

# **MEETING OF THE PARLIAMENT**

Wednesday 5 May 2004  
(*Afternoon*)

Session 2

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## Scottish Parliament

*Wednesday 5 May 2004*

*(Afternoon)*

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

### Time for Reflection

**The Presiding Officer (Mr George Reid):** Good afternoon. Our first item of business, as every Wednesday, is time for reflection. Our time for reflection leader today is Dr Salah Beltagui, of the Muslim Association of Britain.

**Dr Salah Beltagui (Muslim Association of Britain):** Thank you for inviting me here. I am involved in community work relating to race relations and interfaith relations. That is why I take as my topic, knowing each other.

It is sometimes easy for people to think of the differences between people in language, in race, in colour and in culture as barriers to understanding, which can lead only to disputes and troubles. That is not really the case, though, especially for me. As a Muslim, equality comes as part of my faith. After all, we are all members of the family of humanity, all created by the same creator, and descended from the same parents. We are united by our common humanity, despite, or perhaps because of, our differences.

In fact, it is part of God's wisdom and the beauty of his creation that he has made us different. In the Qur'an, God says:

"O mankind! We have created you from one male and one female and have made you into nations and tribes so that you may know each other. The most honourable among you in the sight of God is the best in conduct."

God created us all different; he could have made us all the same, sharing the same language, the same traditions, and the same beliefs and so on, which would become very boring.

We read also in the Qur'an:

"And among His signs is the creation of the heavens and the earth, and the differences of your languages and colours. In that indeed are portents for people of knowledge."

The variation in heaven and earth, and in us as human beings, is part of the beauty of creation. With that comes the other rule, which the prophet said in his last sermon:

"There is no preference of an Arab over a non-Arab, or a white over a black, but in piety",

and piety is conduct.

Respecting racial, cultural and religious differences is to celebrate the differences of our creation and to believe in God's great creation. It is also an appreciation of the freedom of choice that God has given each of us when he says, "No compulsion in religion."

Rather than regard our differences as obstacles to understanding each other, we should accept and respect our differences. Indeed, we should celebrate the diversity of races, cultures and ideas that we are exposed to when we interact with each other and come to know each other. The way to know each other is through open and enlightened dialogue, both as individuals and collectively as groups and communities. We should be talking with sincerity, with the aim of creating bonds of agreement, understanding and unity. Such dialogue, based on mutual respect and co-operation, is highly regarded in Islam. I believe that universal stability, peace and progress in this world can be achieved through knowing each other.

## Business Motion

14:34

**The Presiding Officer (Mr George Reid):** The next item of business is consideration of business motion S2M-1267, in the name of Patricia Ferguson, on behalf of the Parliamentary Bureau, setting out a timetable for stage 3 consideration of the Nature Conservation (Scotland) Bill.

*Motion moved,*

That the Parliament agrees that, during the Stage 3 proceedings of the Nature Conservation (Scotland) Bill, debate on each part of those proceedings shall be brought to a conclusion by the time-limits indicated (each time-limit being calculated from when Stage 3 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 and 2 – no later than 20 minutes

Groups 3 to 7 – no later than 35 minutes

Groups 8, 9 and 10 – no later than 1 hour 5 minutes

Groups 11 and 12 – no later than 1 hour 35 minutes

Groups 13 and 14 – no later than 1 hour 55 minutes

Motion to pass the Bill – no later than 2 hours 25 minutes.—[*Patricia Ferguson.*]

*Motion agreed to.*

## Point of Order

14:35

**Nicola Sturgeon (Glasgow) (SNP):** On a point of order, Presiding Officer. I seek your guidance. You will recall that, on 21 April, the Minister for Justice made a commitment to the Parliament that the contract between the Scottish Prison Service and Reliance Secure Task Management Ltd would be

“published as soon as is practicable and consistent with the principles of freedom of information and contract law.”—[*Official Report*, 21 April 2004; c 7527.]

