or description be covered by the bill. Amendment 66 tries to extend the definition to deal with concerns about educational interests.

Duncan Hamilton is right. In response to his point, I can tell him that I am clear that we are seeking to achieve a wider definition. The difficulty is that, when one starts to draft such an amendment and to clarify the provision, one runs the risk of narrowing the definition. I accept the point, but I invite Mr Hamilton to read the section as a whole and as amended. If he did so, he would see that it covers both Fergus Ewing's point about general intent and the question of extending that definition, and that it deals with those two points. With that, I hope that I have addressed other concerns.

I will deal with Murdo Fraser's point before I respond to George Lyon, but first I will respond to Pauline McNeill, who is a well-known sledger. I say to her that agreements that are already in existence or that might be agreed with an individual can continue. The bill makes no provision to override such local agreements.

I turn to the substantive points on Roseanna Cunningham's amendments 177 and 178 and Dennis Canavan's amendment 66C. Members raised other concerns with me, but if those activities—particularly the example given by Roseanna Cunningham—are not being carried out for the purpose of making a profit, they fall into another category, which is a different issue. That is why I draw the distinction between a general right of access and allowing those who are not pursuing activities for profit to continue to have the extended access rights described in section 1.

I had a little difficulty with Murdo Fraser's new concept of a commercial activity that involves giving away hamburgers. I have not quite got my mind round that concept.

Bill Aitken rose—

Ross Finnie: No, under no circumstances will I take an intervention. Bill Aitken might want to reflect on what Murdo Fraser said—perhaps we will get free hamburgers when we leave the chamber.

I ask Murdo Fraser to look at the much broader definition of profit that the bill provides. There will always be clever people who think up clever ways—they tend to be lawyers, I am bound to say—to obviate a provision in any piece of legislation. Let me be serious. The existing provisions make it clear that people who have absolute rights, whose activities do not exploit the land and who are not seeking to make a profit will have their rights extended by amendment 66 and further extended by the other amendments that we have lodged. That seems the correct approach, whereas people who are engaged in specific commercial activity should seek access rights in the normal way.

Amendment 61 agreed to.

Amendment 177 moved—[Roseanna Cunningham].

15:30

The Presiding Officer: The question is, that amendment 177 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
 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)
 Davidson, Mr David (North-East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (South of Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Goldie, Miss Annabel (West 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) (Grn)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 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)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McGugan, Irene (North-East Scotland) (SNP)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 McLeod, Fiona (West of Scotland) (SNP)
 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)
 Reid, Mr George (Mid Scotland and Fife) (SNP)

Robison, Shona (North-East Scotland) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Sheridan, Tommy (Glasgow) (SSP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Mr Murray (South of Scotland) (Con)
 Ullrich, Kay (West of Scotland) (SNP)
 Wallace, Ben (North-East Scotland) (Con)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Wilson, Andrew (Central Scotland) (SNP)
 Young, John (West of Scotland) (Con)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 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)
 Fitzpatrick, Brian (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)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McLeish, Henry (Central Fife) (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, John Farquhar (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)
 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)
 Smith, Mrs 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)

The Presiding Officer: The result of the division is: For 53, Against 70, Abstentions 0.

Amendment 177 disagreed to.

Amendment 62 moved—[Ross Finnie]—and agreed to.

Amendment 63 moved—[Ross Finnie].

The Presiding Officer: The question is, that amendment 63 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 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)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 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) (Grn)
 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)
 MacDonald, Ms Margo (Lothians) (SNP)
 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)
 McAllion, Mr John (Dundee East) (Lab)
 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)
 McLeish, Henry (Central Fife) (Lab)
 McLeod, Fiona (West of Scotland) (SNP)
 McMahan, 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, John Farquhar (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)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Reid, Mr George (Mid Scotland and Fife) (SNP)
 Robison, Shona (North-East Scotland) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Russell, Michael (South of Scotland) (SNP)
 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, Mrs Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Thomson, Elaine (Aberdeen North) (Lab)
 Ullrich, Kay (West of Scotland) (SNP)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)
 Wilson, Andrew (Central Scotland) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Davidson, Mr David (North-East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (South of Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Johnstone, Alex (North-East Scotland) (Con)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McIntosh, Mrs Lyndsay (Central Scotland) (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)

The Presiding Officer: The result of the division is: For 105, Against 18, Abstentions 0.

Amendment 63 agreed to.

Amendments 64 and 65 moved—[Ross Finnie]—and agreed to.

Amendment 66 moved—[Ross Finnie].

The Presiding Officer: The question is, that amendment 66 be agreed to. Are we agreed?

Stewart Stevenson: On a point of order. There are amendments to amendment 66.

The Presiding Officer: Yes, I know that. I should not have put the question on amendment 66. It has been moved formally, so the next thing that happens is that Dennis Canavan will formally move amendment 66A.

Amendment 66A moved—[Dennis Canavan].

The Presiding Officer: The question is, that amendment 66A be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
 Campbell, Colin (West of Scotland) (SNP)
 Canavan, Dennis (Falkirk West)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Harper, Robin (Lothians) (Grn)
 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)
 McGugan, Irene (North-East Scotland) (SNP)
 McLeod, Fiona (West of 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)
 Reid, Mr George (Mid Scotland and Fife) (SNP)
 Robison, Shona (North-East Scotland) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Sheridan, Tommy (Glasgow) (SSP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Ullrich, Kay (West of Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Wilson, Andrew (Central Scotland) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Davidson, Mr David (North-East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Fergusson, Alex (South of Scotland) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 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)
 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)
 McAllion, Mr John (Dundee East) (Lab)
 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)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 McLeish, Henry (Central Fife) (Lab)
 McMahan, 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)
 Munro, John Farquhar (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)
 Raffan, Mr Keith (Mid Scotland and Fife) (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, Mrs 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)

The Presiding Officer: The result of the division is: For 36, Against 88, Abstentions 0.

Amendment 66A disagreed to.

Amendment 66B moved—[Stewart Stevenson]—and agreed to.

Amendment 66C moved—[Dennis Canavan].

The Presiding Officer: The question is, that amendment 66C be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
 Campbell, Colin (West of Scotland) (SNP)
 Canavan, Dennis (Falkirk West)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Harper, Robin (Lothians) (Grn)
 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)
 McGugan, Irene (North-East Scotland) (SNP)
 McLeod, Fiona (West of 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)
 Reid, Mr George (Mid Scotland and Fife) (SNP)
 Robison, Shona (North-East Scotland) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Sheridan, Tommy (Glasgow) (SSP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Ullrich, Kay (West of Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Wilson, Andrew (Central Scotland) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Davidson, Mr David (North-East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Fergusson, Alex (South of Scotland) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 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)
 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)
 McAllion, Mr John (Dundee East) (Lab)
 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)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 McLeish, Henry (Central Fife) (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)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (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)
 Raffan, Mr Keith (Mid Scotland and Fife) (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, Mrs 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)

The Presiding Officer: The result of the division is: For 36, Against 87, Abstentions 0.

Amendment 66C disagreed to.

Amendment 66D moved—[Stewart Stevenson]—and agreed to.

Amendment 66, as amended, agreed to.

Section 2—Access rights to be exercised responsibly

The Presiding Officer: If amendment 167 is agreed to, amendment 178 will fall.

Amendment 167 moved—[Ross Finnie]—and agreed to.

After section 3

The Presiding Officer: Amendment 67 is grouped with amendments 67A, 67B, 67C, 181, 73, 80, 80A, 80B, 186, 93, 187, 94 and 162. The guillotine will fall at 15:52 for this group of amendments, so members have until then to debate them.

Allan Wilson: I will press my request-to-speak button.

The Presiding Officer: It is nice to know who you are.

Allan Wilson: I know who I am.

Amendments 67 and 80 seek to reintroduce the order-making powers that were lost at stage 2. They will provide powers for ministers by order to modify any of the provisions of sections 2 and 3, and for the purposes of those sections, sections 9, 14 and 22; and the provisions of sections 6 and 7. Such orders could apply generally or be restricted to certain areas, locations or classes of land, or could apply to particular ways of exercising access rights or particular types of land management activity.

I remind the Parliament of what we said at stage 2 in relation to the importance of those order-making powers.

I would like to think that the new access arrangements that are heralded by the bill will work in the way that we intend and I believe that the balanced approach that we have adopted is correct. However, it was apparent at stage 2 that there are very different views as to how the bill will work out in practice. I suspect that it will be some time before we can assess how effectively the bill is delivering our objective of improved access and whether any of the concerns that have been expressed have any foundation.

Realistically, I suspect that some difficulties may arise; I do not know exactly where or we would take action now. Some of those difficulties may require us to revisit the legislation. In those circumstances, I want ministers to be able to respond quickly and efficiently to modify details of the bill in the light of experience. Primary legislation would not be appropriate, as we do not want to have to wait for an appropriate bill in which to include amendments—that could take years.

On the other hand, I recognise that any modification of the legislation must be subject to the approval of Parliament. This is why section 95 requires that any order to be made under section 8 will require the express approval of Parliament. I do not think that everyone recognised at stage 2 that constraint on the use of the powers. There is no suggestion that the bill might be amended without the approval of Parliament.

In addition, it is important that no order would be made without full consultation. It is normal Executive practice to consult widely on all proposed secondary legislation, but we have written that requirement into amendments 67 and 80. Where an order proposes an amendment of general application, the consultation will involve the main national organisations, in addition to individuals. Where an order is of local applicability, the consultation will also focus on local interests, including the local access forum.

Amendments 73, 93, 94 and 162 are consequential to amendments 67 and 80.

I will now consider amendments 67A, 67B, 67C, 80A and 80B. Amendment 67A seeks to limit the proposed power. It would limit the scope of any order to amendments to sections 9, 14 and 22. I have looked again at the matter and I accept that it is unlikely that any practical difficulties that arise from implementation of the new arrangements will require amendment of either section 2 or 3 as now drafted. I am therefore content to accept amendment 67A. *[Interruption.]* Roseanna Cunningham sounds surprised.

Amendments 67B and 80A would require that any order must not materially reduce the extent of access rights or increase landowners' obligations. Sections 6 and 7 set out in detail the land over which access rights are not exercisable. It is difficult to envisage any amendment of the provisions in those sections that would not materially affect the extent of access rights or landowners' obligations. The amendments would effectively rule out any potential order amending those sections. I consider the order-making powers essential to ensuring that the new arrangements work in practice. They should not be constrained in the way that is proposed.

Amendments 67C and 80B would require ministers to issue a public notice of any proposed order, provide reasons for making changes and invite views on the matter. I have explained that the proposed new section includes a requirement on ministers that was not in the bill at stage 2 to consult on any order. Providing the reasons for the order and inviting views are mandatory parts of any consultation and there is therefore no need to set that out in the bill in the way that the amendments suggest.

Amendments 181, 186 and 187 are relevant only if amendments 67 and 80 are not agreed. I hope that Parliament will agree that the powers to amend certain provisions in the bill by way of an order approved by Parliament will provide a useful means of responding quickly to any difficulties that arise on implementation of the new arrangements. If amendments 67 and 80 are agreed, amendments 181, 186 and 187 should be resisted. Therefore, I ask Stewart Stevenson and Roseanna Cunningham not to move the amendments in their names, with the obvious exception of amendment 67A, which I am happy to accept.

I move amendment 67.

15:45

The Presiding Officer: To add to the clarity, I point out that, because of pre-emption, if amendment 181 is agreed to, I cannot call

amendment 73; if amendment 186 is agreed to, I cannot call amendment 93; and if amendment 187 is agreed to I cannot call amendment 94.

I ask Stewart Stevenson to move amendment 67A to bring it into play, and I will then call the convener of the Subordinate Legislation Committee.

Amendment 67A moved—[Stewart Stevenson].

Ms Margo MacDonald (Lothians) (SNP): I speak as the convener of the Subordinate Legislation Committee, so my remarks do not apply to the policy implications of the Executive or Opposition amendments in the group.

I inform Parliament that amendments 67 and 80 would put back into the bill two broad powers that troubled the Subordinate Legislation Committee at stage 1. I heard what the minister said about consultation, but nit-pickers "r" us. We had the powers removed at stage 2 and we are concerned that they are to be replaced.

Amendment 67 will give ministers wide scope to modify access rights under section 2 and to modify landowners' obligations under section 3. Amendment 80 also relates to the bill's fundamental purposes. In effect, it will allow ministers to decide how much or how little land will be subject to access rights. The powers go to the heart of the bill. In fact, the Subordinate Legislation Committee's stage 1 report questioned whether such core provisions should be open to alteration by ministers, even by affirmative instrument.

The Subordinate Legislation Committee has had an understanding with the Executive that it will be told in advance about any substantial changes to subordinate legislation provisions at stage 3 of a bill. Indeed, a letter from the Executive in December told the committee that no new subordinate legislation powers were envisaged for the Land Reform (Scotland) Bill at stage 3. It is unfortunate that, in the past couple of days, we have found out that the substantial provisions that were removed are to be reinstated. I hope that the minister is as concerned and disappointed about that as the committee members are.

Stewart Stevenson: I thank the minister for accepting amendment 67A, although my colleagues are becoming deeply suspicious about the matter. We do not now feel the need to move amendments 67B or 67C, but we will press amendment 80A. Sections 6 and 7 define land that is excluded from access and we believe that the minister should not have the power to reduce materially the extent of access secured. We will not move amendment 80B.

Amendments 181, 186 and 187 are essentially technical and relate to the reintroduction of the

original section 11 before section 12, which we will discuss tomorrow in group 12. The reason why we deleted section 11 at stage 2 was largely because of the objections of the Convention of Scottish Local Authorities. I admit that it came as a slight surprise to receive support for the deletion of section 11, which is why consequential amendments were not dealt with at the time. I am minded not to move amendments 181, 186 and 187 because they are tidying-up amendments that assume that section 11 will remain deleted. I now assume that that section will return, although we will debate that in due course.

Donald Gorrie (Central Scotland) (LD): Given Margo MacDonald's line of reasoning, will the minister assure us that, if some less resolute and talented ministers are in charge of proceedings in the future, they will not be able to subvert a great deal of the bill through procedural methods, rather than through a new bill? What comfort can the minister give us that his good intentions will not be destroyed in the future?

Bill Aitken: Although I am happy to accept the minister's personal assurances, I have the same misgivings as Donald Gorrie has with regard to the future. It appears that the minister seeks a blank cheque from the Parliament. If there are to be substantive changes to legislation, the matter should come back before the Parliament. It is significant that the minister conceded that there might be a need to revisit part of the bill. That in itself is concerning. We are concerned with a profound democratic principle. We cannot go along with giving the minister—or any other minister, for that matter—the power to change legislation on a whim without the Parliament getting a full opportunity to examine it.

Allan Wilson: I reassure members that the reintroduction of the powers was intimated to the Rural Development Committee at stage 2. If there was any breach of protocol with the Subordinate Legislation Committee in the interim, I apologise on the Executive's behalf, as that was certainly not our intention.

We considered the matter carefully following stage 2. It was anticipated that it might take some time to assess how effectively the bill delivers the objective of improved access. The powers are therefore considered necessary as a last resort to enable ministers to respond swiftly and efficiently to modify sections 6 and 7—I accept Stewart Stevenson's intention not to move the relevant amendments.

Although the bill has been consulted on widely and a reasonable consensus exists on the principle of general access—perhaps with the exception of Conservative members—it is evident that some concerns remain about the bill. We envisage that, if in future some minister less

amenable than I were to stand in my place, primary legislation would be needed to repeal the bill's principles. I assure the Parliament that the powers would not be used other than sparingly, on the very odd occasion and in the light of experience.

Amendment 67A agreed to.

Amendments 67B and 67C not moved.

The Presiding Officer: The question is, that amendment 67, as amended, be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adam, Brian (North-East Scotland) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 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)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 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) (Grn)
 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)
 McAllion, Mr John (Dundee East) (Lab)
 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)
 McLeish, Henry (Central Fife) (Lab)
 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)
 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)
 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)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Reid, Mr George (Mid Scotland and Fife) (SNP)
 Robison, Shona (North-East Scotland) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Russell, Michael (South of Scotland) (SNP)
 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, Mrs Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Thomson, Elaine (Aberdeen North) (Lab)
 Ullrich, Kay (West of Scotland) (SNP)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)
 Wilson, Andrew (Central Scotland) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Davidson, Mr David (North-East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (South of Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Johnstone, Alex (North-East Scotland) (Con)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McIntosh, Mrs Lyndsay (Central Scotland) (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)
 Young, John (West of Scotland) (Con)

ABSTENTIONS

MacDonald, Ms Margo (Lothians) (SNP)

The Presiding Officer: The result of the division is: For 104, Against 17, Abstentions 1.

Amendment 67, as amended, agreed to.

Section 6—Land over which access rights not exercisable

The Presiding Officer: Amendment 68 is grouped with amendments 180, 179, 182 and 183.

Ross Finnie: The bill as introduced excluded from access rights land on which there is a structure. We argued at stage 2 that that was both reasonable and necessary. I do not believe that access rights should extend to such things as telecommunications masts, mobile phone masts, canal locks and the like. Nevertheless, that provision was removed from the bill at stage 2. At that time, we indicated that we would have to return to the issue at stage 3.

We have given careful consideration as to whether it would be realistic to attempt to list in the bill all the types of structure to be excluded from access rights. Our conclusion is that that would not be a sensible approach. The list would be long, and it is unlikely that we would catch everything that should be caught, not only now but in future.

I reconsidered the arguments for removing from the bill the exclusion of land on which there is a structure, and I am not persuaded. The bill already provides that access is not excluded to bridges, tunnels, causeways, fences or walls. I consider that to be the correct approach. To tackle the issue the other way round and include under access rights all structures other than those specified is the wrong approach. It is for that reason that I lodged amendment 68.

Amendment 180 would bring under access rights compounds or other enclosures around a structure. It is important that where, for example, a fence is erected round a telecommunications mast, for reasons of security, the land within that fence is excluded from access rights. Otherwise, the fence would serve no useful purpose. That would be a nonsense, and I hope that Stewart Stevenson will not move that amendment.

Amendment 179 would remove from the bill the provision that clarifies that bridges, tunnels and so on are not to be regarded as structures, and that access rights can therefore be exercised over them. It is clearly important that access rights can be exercised over bridges, through tunnels and so on. However, I accept that there could be a case for extending that list. Amendments 182 and 183

seek to do that by providing that access rights can be exercised on launching sites, groynes, weirs, boulder weirs, embankments of canalised waterways and on anything that is designed to facilitate passage. In other words, amendments 182 and 183 will expand the section that amendment 180 seeks to delete. Amendments 182 and 183 are consistent with the approach that I have outlined. I accept that the structures listed in them could be included under access rights. I am therefore content to accept Roseanna Cunningham's amendments 182 and 183.

I move amendment 68.

The Presiding Officer: I point out that, if amendment 179 is agreed to, I will not be able to call amendments 182 or 183.

Roseanna Cunningham: It is always charming when a minister accepts one's amendments—but it always throws one right out with regard to what one was about to say. Nevertheless, I am happy—

Ross Finnie: Roseanna Cunningham should turn her fire on Stewart Stevenson.

Roseanna Cunningham: In fairness to my colleague, he was the one who lodged an amendment to remove the word "structure" at stage 2. He has sought at this stage to remove other redundant instances of that word, in keeping with his stage 2 amendment—although the purpose was slightly different then.

As amendments 182 and 183 have been accepted by the minister, I think that I can save the chamber's time by coming to a close after that brief explanation of the situation in which Stewart Stevenson found himself.

Bill Aitken: Having heard that explanation, I am prepared to go along with it. I was looking forward, however, to an explanation from Ms Cunningham as to the definition of "groyne", which I understand in fact relates to a device or structure to prevent soil erosion. I do not think that many people knew that.

Amendment 68 agreed to.

Amendment 180 not moved.

16:00

The Presiding Officer: Amendment 40 is grouped with amendment 184.

Bill Aitken: Amendment 40 is straightforward. We are seeking—helpfully, we hope—to insert a provision into the act that will be in the public interest and will improve protection of children.