Today, exactly two weeks later, no part of the contract is in the public domain. Will you advise the Parliament whether you have received any request from the Executive to facilitate publication of the contract? If you have not, I seek your guidance on how members can ensure that commitments made to the Parliament in ministerial statements are honoured timeously.

**The Presiding Officer (Mr George Reid):** At this point, I have not received any request. Perhaps the Executive would like to say something.

**The Minister for Justice (Cathy Jamieson):** I was not aware that the point of order would be raised, but I am happy to confirm to the Parliament that it is my intention to pursue the matter and that the Parliament will be the first to know, which is the right and proper way to do things.

**The Presiding Officer:** Thank you, minister.

## Nature Conservation (Scotland) Bill: Stage 3

14:36

**The Presiding Officer (Mr George Reid):** We now move to the stage 3 proceedings on the Nature Conservation (Scotland) Bill. Members should have the bill as amended at stage 2, that is, SP Bill 9A; the marshalled list, which contains all the amendments that I have selected for debate; and the groupings.

I will allow a voting period of two minutes for the first division this afternoon. Thereafter, I will allow a voting period of one minute for the first division after a debate on a group. All other divisions will be 30 seconds.

Members should be well aware of the rules by this time, so we will go straight to group 1.

### Section 1—Duty to further the conservation of biodiversity

**The Presiding Officer:** Amendment 2, in the name of Allan Wilson, is grouped with amendment 45.

**The Deputy Minister for Environment and Rural Development (Allan Wilson):** I agreed to come back at stage 3 with a minor amendment to include the word “any” in section 1 in response to a proposal from Roseanna Cunningham. The change is proposed on the basis that it would make it explicit that all the functions of a public body or an office holder will be subject to the new biodiversity duty. Amendment 2 achieves the necessary change.

Amendment 45 would oblige public bodies to take action specified in the biodiversity strategy. That approach was rejected at stage 2 for a good reason: to require public bodies to take action specified in the biodiversity strategy misunderstands the nature of the strategy and what it was set up to achieve.

The strategy will provide a broad framework for the promotion and furtherance of biodiversity. It provides a long-term vision and direction for everyone concerned, which will benefit Scotland's natural heritage over the ensuing 25 years. The strategy will, of course, be supported by detailed implementation plans, which are currently in preparation, but it is not a list of tasks or actions.

It is clear to me and other partners in the biodiversity process that, as I said at stage 2, we cannot impose conservation from on high; it must be built up from below. It must involve local authorities—that is critical—and other public

bodies. Most important, it must involve people and not instruct them.

We need to encourage what is a welcome consensus and partnership, which I believe will be demonstrated in the Parliament this afternoon. Any attempt to prescribe detailed actions to stakeholders could be counterproductive and restrict what others are prepared to sign up to. It is the stakeholders who are best placed to know how to address the biodiversity duty under the national framework policy that, quite properly, we will set, and under the strategy that we will provide.

To then vote for a compulsory strategy would mean losing the wider perspective and consensus to which I referred. Many friends of the existing strategy would also be lost. I value the friendships that we have built up in the course of the process. For instance, the Convention of Scottish Local Authorities has made it abundantly clear that it is supportive of the strategy, on the basis of the consensus to which I have referred. I have no intention of departing from the inclusive process that I have supported thus far.

I move amendment 2, and I invite Mark Ruskell not to move amendment 45.

**Mr Mark Ruskell (Mid Scotland and Fife) (Green):** I have lodged two amendments at stage 3 because there is still an obvious flaw in the bill, which I believe is recognised by the majority of MSPs. The lack of a biodiversity strategy framework was challenged at stage 1 by a number of members, including Sylvia Jackson and Christine May, who said that it was vital for creating an effective, yet responsive, piece of legislation. Following their sensible words, a range of amendments were moved at stage 2 in the hope that the Executive was listening and would choose to support them, or that it would itself draft a set of amendments to define such a framework.