Unfortunately, facilities such as playgrounds that are provided for children occasionally attract people with a more sinister purpose. Amendment 40 seeks to protect children by denying the public

access to an area that is being used predominantly by children for recreational pursuits. That protection is not available elsewhere in the bill. The amendment is practical, notwithstanding the explanation that the Deputy Minister for Environment and Rural Development gave in committee at stage 2. I look forward with interest to hearing the minister's views.

I move amendment 40.

Roseanna Cunningham: Amendment 184 is a probing amendment. We are seeking to establish the Executive's true position in respect of tracks that run through farmyards. Many tracks—especially tracks up hills—start in farmyards. Under the bill as it stands, those tracks would be excluded from the right of access.

In response to an amendment in the name of Scott Barrie that sought to deal with this issue at stage 2, Allan Wilson stated that he wanted to nail down access to tracks that run through farmyards and that he was willing to discuss the matter further. However, the Executive has not lodged an amendment to deal with the problem.

Amendment 184 seeks to protect the existing right of access under common law, which we discussed separately, from change as a result of the establishment of statutory rights of access.

Farmyards provide very good routes—often the only route—into the countryside behind the curtilage. Members who are walkers know that to be the case. There is concern that continued access along such routes will be restricted in future if access rights do not apply to them. In its report, the Justice 2 Committee noted:

"there are many places where access to open land can only be gained through farmyards. This is particularly so in relation to access on horseback or bicycle. However, farmyards will fall within the definition of curtilage in section 6 and so not be included within access rights."

The committee indicated that the issue needed to be addressed.

Amendment 184 is a probing amendment. We are seeking assurances from the minister that the public should expect to be able to continue to take access through farmyards, as they do at present, rather than just on rights of way. Limiting access to rights of way would restrict hugely the access that is currently available in Scotland.

Scott Barrie: Amendment 40 must be opposed. It has been drawn so widely that any open space could be construed to fall within its scope. If the amendment is agreed to, the public will not be able to access such spaces.

Roseanna Cunningham has already alluded to the fact that at stage 2 I tried to explore the issue to which amendment 184 relates. We have found it incredibly difficult to reach a resolution of that

issue. I am sure that in summing up the minister will agree with me.

Roseanna Cunningham highlighted the key points in this area. She was right to say that many routes for accessing hills start in farmyards. We must be assured that such access will not be restricted. The bill has always been about ensuring that the people of Scotland have nothing less in future than they have at the moment.

Roseanna Cunningham's points were well made in relation to the Justice 2 Committee's position in its stage 1 report and through its stage 2 consideration, during which amendments on the matter were contended and sometimes agreed to. I hope that the minister will be able to reiterate that after the passage of the bill, the people of Scotland will end up with nothing less than they have at the moment.

George Lyon: I thank Roseanna Cunningham for raising the question of access through farmyards, because I believe that it is crucial and that it raises two important issues. One of those is health and safety, because a farmyard is an area in which machinery is operating and where there might be slurry pits or slatted passages. I do not think that it is appropriate that access rights should apply to farmyards. We also have to consider the privacy of the farmer and his family.

Pauline McNeill: The Justice 2 Committee's position is not that there should be a general right of access through farmyards because, as George Lyon says correctly, there is a health and safety issue. Where there is no alternative route, we wanted the Executive to legislate to ensure that a route is provided; we did not want to create access to farmyards. That is the point that Roseanna Cunningham raised and I ask that it be addressed.

George Lyon: I was going to come on to that.

The issue is how access is gained through a farmyard. Access rights would allow people to walk round the farmyard to take access through the fields on either side. It would give people absolute access to any other way of getting round the farmyard. I do not think that it is necessary for access rights to apply to farmyards.

I would like the minister to comment on the Executive definition of curtilage, which I asked him about at question time last week. There has been much discussion of that in the press and a number of concerned people have asked me about the definition, how it applies to hotels and whether it applies to the ground surrounding hotels. I would like to hear from the minister what the Executive's position is and what the definition of curtilage is.

The Presiding Officer: I think that a later amendment deals with that, if I remember rightly. Does Lord James Douglas-Hamilton wish to speak?

Lord James Douglas-Hamilton (Lothians) (Con): No, certainly not.

The Presiding Officer: Your name appeared on my screen.

Does John Home Robertson wish to speak?

Mr John Home Robertson (East Lothian) (Lab): No.

The Presiding Officer: Wonderful. I call Allan Wilson to reply.

Allan Wilson: The bill provides for rights of responsible access to land for recreational purposes. I say to Bill Aitken that far from being helpful, amendment 40 would exclude all land used primarily by children for recreational purposes. The exclusion of the public from exercising access rights on land that adjoins a school and is used by the school, which the bill already provides for, is sufficient for the purposes that he outlines. We do not see the need to exclude all land used by children for recreational purposes. That could have the effect of excluding the public from exercising access rights from local parks, for example. I am sure that Bill Aitken would agree that far from being helpful, the proposition would be ludicrous. I therefore ask Bill Aitken to withdraw amendment 40.

Roseanna Cunningham and colleagues looked for assurances and she said helpfully that amendment 184 was a probing amendment. The amendment would provide that any existing right of access through farmyards is not deemed to relate to excluded land. I give the assurance that section 5(3) of the bill already provides that

"the existence or exercise of access rights does not diminish or displace any other rights ... of entry, way, passage or access."

I recognise, however, that there are concerns about access through farmyards, which George Lyon, among others, expressed. As Scott Barrie said, we have given this careful thought but, as I said at stage 2, farmers should obviously enjoy rights to privacy.

Stewart Stevenson: Is the minister confirming that access through farmyards is available currently?

Allan Wilson: Where access through farmyards already exists, nothing in the bill will diminish or extinguish such a right of access. I have quoted section 5(3), the terms of which are self-explanatory.

However, I should add that the appropriate approach to ensuring that farmers have rights to privacy and that those who wish to take appropriate access have the right to do so is to provide guidance in the code. I accept that, in circumstances in which a farmer is unwilling to

allow access through a steading on the grounds of privacy or health and safety, there should be a requirement to identify and mark an alternative route. That is a matter for the code. Amendment 90, which seeks to amend section 10, will widen the scope of the code to allow for that.

I have indicated that section 5(3) already provides that the

“existence or exercise of access rights does not diminish or displace any other rights”

and that amendment 90 will make specific provision for widening the scope of the code to cover alternative routing round the steading. I hope that those two assurances will mean that Roseanna Cunningham will not move amendment 184, as it will not be necessary.

Amendment 40, by agreement, withdrawn.

The Presiding Officer: Amendment 69 is grouped with amendments 70, 72, 75 and 76.

Ross Finnie: Section 6(1)(f) will exclude from access rights sports pitches and other land that has been developed or set out for recreational purposes, when such land is being used for those purposes. Amendments 69, 72 and 75 seek to restructure and expand that provision.

Amendment 75 sets down the main provisions. Its effect will be to exclude from access rights sports pitches and other areas that have been developed or set out for a particular recreational use, when they are in use. In such circumstances, the exercise of access rights would interfere with their use. Paragraph (b) of the subsection that amendment 75 would insert seeks to exclude golf greens, bowling greens and so on. It simply picks up the provisions that are set out in section 6(1)(f). It would also exclude at all times the synthetic sports surfaces that are set out in paragraph (c) that would be inserted by amendment 75. That is necessary because sportscotland has advised us that such surfaces might be damaged by people wearing inappropriate footwear. Amendments 69, 72 and 76 are consequential on amendment 75. The proposed provisions are sensible and I hope that members will agree to the amendments.

Amendment 70 would extend the provision to exclude not only land that had been developed or set out for a particular recreational purpose while it was in use for that purpose, but land that had been developed or set out for a particular commercial purpose while it was in use for that purpose. That exclusion is potentially very wide and I see no need for it. The responsible exercise of access rights would not interfere with the sort of commercial activities that are envisaged by amendment 70. The matter could be better addressed through the code rather than in the bill. Therefore, I invite Bill Aitken not to move amendment 70.

I move amendment 69.

Bill Aitken: The Executive amendments in the group are acceptable. The idea behind amendment 70 is to apply the restrictions to access where the recreational facility concerned is also a commercial facility.

It seems that the wording of section 6 could allow access through a professional football ground or a rugby stadium, for example. If the minister can demonstrate satisfactorily where else in the bill that issue is dealt with, I will listen carefully. If he cannot do so, I will have to press amendment 70.

As I have said, it is clear that the vast majority of people behave responsibly and take access in an eminently sensible manner. However, there are always those for whom we must legislate. Against that background, I shall wait and see what the minister has to say before I decide what action I will take.

16:15

The Presiding Officer: Three members want to speak to the amendments in the group. We are running a little tight for time.

Maureen Macmillan (Highlands and Islands) (Lab): I seek clarification from the minister on paragraph (a) that would be inserted by amendment 75, and which would prevent access rights if

“the exercise of those rights would interfere with the recreational use to which the land is being put”.

Highland Council is concerned that amendment 75 might create a loophole that would allow a grouse-moor owner, or possibly a deer-forest owner, to argue that the use of the land also includes management operations such as heather burning. Such owners could claim that the exercise of access rights at such times would interfere with the management of the land. That would mean that landowners could exclude walkers for long periods.

Will the minister assure me that amendment 75 will in no way enable sporting estates to extend the legitimate exclusion that is enforced when shooting is taking place? Will he assure me that the amendment will not allow such estates to prevent access by walkers at other times of the year?

Alasdair Morgan (Galloway and Upper Nithsdale) (SNP): I seek the same kind of clarification that Maureen Macmillan asked for. Amendment 75 is reasonable and would improve the bill's drafting considerably, but I ask for an assurance that, in relation to land such as golf fairways and grouse moors, a commonsense meaning will be applied to the word “interfere”.

Amendment 70, which I think is identical to an amendment that Murdo Fraser lodged at stage 2, is just the usual nonsense from the Conservative party. As the minister has said, the right of access to land is a right of responsible access. The bill does not provide a right to interfere with commercial activity. Were amendment 70 agreed to, it would open up the possibility that many people would unreasonably restrict access to land by claiming that the land was used for some commercial activity.

Dr Sylvia Jackson (Stirling) (Lab): Having been approached by constituents of mine from Balquhiddy, I ask for clarification of the interpretation of “recreational purpose” in section 6(1)(f)(ii), which would be amended by amendment 72. My constituents have purchased cottages, which they have advertised for rent as being quiet and secluded. Would those cottages be afforded suitable privacy, given that they have been advertised as being private? What would be the effect of the amendments in that case?

The Presiding Officer: I call on the minister to wind up.

Ross Finnie: In response to Bill Aitken’s first point, section 6(1)(f) excludes sports grounds. No matter how one defines that, those are already included in the bill as being excluded from the general right of access.

On the question of grouse moors, I assure members that amendment 75 clarifies that section 6(1)(f) talks about access rights not being exercisable over land that has been “developed or set out” for recreational purposes. We are quite satisfied that grouse moors do not fall within the category of being “developed or set out” for recreational purposes. A grouse moor is, as Alasdair Morgan said, a grouse moor, so it would not be excluded from access rights by the provisions of amendment 75.

Mr John Swinney (North Tayside) (SNP): “A grouse moor is a grouse moor.” That is helpful.

Ross Finnie: I am glad to have Mr Swinney’s support on that. I think that that deals with the points that were made by Maureen Macmillan and Bill Aitken. *[Interruption.]*

I apologise for almost forgetting Sylvia Jackson’s point. The right to privacy has been addressed and the cottages that she mentioned would therefore fall within the provisions that give guidance on that right. I cannot give guarantees about what is advertised at any time, but there still exists a right to privacy.

The Presiding Officer: I think that a later amendment will deal with that issue.

Amendment 69 agreed to.

Amendment 70 moved—[Bill Aitken].

The Presiding Officer: The question is, that amendment 70 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
Davidson, Mr David (North-East Scotland) (Con)
Douglas-Hamilton, Lord James (Lothians) (Con)
Fergusson, Alex (South of Scotland) (Con)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Gallie, Phil (South of Scotland) (Con)
Goldie, Miss Annabel (West of Scotland) (Con)
Harding, Mr Keith (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)
Mundell, David (South of Scotland) (Con)
Scanlon, Mary (Highlands and Islands) (Con)
Scott, John (Ayr) (Con)
Tosh, Mr Murray (South of Scotland) (Con)
Young, John (West of Scotland) (Con)

AGAINST

Adam, Brian (North-East Scotland) (SNP)
Alexander, Ms Wendy (Paisley North) (Lab)
Barrie, Scott (Dunfermline West) (Lab)
Boyack, Sarah (Edinburgh Central) (Lab)
Brankin, Rhona (Midlothian) (Lab)
Brown, Robert (Glasgow) (LD)
Butler, Bill (Glasgow Anniesland) (Lab)
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)
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
Ewing, Mrs Margaret (Moray) (SNP)
Fabiani, Linda (Central Scotland) (SNP)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
Finnie, Ross (West of Scotland) (LD)
Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
Gibson, Mr Kenneth (Glasgow) (SNP)
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) (Grn)
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)
 MacDonald, Ms Margo (Lothians) (SNP)
 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)
 McAllion, Mr John (Dundee East) (Lab)
 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)
 McLeish, Henry (Central Fife) (Lab)
 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)
 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)
 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)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Reid, Mr George (Mid Scotland and Fife) (SNP)
 Robison, Shona (North-East Scotland) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Russell, Michael (South of Scotland) (SNP)
 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, Mrs Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Thomson, Elaine (Aberdeen North) (Lab)
 Ullrich, Kay (West of Scotland) (SNP)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Welsh, Mr Andrew (Angus) (SNP)
 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 17, Against 106, Abstentions 0.

Amendment 70 disagreed to.

Amendment 72 moved—[Ross Finnie]—and agreed to.

The Presiding Officer: Amendment 168, in the name of Rhona Brankin, is grouped with amendments 169 and 77.

Rhona Brankin (Midlothian) (Lab): I will speak to amendments 168 and 169. The amendments are designed to ensure that no one—walker, cyclist or horse rider—is charged for access.

I understand that section 6(1)(g)(i) and 6(1)(g)(ii) were inserted in the bill to allow businesses such as safari parks to continue to charge for access but, unfortunately, those sections will allow certain landowners to charge horse riders for access, although they will not be able to charge cyclists or walkers. I believe very strongly that those provisions will effectively exclude a significant number of horse riders from the right of access.

I have two examples. The Duke of Buccleuch's Dalkeith country park in my constituency of Midlothian currently charges for access, as does Eglinton country park. I firmly believe that it is discriminatory to charge horse riders for access when walkers and cyclists are not charged. To do so will also displace horse riders onto the roads, with the risks that that involves.

Will the minister confirm whether the Forestry Commission is ceasing to charge horse riders for access? Will he say whether he believes that charging horse riders for access is within the spirit of the bill? I believe that it is not.

I move amendment 168.

Allan Wilson: Section 6(1)(g) excludes from access rights any land to which a member of the public has been "admitted only on payment" for the periods specified. Having reconsidered the provision after stage 2 we decided that, as drafted, the effect would be to exclude land even where only one class of user—for example horse riders—has been charged for entry. That is not our intention. Amendment 77 therefore seeks to amend the provision in such a way that a charge for entry on one class of user will not cause that land to be excluded from the exercise of access rights by other classes of user.

The Presiding Officer: Order. There is again a wee bit too much noise in the chamber. It is quite difficult to concentrate.

Allan Wilson: Amendments 168 and 169 would have the opposite effect to amendment 77. Their intention is to ensure that where only one class of user has been charged for entry in the past, the land should in future be open to the exercise of access rights by any class of user. That would run contrary to the principle and purpose of section 6(1)(g), which is that where income has been derived in the past from charging for entry, that should continue. It would be wrong to take away from an owner such a source of income and it could result in claims for compensation.

The same argument applies where the charge has been levied on only one class of user. I have sympathy with Rhona Brankin's point, but in the few cases in which the provision will apply, although it would be wrong to deprive an owner of a historical source of income, it would be within the spirit of the bill for owners to consider seriously their charging practices and policies. Forest Enterprise and the Forestry Commission have withdrawn charges for horse users who exercise on their property. I urge that course of action on others.

I ask Rhona Brankin to withdraw amendment 168 and to not move amendment 169 in favour of Executive amendment 77.

Rhona Brankin: In view of what the minister said, and given the fact that I hope that we will continue to monitor the matter closely, I am prepared to withdraw amendment 168.

Amendment 168, by agreement, withdrawn.

Amendment 169 not moved.

The Presiding Officer: Amendment 41 is grouped with amendments 185, 78 and 79. The debate on the group has to end at 16:37. We have about 10 minutes.

Bill Aitken: We are seeking to apply appropriate restrictions that will prevent those who seek access to land from interfering with the operation of a commercial farm. The wording that we have used is "enclosed farmland". By definition, that would not include fields, paths and places to which people would normally expect to have reasonable access. Enclosure of such land would have a dual purpose: it would protect the business of the individual farmer, and it would protect the health and safety of those seeking access. The countryside can be a lovely place but, equally, it can be a dangerous place. Sometimes it is ill advised, to say the least, to go onto enclosed farmland on which there are farm animals. Unfortunately, there have been many instances in which serious injury and death have resulted from members of the public mixing with farm animals. We seek to prevent that.

There is nothing in amendment 41 that would impinge on the rights of those who seek sensible access to farmland. The word that has to be stressed is "enclosed", which refers to places where there are fences of a type that is used to restrict animals from straying. Those animals would be potentially dangerous to people who walk nearby.

I move amendment 41.

Rhona Brankin: Amendment 185 seeks to remove plantations of young trees from the list of growing crops over which access rights are not exercisable. I am pressing amendment 185 in

response to the concerns of community forestry groups that plant and manage forests in different parts of Scotland and which, far from wanting to keep people away from young trees, want to encourage people in the community, especially children, to be involved in the management and development of community forests.

Ross Finnie: It should be clear that the bill provides for responsible access to all land. That reflects Scottish Natural Heritage's advice in 1998 to the then Scottish Office that a statutory right of access to all land—open and enclosed—should be established. Amendment 41 would restrict access to large areas of the countryside in Scotland, which is not the intention of the bill. We wish to encourage more people to enjoy the countryside; the bill will, I hope, give them the confidence to do that. There is no reason why responsible access to agricultural land should create problems. Not everyone wants to bag Munros or Corbetts; many people want simply to enjoy the countryside around where they live. The bill will give them confidence that they can do so without fear of challenge.

Let me also say that I see the bill as an opportunity for farmers. We hear a great deal about the lack of public sympathy for farmers, but children and others want to know more about agriculture and agricultural habits and the way to teach them about it is to help the public into that field. I therefore urge Bill Aitken to seek to withdraw amendment 41.

16:30

We are happy to accept Rhona Brankin's amendment 185, which would delete section 7(7)(a) from the bill, which would mean that the bill would treat young saplings as a crop.

During stage 2, I listened to the arguments about the exercise of access rights over grass that was being grown for hay or silage. We accepted that there was not a problem with access during initial growth and that the crucial time was shortly before grass is cut. Amendment 78 deals with that issue and will provide that access rights can be exercised over grass that is grown for hay or silage, except when the grass

"is at such a late stage of growth that it is likely to be damaged".

Guidance on that will be included in the Scottish outdoor access code.

Amendment 79 also follows from stage 2 discussion and makes it clear that access rights can be exercised on all field margins, whether or not they are sown with crops, subject to the exercise of that right being responsible.

Alasdair Morgan: Amendment 41 refers to “enclosed farmland” and is similar to an amendment that was defeated at stage 2. It would exclude from the bill large areas of Scotland—certainly, of Dumfries and Galloway. In effect, it would drive a coach and horses through the bill. I hear my friend Stewart Stevenson saying that it would stop a coach. Amendment 41 would prevent many members of the public from walking anywhere near their houses, so we should reject it.

Amendment 185 is a good example of people getting together and agreeing on restrictions that can be removed from the bill, so we welcome it.

Amendment 78 deals with silage. It is unfortunate that such an amendment is needed because the bill is too detailed and does not leave enough for the access code. However, given the condition of the bill, we will support the amendment.

Amendment 79 deals with access to margins such as headrigs and endrigs. Current farming practice is to plant fields up to their edges, which means that the only way in which to obtain legitimate access under the bill would be to walk on crops that are growing in the margins. At stage 2, ministers assured members that people would continue to have the right to access margins. We welcome that and hope that it will encourage farmers to leave margins round crops. Apart from their being usable for access, such margins would be useful for environmental purposes.

Pauline McNeill: I strongly support what Ross Finnie has said so far. The Executive has moved considerably in response to members’ concerns about the provisions in the bill.

I am strongly against Bill Aitken’s amendment 41. At stage 2, I attempted to remove section 6(1)(j), for the reasons that Alasdair Morgan outlined. The inclusion of crops that

“have been sown or are growing”

might mean that people could not walk on the margins of a field. That has now been clarified and the Justice 2 Committee decided, on balance, to keep that provision. If Bill Aitken’s amendment 41 were agreed to, the bill would refer to “enclosed farmland”, which would mean that huge areas of Scotland were not open to access under the bill.

A crucial debate was held with ministers about responsible access to fields in which crops are growing. I emphasise the word “responsible”, because responsibility is the crux of the matter. There is no reason why someone who takes access cannot walk through crops in a field, provided that they do so responsibly and do not damage those crops. Several concessions were made in that stage 2 debate on matters such as

tramlines and field margins. Ministers even accepted that, provided that it was done responsibly, access could be taken between some crops, when it was clear that they would not be damaged.

I am pleased that the Executive accepts Rhona Brankin’s amendment 185. The same debate took place at stage 2. On balance, the committee felt that the provision to which amendment 185 relates should remain in the bill, but there is no reason why responsible access cannot be taken in areas where young trees are growing. The amendment is a positive step in the right direction.

It is important to ascertain what is in ministers’ minds. The Justice 2 Committee did that and put that on the record at stage 2. If they take that into consideration, no good landowner, land manager or farmer should fear the bill.

The right to roam the countryside responsibly has to be a wide right or there is no point in having it. If we are going to restrict access to the extent that Bill Aitken proposes, we might as well rely on the confusion that exists on the issue. This aspect of the bill is important and I welcome the action that the Executive has taken.

The Presiding Officer: I ask Bill Aitken whether he will press or withdraw amendment 41.

Bill Aitken: I will press the amendment.

The Presiding Officer: The question is, that amendment 41 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
Davidson, Mr David (North-East Scotland) (Con)
Douglas-Hamilton, Lord James (Lothians) (Con)
Fergusson, Alex (South of Scotland) (Con)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Gallie, Phil (South of Scotland) (Con)
Goldie, Miss Annabel (West of Scotland) (Con)
Harding, Mr Keith (Mid Scotland and Fife) (Con)
Johnstone, Alex (North-East Scotland) (Con)
McGrigor, Mr Jamie (Highlands and Islands) (Con)
McIntosh, Mrs Lyndsay (Central Scotland) (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)
Young, John (West of Scotland) (Con)

AGAINST

Adam, Brian (North-East Scotland) (SNP)
Alexander, Ms Wendy (Paisley North) (Lab)
Barrie, Scott (Dunfermline West) (Lab)
Boyack, Sarah (Edinburgh Central) (Lab)
Brankin, Rhona (Midlothian) (Lab)
Brown, Robert (Glasgow) (LD)
Butler, Bill (Glasgow Anniesland) (Lab)
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)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 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) (Grn)
 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)
 MacDonald, Ms Margo (Lothians) (SNP)
 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)
 McAllion, Mr John (Dundee East) (Lab)
 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)
 McLeish, Henry (Central Fife) (Lab)
 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)
 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)
 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)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)

Reid, Mr George (Mid Scotland and Fife) (SNP)
 Robison, Shona (North-East Scotland) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Russell, Michael (South of Scotland) (SNP)
 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, Mrs Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Thomson, Elaine (Aberdeen North) (Lab)
 Ullrich, Kay (West of Scotland) (SNP)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Welsh, Mr Andrew (Angus) (SNP)
 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 17, Against 105, Abstentions 0.

Amendment 41 disagreed to.

Amendment 181 not moved.

Amendment 73 moved—[Ross Finnie]—and agreed to.

Amendment 179 not moved.

Amendment 182 moved—[Roseanna Cunningham].

The Presiding Officer: The question is, that amendment 182 is agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 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)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (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) (Grn)
 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)
 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)
 MacDonald, Ms Margo (Lothians) (SNP)
 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)
 McAllion, Mr John (Dundee East) (Lab)
 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)
 McLeish, Henry (Central Fife) (Lab)
 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)
 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)
 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)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Reid, Mr George (Mid Scotland and Fife) (SNP)
 Robison, Shona (North-East Scotland) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Russell, Michael (South of Scotland) (SNP)
 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, Mrs Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)

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

AGAINST

Aitken, Bill (Glasgow) (Con)
 Davidson, Mr David (North-East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Fergusson, Alex (South of Scotland) (Con)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Harding, Mr Keith (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)
 Young, John (West of Scotland) (Con)

The Presiding Officer: The result of the division is: For 103, Against 18, Abstentions 0.

Amendment 182 agreed to.

Amendment 183 moved—[Roseanna Cunningham]—and agreed to.

Section 7—Provisions supplementing and qualifying section 6

The Presiding Officer: Amendment 74 is grouped with amendments 99, 100, 102, 105, 106 and 128. I remind the chamber that timing is very tight on this grouping.

Allan Wilson: I will be as brief as I can, but there are a number of Executive amendments in the grouping, which arise as a result of the stage 2 consideration of the bill and subsequent discussions with the Convention of Scottish Local Authorities.

Amendment 74 makes it clear that access rights can be exercised on all core paths regardless of whether they cross excluded land. That is an important clarification. The amendment will ensure that, for example, cyclists and horse riders can use a pedestrian right of way over excluded land where that right of way is a core path. Amendment 105, which removes section 19, is consequential on amendment 74.

We have always made it clear that a system of core paths throughout Scotland is an essential element in the new arrangements for access introduced by the bill. Most people prefer to walk on paths and a well-marked system of routes will

encourage more people into the countryside. Equally important is the fact that the provision of paths will assist in the management of access, particularly over agricultural land.

The challenge in drawing up the provisions relating to core paths has been to balance the public's rights of responsible access to all land with appropriate powers for local authorities in respect of creating identified routes over someone's land.

Many useful points were made at stage 2, when we undertook to reconsider various provisions in the bill. We have had discussions with COSLA, which provided useful input. The amendments that we have lodged will provide a means of readily establishing a system of core paths that both meets the aspirations of those exercising access rights and respects the rights of landowners.

One concern raised at stage 2 was that the current wording of section 17(2) implies that the system of core paths must include every path that falls under paragraphs (a) to (c), so that, for example, every right of way would become a core path irrespective of its current level of use. Amendment 99 seeks to address that concern by clarifying that the system of core paths that section 17 refers to "may include" any routes or paths set down in that section, but not necessarily all such paths.

COSLA has particular concerns that section 17(2) requires that all core paths that are not rights of way, as in paragraph (a), or paths created under statute, as in paragraph (b), must be delineated under section 20 or section 21. COSLA has quite rightly argued that that is unnecessarily bureaucratic. For example, a local authority might decide that an existing farm track should be a core path. If so, the public will be able to exercise access rights along that track in so far as it does not cross excluded land. Given that, and given the consultation process that is required before adoption of a core paths plan, I am satisfied that further legal process such as that under sections 20 and 21 is not required.

Amendment 100 will introduce into section 17(2) a fourth class of core path, which can simply be any

"routes, waterways or other means by which persons may cross land."

That is an important change. As a result, everything identified on a core paths plan would form part of the system of core paths immediately on the adoption of the plan by the local authority—the farm track to which I referred would be a core path as soon as the core paths plan was adopted.

In addition, amendment 100 will make it clear that a core path might not be a physical path on

the ground, but simply a route between two points. Those routes would be indicated on maps—we have already discussed amendments that would allow local authorities to signpost and waymark such routes and erect gates or stiles to facilitate their use. Only where a local authority considered it necessary to construct a path or cycle track would it have to invoke the provisions in section 20 or section 21. Again in response to concerns raised at stage 2, amendment 100 would make it clear that the system of core paths may include waterways.

I am not clear that section 18(9) regarding "the extent of public rights in each of the core paths"

is necessary. At stage 2, the Justice 2 Committee was concerned that the provision could restrict access rights. That would not be the case; the provision was intended only to provide information to the public. However, it is not essential and amendment 102 seeks to remove it from the bill in accordance with the committee's concerns.

On amendment 106, section 20(3) currently provides that

"A path agreement shall contain sufficient description of the land to which it relates to enable it to be recorded in the Register of Sasines or entered in the Land Register of Scotland as appropriate."

Section 20(4) provides that every path agreement that the local authority enters into must be recorded. On reflection, we do not consider that subsections (3) and (4) are necessary, given that the core paths plan and the list of core paths will be available to the public. As a result, there will be little doubt about the location of the paths. Any conveyancing solicitor would be expected to include the list of core paths in the routine searches.

Amendment 128 defines the term "core path" used in part 1 of the bill and clarifies that it

"means a path, waterway or any other means of crossing land such as is mentioned"

in sections 17 and 18.

I move amendment 74.

16:45

The Presiding Officer: Three members want to speak. Again, we are very short of time.

Stewart Stevenson: I thank the minister for responding to many of the concerns that I expressed at stage 2. I particularly thank him for including water in the definition of core paths. As he and I discussed at stage 2, we might truly walk on water. We will support the amendments.

Mr Home Robertson: I declare my interest as a partner in a family farming business.

The bill needs to recognise that access rights for pedestrians are not always compatible with equestrian use of footpaths. That depends on the soil type and drainage. The regular use by horses of footpaths on soft land can quickly make those paths impassable. That point must be addressed and I hope that the Executive will give priority to the rights of pedestrians.

Bill Aitken: We have long thought that the way forward for responsible access is a good and well-maintained network of core paths. Such core paths should be placed through areas on a reasonable basis and they should be subject to maintenance, thus making them safe for members of the public to use. The advantage of a core path system is that it will inevitably lessen the possibility of conflict. Therefore, we are keen to encourage such a system.

We note that, in amendment 99, the Executive proposes to lessen the duties on local authorities to provide and maintain core paths. We would have difficulty in supporting that. The remaining amendments are reasonably sensible.

Allan Wilson: Amendment 99 recognises that not every right of way need become a core path, especially where that right of way has fallen into disuse over many years. That is in line with the flexibility that we are prepared to give local authorities to designate routes in their core path networks. That flexibility also extends to the point raised by my colleague John Home Robertson about the appropriateness of the use of paths by access takers—it is important to recognise that not every path is as appropriate for horses as it might be for cyclists or pedestrians.

The creation of the fourth class of designated route is important to ensure that adequate provision is made in the core path network for all access takers, including those who are disabled, to exercise their rights of responsible access.

Amendment 74 agreed to.

Amendment 184 moved—[Roseanna Cunningham].

The Presiding Officer: The question is, that amendment 184 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
Campbell, Colin (West of Scotland) (SNP)
Canavan, Dennis (Falkirk West)
Crawford, Bruce (Mid Scotland and Fife) (SNP)
Cunningham, Roseanna (Perth) (SNP)
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
Ewing, Mrs Margaret (Moray) (SNP)
Fabiani, Linda (Central Scotland) (SNP)
Gibson, Mr Kenneth (Glasgow) (SNP)

Grahame, Christine (South of Scotland) (SNP)
Hamilton, Mr Duncan (Highlands and Islands) (SNP)
Harper, Robin (Lothians) (Grn)
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)
McGugan, Irene (North-East Scotland) (SNP)
McLeod, Fiona (West of 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)
Reid, Mr George (Mid Scotland and Fife) (SNP)
Robison, Shona (North-East Scotland) (SNP)
Russell, Michael (South of Scotland) (SNP)
Sheridan, Tommy (Glasgow) (SSP)
Stevenson, Stewart (Banff and Buchan) (SNP)
Sturgeon, Nicola (Glasgow) (SNP)
Swinney, Mr John (North Tayside) (SNP)
Ullrich, Kay (West of Scotland) (SNP)
Welsh, Mr Andrew (Angus) (SNP)
White, Ms Sandra (Glasgow) (SNP)
Wilson, Andrew (Central Scotland) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
Alexander, Ms Wendy (Paisley North) (Lab)
Barrie, Scott (Dunfermline West) (Lab)
Boyack, Sarah (Edinburgh Central) (Lab)
Brankin, Rhona (Midlothian) (Lab)
Brown, Robert (Glasgow) (LD)
Butler, Bill (Glasgow Anniesland) (Lab)
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Curran, Ms Margaret (Glasgow Baillieston) (Lab)
Davidson, Mr David (North-East Scotland) (Con)
Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
Douglas-Hamilton, Lord James (Lothians) (Con)
Eadie, Helen (Dunfermline East) (Lab)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
Fergusson, Alex (South of Scotland) (Con)
Finnie, Ross (West of Scotland) (LD)
Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
Fraser, Murdo (Mid Scotland and Fife) (Con)
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)
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)
 McAllion, Mr John (Dundee East) (Lab)
 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)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 McLeish, Henry (Central Fife) (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)
 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, John Farquhar (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)
 Raffan, Mr Keith (Mid Scotland and Fife) (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, Mrs 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)

The Presiding Officer: The result of the division is: For 36, Against 89, Abstentions 0.

Amendment 184 disagreed to.

Amendments 75 to 77 moved—[Ross Finnie]—and agreed to.

Amendment 185 moved—[Rhona Brankin]—and agreed to.

Amendment 78 moved—[Ross Finnie].

The Presiding Officer: The question is, that amendment 78 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)

Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Davidson, Mr David (North-East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Fergusson, Alex (South of Scotland) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 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)
 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)
 McAllion, Mr John (Dundee East) (Lab)
 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)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 McLeish, Henry (Central Fife) (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)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, John Farquhar (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)
 Raffan, Mr Keith (Mid Scotland and Fife) (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, Mrs 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)

AGAINST

Adam, Brian (North-East Scotland) (SNP)
 Campbell, Colin (West of Scotland) (SNP)
 Canavan, Dennis (Falkirk West)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Gibson, Mr Kenneth (Glasgow) (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)
 McGugan, Irene (North-East Scotland) (SNP)
 McLeod, Fiona (West of 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)
 Reid, Mr George (Mid Scotland and Fife) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Ullrich, Kay (West of Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Wilson, Andrew (Central Scotland) (SNP)

ABSTENTIONS

Sheridan, Tommy (Glasgow) (SSP)

The Presiding Officer: The result of the division is: For 88, Against 33, Abstentions 1.

Amendment 78 agreed to.

Amendment 79 moved—[Ross Finnie]—and agreed to.

After section 7

Amendment 80 moved—[Ross Finnie].

Amendment 80A moved—[Roseanna Cunningham].

The Presiding Officer: The question is, that amendment 80A be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
 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)
 Davidson, Mr David (North-East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 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)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McGugan, Irene (North-East Scotland) (SNP)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 McLeod, Fiona (West of Scotland) (SNP)
 McLetchie, David (Lothians) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 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)
 Reid, Mr George (Mid Scotland and Fife) (SNP)
 Robison, Shona (North-East Scotland) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Sheridan, Tommy (Glasgow) (SSP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Mr Murray (South of Scotland) (Con)
 Ullrich, Kay (West of Scotland) (SNP)
 Wallace, Ben (North-East Scotland) (Con)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Young, John (West of Scotland) (Con)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 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)
 Fergusson, Alex (South of Scotland) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (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) (Grn)
 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)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McLeish, Henry (Central Fife) (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, John Farquhar (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)
 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)
 Smith, Mrs 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

MacDonald, Ms Margo (Lothians) (SNP)

The Presiding Officer: The result of the division is: For 50, Against 72, Abstentions 1.

Amendment 80A disagreed to.

Amendment 80B moved—[Roseanna Cunningham].

The Presiding Officer: The question is, that amendment 80B be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Adam, Brian (North-East Scotland) (SNP)
 Campbell, Colin (West of Scotland) (SNP)
 Canavan, Dennis (Falkirk West)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Gibson, Mr Kenneth (Glasgow) (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)
 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)
 Neil, Alex (Central Scotland) (SNP)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Quinan, Mr Lloyd (West of Scotland) (SNP)
 Reid, Mr George (Mid Scotland and Fife) (SNP)
 Robison, Shona (North-East Scotland) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Sheridan, Tommy (Glasgow) (SSP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Ullrich, Kay (West of Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Wilson, Andrew (Central Scotland) (SNP)

AGAINST

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Davidson, Mr David (North-East Scotland) (Con)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Fergusson, Alex (South of Scotland) (Con)
 Finnie, Ross (West of Scotland) (LD)
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 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)
 Harper, Robin (Lothians) (Grn)
 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)
 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)
 McAllion, Mr John (Dundee East) (Lab)
 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)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 McLeish, Henry (Central Fife) (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)
 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, John Farquhar (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)
 Raffan, Mr Keith (Mid Scotland and Fife) (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, Mrs 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)

The Presiding Officer: The result of the division is: For 34, Against 90, Abstentions 0.

Amendment 80B disagreed to.

The Presiding Officer: The question is, that amendment 80 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Alexander, Ms Wendy (Paisley North) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 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)
 Fitzpatrick, Brian (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)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McLeish, Henry (Central Fife) (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, John Farquhar (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)
 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)
 Smith, Mrs 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)

AGAINST

Adam, Brian (North-East Scotland) (SNP)
 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)
 Davidson, Mr David (North-East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 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)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 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)
 McGregor, Mr Jamie (Highlands and Islands) (Con)
 McGugan, Irene (North-East Scotland) (SNP)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 McLeod, Fiona (West of Scotland) (SNP)
 McLetchie, David (Lothians) (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)
 Reid, Mr George (Mid Scotland and Fife) (SNP)
 Robison, Shona (North-East Scotland) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Sheridan, Tommy (Glasgow) (SSP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Mr Murray (South of Scotland) (Con)
 Ullrich, Kay (West of Scotland) (SNP)
 Wallace, Ben (North-East Scotland) (Con)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Wilson, Andrew (Central Scotland) (SNP)
 Young, John (West of Scotland) (Con)

The Presiding Officer: The result of the division is: For 69, Against 52, Abstentions 0.

Amendment 80 agreed to.

Section 9—Conduct excluded from access rights

The Presiding Officer: Amendment 81 is grouped with amendments 82, 83, 83A, 83B, 84, 85, 85A and 42.

Ross Finnie: Amendment 81 seeks to clarify matters in relation to concerns that have been expressed about section 9(b). It will provide that conduct excluded from access rights under section 9(b) relates to being on or crossing land for any of the purposes set out in section 9(b).

Amendment 82, which is largely technical, will remove sections 9(b)(ii) and 9(c). That is because section 9(b)(ii) contains a reference to subsection (2), which was deleted at stage 2. In addition, as a consequence of amendment 81, there will no longer be a need for section 9(c).

Amendments 83 and 84 seek to reintroduce provisions that were lost from the bill by the removal of section 9(2) at stage 2. I would like to reiterate what was said at that stage. The policy intention has never been for access rights to extend to hunting, shooting or fishing. It is important that the bill makes it explicit that hunting, shooting and fishing are not included within access rights.

The access forum recognised that fishing requires management and can be of high commercial value to the land manager. Moreover, a considerable body of common and statute law that relates to fishing might be at odds with a general right of access. As we indicated at stage 2, we acknowledge that there is scope to improve access for fishing, but we simply do not believe that the bill is the appropriate vehicle for that. As we explained in the green paper "Scotland's Freshwater Fish and Fisheries: Securing Scotland's Future", our proposal is to undertake a review with the aim of repealing the Freshwater and Salmon Fisheries (Scotland) Act 1976 and to replace protection orders with a new system. Work on that is planned to start shortly. Access for fishing raises particular issues, which we are addressing, but more work is required. I hope that Dennis Canavan will accept that and not move amendment 83B.

On amendment 84, I acknowledge that there is still deep concern about dogs and other animals that might not be under proper control. Therefore, I propose to bring back the exclusion from access rights of

"being on or crossing land while responsible for a dog or other animal which is not under proper control",

which would be provided for by amendment 84.

Amendment 85 seeks to address concerns over a possible consequence of Executive amendment 63 to section 1. That amendment includes a provision that will bring within access rights a range of commercial activities. However, concerns have been raised about activities such as commercial mushroom picking and the collection of sphagnum moss. I do not believe that such activities should be included within access rights.

Amendment 85 would exclude from access rights

“being on or crossing land for the purpose of taking away, for commercial purposes or for profit, anything in or on the land”.

Amendments 83A and 85A seek to remove the phrase

“being on or crossing land for the purpose of”,

in relation to hunting, shooting or fishing, or taking away anything in or on the land for commercial purpose or for profit. I have carefully considered the matter and am willing to accept that hunting, shooting and fishing should be excluded from access rights. I am, therefore, content to accept amendment 83A. However, I am not convinced by amendment 85A. It seems to me that the intent to take away mushrooms in order to sell them, as well as the actual taking, should quite properly be excluded from access rights. Therefore, I ask Roseanna Cunningham not to move amendment 85A.

Amendment 42 would exclude from access rights doing anything that would disturb animals or commercial activities on land. As I said at stage 2, section 2 of the bill provides that access rights must be exercised without undue interference with the rights of others. The access code will contain more detailed guidance on the responsible exercise of access rights and will cover situations where commercial activities are under way. I am satisfied that existing legislation provides for offences of intentional disturbance of wildlife. Moreover, we intend to address reckless disturbance in forthcoming legislation on wildlife crime. I am therefore not convinced of the need for a specific provision relating to disturbance of wildlife in the bill. That view is shared by Scottish Natural Heritage. I ask Bill Aitken not to move amendment 42.

I move amendment 81.

The Presiding Officer: That brings us to the end of proceedings on the bill today.

Parliamentary Bureau Motions

17:00

The Presiding Officer (Sir David Steel): I invite Euan Robson to move motions S1M-3788, S1M-3789 and S1M-3790.

Motions moved,

That the Parliament agrees that the Justice 2 Committee be designated as lead committee in consideration of the draft Proceeds of Crime Act 2002 (Disclosure of Information to and by Lord Advocate and Scottish Ministers) Order 2003.

That the Parliament agrees that the Justice 2 Committee be designated as lead committee in consideration of the draft Proceeds of Crime Act 2002 (Investigations: Code of Practice) (Scotland) Order 2003.

That the Parliament agrees that Cathie Craigie be appointed to the Commissioner for Children and Young People (Scotland) Bill Committee.—[*Euan Robson.*]

Decision Time

17:00

The Presiding Officer (Sir David Steel): We now come to decision time. Before I put the questions, I ask the four party business managers to have a quick meeting with me in my room afterwards, to consider timings.

The first question is, that motion S1M-3788, in the name of Patricia Ferguson, on the designation of a lead committee, be agreed to.

Motion agreed to.

That the Parliament agrees that the Justice 2 Committee be designated as lead committee in consideration of the draft Proceeds of Crime Act 2002 (Disclosure of Information to and by Lord Advocate and Scottish Ministers) Order 2003.

The Presiding Officer: The second question is, that motion S1M-3789, in the name of Patricia Ferguson, on the designation of a lead committee, be agreed to.

Motion agreed to.

That the Parliament agrees that the Justice 2 Committee be designated as lead committee in consideration of the draft Proceeds of Crime Act 2002 (Investigations: Code of Practice) (Scotland) Order 2003.

The Presiding Officer: The third question is, that motion S1M-3790, in the name of Patricia Ferguson, on membership of a committee, be agreed to.

Motion agreed to.

That the Parliament agrees that Cathie Craigie be appointed to the Commissioner for Children and Young People (Scotland) Bill Committee.

Diesel Spills (Safety Campaign)

The Deputy Presiding Officer (Mr George Reid): The final item of business is a members' business debate on motion S1M-3430, in the name of Brian Adam, on a safety campaign on diesel spills. The debate will be concluded without any question being put.

Motion debated,

That the Parliament notes with regret the distressing number of motorcycle accidents and fatalities caused by diesel spills and believes that the Scottish Executive should run a road safety campaign to highlight the dangers of over-filling diesel tanks and introduce other measures to reduce diesel spills.

17:03

Brian Adam (North-East Scotland) (SNP): The background to my request for the debate is that there are a significant number of accidents that involve motorcycles. Indeed, there are far too many, some of which, unfortunately, result in fatalities. Up to 10 per cent of those accidents are believed to have been caused as a direct result of diesel spills.

We can start to tackle the problem in a number of areas. Clearly, the matter is a safety issue, and some such matters are covered by other legislatures. In that respect, I accept that the role of the minister will be to encourage his colleagues elsewhere. I advise the chamber that a European directive governing the matter is on its way, and I encourage the minister to take an active interest in the development of that directive. The regulation of vehicles is a matter for Westminster, but the Executive has a role in general safety and environmental issues and it takes an active interest in many aspects of road safety. The aspect that we are discussing is a highly particular one, and I do not suggest for a minute that the bulk of accidents on the road are caused by diesel spill, but it is a cause of accidents that can be addressed. I believe that the Executive has the powers to do that and I will suggest one or two specific measures.

I want to highlight some of the reasons why I have raised the issue. Obviously, I have been lobbied. Various motorcycle interest groups, including the United Kingdom Motorcycle Action Group, have approached me, and I have been lobbied by the parents of a young man who, unfortunately, was killed as a consequence of slipping on a diesel spill while on his motorcycle. In the past year or so, a couple of incidents in the north-east of Scotland have been drawn to my attention. I received an e-mail from someone who is actively involved in the Motorcycle Action Group, which mentions that a relative of his was

the driver in a recent incident on Speyside in which a motorcyclist was seriously hurt. There are obvious implications for the individuals who are hurt in such accidents, but there are also implications for people who are innocently involved by being the driver of a car.

Diesel spills do not affect only motorcyclists, although they are affected more than other road users. A fairly serious incident to the south of Aberdeen in which a couple of cars went off the road was a consequence of a major diesel spill. The minister is probably aware that legal action might be pending on that matter.

I believe that the Executive can take action through safety campaigns. The Executive rightly runs regular safety campaigns on issues such as drink driving, drug driving and speeding. I encourage the Executive to consider a public campaign on the dangers of diesel spill. The campaign should encourage motorcyclists to be aware of potential hazards and where they are likely to occur. The hazards are often at petrol or diesel station exits and at roundabouts. I am sure that members have regularly observed motorcyclists going almost right across roundabouts, closely hugging the centre. The reason is not just so that they can go, "Vroom, vroom," and create a bit of speed; it is because diesel is spilled on the extreme outside of roundabouts. If caps on diesel tanks are poorly fitted, are not fitted at all or leak, driving round corners and, in particular, roundabouts leads to leakage from the tank, and diesel gathers on the edges of roundabouts. The minister can address that issue.

The minister could also attempt to enforce the current legislation under which it is an offence to spill fuel—he could encourage the law to be used fully. In the light of his announcement today about the road haulage modernisation fund, which highlighted the grants that are available to hauliers to retrofit their lorries with new technology that reduces emissions and cuts pollution, I suggest that we also require a sensor to be fitted that can determine whether diesel caps are in place and whether they are effective. That would significantly reduce pollution, increase fuel efficiency and—most important—increase safety. I encourage the minister to draw on the fund, which has a parallel south of the border, for use elsewhere in the United Kingdom.

Lorries and buses, which are the primary offenders, do not originate only in Scotland. In fact, they can come from anywhere, and when we get legislation from Europe, there will be many foreign lorries on our roads.

We ought to target the safety campaign at the major fleet users of diesel. We should encourage them to live up to the International Organisation for

Standardisation's standard 4001—I think that that is the correct standard, but the appropriate people will, no doubt, correct me if I am wrong. A number of organisations are good at enforcing such legislation. I point the minister in the direction of Transco, for instance. We should try to make use of the best practice that exists.

I ask the minister to consider various aspects of the safety campaign. I also ask him to consider using the road haulage modernisation fund, which he announced today, to fund retrofitting of sensors to identify the presence or otherwise of fuel caps.

I commend the motion to the Parliament.

17:12

David Mundell (South of Scotland) (Con): I thank Brian Adam for bringing the issue before the Parliament. It is one of those that go unnoticed unless they are highlighted.

Motorcycle fatalities on our roads are increasing. We need to address that. I was most concerned to learn that, in 2000, 605 motorcyclists were killed on the roads and a further 6,769 were seriously injured.

We are all aware of a number of campaigns that have been run to increase motorcycle safety, particularly those run to increase car drivers' awareness that motorcyclists might be on the roads, but I do not recall diesel spillages being highlighted. However, when I did some investigation, it was clear that the issue is real for the motorcyclists to whom I spoke. Indeed, in various motorcycle groups and on websites, diesel spillages are highlighted as one of the key hazards that motorcyclists face, and various pieces of guidance are given.

To give guidance to motorcyclists on avoiding diesel on the roads is one thing, but the most appropriate way to tackle the issue is to try to ensure that the diesel is not on the road in the first place.

We are highlighting the dangers of diesel spillages to other road users, but such spillages also have a significant environmental impact. Indeed, in the region that I represent, there was, on 4 December last year, a major diesel spillage near the village of Newcastleton, which not only created a major road hazard, but leaked into water supplies that were used as a private source of drinking water. The presence of diesel on the roads can be not just a hazard; it can have an environmental effect, too.

I was interested to hear what Brian Adam said about roundabouts and junctions. Diesel out-spill from vehicles can also be a problem at corners. I understand that the Institute of Advanced Motorists launched a campaign targeted at British

lorry drivers to tackle the problem, and that it issued thousands of stickers for trucks' fuel tanks. The campaign was supported by the Road Haulage Association. However, it is one thing sticking a sticker on a tank; it is more important that the tank has an effective seal so that the fuel does not spill out on to the road.

If tonight's debate can achieve anything, it will highlight the issue and put the focus on stopping spillages taking place in the first place instead of concentrating resources on the accidents suffered by motorcyclists. If we can avoid having diesel on our roads and forecourts, we will avoid many unnecessary accidents.

17:16

Mr Kenny MacAskill (Lothians) (SNP): I, too, congratulate my colleague Brian Adam on securing the debate, and I concur with the points that he made. Diesel spills are a matter of significant importance to a minority, but they impact upon the majority in a variety of ways.

If I may transgress slightly and deal with more general matters, I point out that, if it were not for the inception of this institution—although it takes a great deal of criticism—debates such as this would have been difficult to secure. The Scottish Parliament, for all the brickbats that are flung at it, at least presents an opportunity for such matters to be debated, for a response to be given by the Executive and for individuals to have their views aired.

As has been said, diesel spills concern not just motorcyclists; the problem affects drivers of other vehicles. Difficulties with black ice are, to an extent, similar to those that are experienced with diesel spills, but the effects of spills can be just as dangerous and, because they are not caused by the vagaries of the weather, we can do something about them.

It is to the minister's credit that attempts have been made to enhance road safety. Indeed, such attempts were also made by his predecessor. Clearly, transport policy is not all about the construction of a road infrastructure, not does it all relate to massive capital investment in roads and rail. Action can be of relatively minor significance, but can have massive ramifications. That brings us back to a point to which my colleague Brian Adam alluded.

The issue that we are discussing this evening may affect only a few people in terms of the number of road deaths that it causes, but that is of little comfort to the bereaved whose loved ones have been killed in accidents. However, it is to be hoped that the problem can be addressed and that action will be taken as a result. We must tackle the problem. The numbers involved may be few, but

for the individuals concerned, the effects are significant.

Tackling the problem would not require masses of legislation. That is the benefit of dealing with such matters by way of a members' business debate. Brian Adam referred to using the road haulage modernisation fund, and doing that would not require legislative change; much more carrot, rather than stick, would be required. We are trying not just to educate the motorcyclist with regard to the actions that they should take to avoid areas where spillages are most likely, but to target the drivers of the vehicles that cause the incidents in an attempt to ensure best practice.

I welcome the fact that the minister was promoting the road haulage modernisation fund earlier today. As Brian Adam said, the fund offers an opportunity to deal with the specific issue of diesel spills and the difficulties that they cause to motorists, but we must promote best practice across the board in response to the knock-on effects of spills in other respects.

We must pay tribute to Brian Adam for bringing this matter to the attention of the Parliament. I hope that the Executive will take it on board. We do not need to spend a great deal more money than is already being spent to provide training in a variety of areas. This is a matter of ensuring that those who are involved in the distribution of diesel, in particular, follow best practice. People who work in garages should take steps to ensure that spillages are dealt with. We should follow best practice when training those who use motorcycles—an activity in which I do not claim to participate.

The debate offers the Parliament an opportunity, through the democratically elected Executive, to bring about significant change—albeit for a minority—that will have substantial benefits. That will ensure that the Parliament delivers what the people of Scotland voted for.

17:20

Robin Harper (Lothians) (Green): I would like to highlight two issues. Two years ago, I received representations in respect of general concerns about sloppiness in the transfer of fuels. Those concerns related both to the loading and unloading of fuel tankers and to the amount of fuel that escapes through evaporation. In confined areas, evaporating fuel, which contains benzines and other aromatic carbons, can have damaging effects on health.

My second concern relates to the policing of the upkeep of lorries and buses. Do the police produce regular reports on instances that they have discovered of poor maintenance of lorries and on the issue that Brian Adam raised this

evening—that of ill-fitting caps on diesel tanks and diesel transport lorries? It strikes me that a simple design change could be made to the tanks of big lorries, whose fuel caps tend to be at the side, so that the tanks could be filled up easily. If a cap is poorly fitted, diesel can slop out through it when the lorry goes round a corner. If the cap were raised by a foot or 2ft, fuel would not be spilled when the lorry went round a corner—it would go up and down the fuel pipe. The industry could consider providing a screw-on addition that could be fixed in place, or the change that I have suggested could be a design feature of future tanks, to reduce the possibility of spills occurring.

17:23

The Deputy Minister for Enterprise, Transport and Lifelong Learning (Lewis Macdonald): I am pleased to have the opportunity to address this issue and I congratulate Brian Adam on securing the debate. I suspect that the speeches that have been made reflect a broad consensus that such issues ought to be addressed. Although primary responsibility for this matter lies elsewhere—as Brian Adam said—aspects of it are relevant to the Executive and, therefore, of interest to the Parliament.

I want to put my response in the context of our general road safety policy. Members will be aware that we have set a target for a 40 per cent reduction by the end of this decade in the number of people who are killed and seriously injured on our roads, compared with the average figure for the years 1994 to 1998. We have made significant progress towards achieving that target. By 2001, the number of people killed and seriously injured on our roads was 22 per cent below the baseline figure. We are moving in the right direction, but major issues remain to be addressed. One or two of those have been mentioned specifically in today's debate. Any road death is one too many.

Rightly, our approach to road safety strategy is based on partnership with our United Kingdom colleagues in the Department for Transport. We share responsibility for measures to address specific issues relating to motorcycle safety and, as has been said, for road safety education and publicity.

We recognise that, as Brian Adam said, oil or diesel on the road constitutes a danger to road users and that motorcyclists are particularly vulnerable in such circumstances. The figures that Brian Adam cited on the proportion of road accidents in which oil or diesel on the road was involved are different from those that I will cite later in my speech. Nonetheless, I recognise the significance of any accident that is avoidable and of measures that can be taken to avoid such accidents.

Richard Lochhead (North-East Scotland) (SNP): Clearly, Brian Adam has brought an important issue to the attention of the Parliament. Will the minister comment on the law with regard to diesel spillages? If such spillages are illegal, have there been any prosecutions in the past year or two?

Lewis Macdonald: A number of pieces of legislation are in place, but Richard Lochhead's question highlights one of the difficulties in this area, which is securing enforcement. Brian Adam referred to a legal case that relates to a diesel spillage. To support the police in securing the enforcement of legislation, we require the co-operation of all road users. The witnessing of an offence by a police officer, or the reporting of an offence to a police officer, is the only way in which enforcement can be secured and we encourage all road users to take that seriously.

Primary responsibility for ensuring that road users are responsible lies with the Driving Standards Agency. Matters relating to spillages on the road are included in the syllabus for the theory test for road-vehicle drivers. The theory test for motorcyclists includes the dangers of oil and diesel on the road.

David Mundell mentioned the sticker campaign that the Institute of Advanced Motorists launched with the support of the Road Haulage Association. Such initiatives are welcome and can help us highlight those issues for road users.

This morning I announced that we will support, through the Scottish road haulage modernisation fund, a number of important schemes that we identified as priorities in partnership with the Freight Transport Association, the Road Haulage Association, the Transport and General Workers Union and the Road Haulage and Distribution Training Council.

Reference was made to technical aspects to do with evaporation and other emission issues, which Robin Harper raised, rather than to do with spillage, but I take the points that were made. This morning we announced a number of training schemes for road-vehicle drivers, which could be of benefit in that area.

Brian Adam: All that was available to me was the minister's press release. I made the technical point that, presumably, it would be feasible to have retrofit devices that would identify whether a cap was in place. Will the minister take up that point as part and parcel of the modernisation fund and will he discuss it with colleagues south of the border?

Lewis Macdonald: I am happy to discuss those technical matters with those in the UK Government who have responsibility for the technical standards that are applied to freight vehicles. As I said a moment ago, the training

provision in the fund, which we will fund to the tune of £5 million over the next three years, will include measures to secure cost savings and greater efficiency in the use of fuel. Part of that will be to identify how fuel spillages can be avoided, which we welcome.

The industry has been invited to continue to talk to us about other ways in which road haulage modernisation can be progressed with public support and I am happy to discuss that. We regularly meet representatives of the motor cycling community in Scotland, including the Motorcycle Action Group, the Motor Cycle Industry Association and the British Motorcyclists Federation. They have not raised directly with us the issues that have been mentioned this evening, but they have raised them with the UK Department for Transport, which is considering closely the problems that are posed by diesel spillage. Among other things, the department is considering raising the profile of existing legislation in England and Scotland and it is considering enforcement.

I am happy to draw to the attention of my colleagues in the Department for Transport the issues that have been raised this evening and to have discussions with them, particularly where the issues relate to devolved matters. That relates to the role of the Scottish Road Safety Campaign, to which I will come.

I mentioned that the figures that we have do not indicate that a large proportion of serious and fatal motorcycle accidents are caused by diesel spills. In 2001, out of a total of nearly 15,000 accidents involving injury in Scotland, there were 33 accidents in which oil or diesel on the road was identified as a significant component. Nonetheless, we take on board the fact that such accidents occur.

Brian Adam: One of the issues that the Motorcycle Action Group raised with me was the method of gathering statistics. I said that up to 10 per cent of all accidents involving motorcycles were due to diesel. That figure, which came from the Motorcycle Action Group, related to studies that have been done across Europe. I cannot imagine that the situation elsewhere is significantly worse than it is here. Specific measures should be developed to identify the role of diesel spills in accidents. That is a matter for the Government south of the border, rather than for the Executive.

Lewis Macdonald: The Scottish Road Safety Campaign works with the Motorcycle Action Group in identifying issues of concern and in promoting the "Bikesafe Scotland" training initiative, in which the Scottish police forces co-operate.

The Scottish Road Safety Campaign has to found its decisions on major publicity campaigns on the available evidence. As has been

mentioned, drink-driving, drug-driving, excessive use of speed and the inadequate use of safety belts are the key issues on which major publicity campaigns have been conducted.

The Department for Transport is considering enforcement and raising the profile of existing legislation, and we will pay close attention to its conclusions. Last year, the UK Government ran a publicity campaign on motorcycle safety in Scotland, as well as in the rest of the UK. I understand that further screenings of that campaign are planned for this year. We welcome that.

We will continue to liaise with the UK Government on the relevant issues and to look for ways of reducing the number of motorcycle accidents. We will also pay attention to the European directive as it develops. Our efforts will focus on raising public awareness. In doing that, I am sure that we can count on broad parliamentary support.

Meeting closed at 17:32.

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