Progress was made. The Executive turned the wording,

“The Scottish Ministers may designate ... strategies”,  
into,

“The Scottish Ministers must designate ... strategies”.

At least we now know that some sort of plan must be drawn up as a result of the bill. That is a good start. A sensible amendment to establish a list of priorities and habitats, which the Liberal Democrats moved at stage 2, was also adopted. Now we know that the plan will at least contain priorities.

The other essential parts of a framework, which were proposed by both Lib Dems and Greens, were voted down, however. Those addressed some basic things: who is required to do anything under the plan and how we will know whether it

has been a huge success or a dismal failure. Unfortunately, the bill remains empty on those issues. If we are to legislate for a biodiversity strategy, we surely need the basics of a framework in place. Otherwise, why bother legislating at all? I have brought back those two sensible Lib Dem amendments to be voted on today, and I take it as read that our friends across the chamber will be supporting their own words.

Amendment 45 means that public bodies will need to consider how they fit into a biodiversity strategy in practice, and what they can contribute to it. It does not, for example, force councils to cut hedges in a certain way by law; it does, however, force councils to consider what they themselves can do. Where councils have something to contribute, that should form part of an agreed biodiversity strategy. Likewise, where public bodies can help to encourage others, for example farmers, to take action through grant funding, that promotional work by public bodies also needs to form part of the strategy.

As the bill stands, local authorities can put their agreed actions into a biodiversity strategy and then quietly forget about them if they so choose. That does not represent a solid commitment to biodiversity. Getting public bodies to stick to their own agreed words and actions is hardly a vote for rampant green radicalism. In fact, the provisions under amendment 45 are already in place in England and Wales, under the Countryside and Rights of Way Act 2000—sometimes known as the CROW act. Let us ensure that we do not fall behind on the most basic provisions to regenerate the environment that are enjoyed by other countries in the United Kingdom. I intend to move amendment 45.

**The Presiding Officer:** I remind members that the timetabling motion means that we must have completed groups 1 and 2 by 14:57, so we have 13 minutes left for the first two groups. If speeches could be kept tight, I would be grateful.

**Roseanna Cunningham (Perth) (SNP):** I thank the minister for his concession in respect of amendment 2, which was originally an amendment in my name at stage 2. A number of us on the Environment and Rural Development Committee expressed concerns that, if we did not get the specific clarification that the amendment provides, some departments might choose to designate certain aspects of their functions as relating to biodiversity and to decide that other aspects did not relate to biodiversity. The amendment is intended to avoid that.

The Scottish National Party will support Mark Ruskell's amendment 45, as it supported the equivalent amendment at stage 2, because we are a little bit in danger of ending up with broad-brush legislation, which does not require terribly much

detail. We seek to pin down in the bill a little more of what will be required, so we will support Mark Ruskell's amendment 45.

14:45

**Alex Johnstone (North East Scotland) (Con):** Amendment 2 is acceptable to the Conservatives and we will support it. With regard to amendment 45, we feel that the consensual and inclusive approach in the bill is worthy of defence. We note from Mark Ruskell's speech that he accepts that concessions have been made, but, given the overall character of the bill and the mood in which the Executive has advanced with it, it is important to ensure that that consensual and inclusive approach is retained. Amendment 45 would make the bill too onerous.

**Nora Radcliffe (Gordon) (LD):** I, too, welcome amendment 2, which clarifies usefully the wide-ranging intent of the duty to further the conservation of biodiversity. As Mark Ruskell said, at stage 2 I lodged a similar amendment to amendment 45. I thought long and hard about lodging it again at stage 3 and read carefully everything that was said at stage 2. I decided in the end that the minister was probably correct that we would be in danger of antagonising some of the people upon whom we will depend to deliver the biodiversity strategy if we introduced what would be perceived as a degree of compulsion, no matter how well-intentioned it was and how non-prescriptive we tried to make it. On balance, I thought that we would catch more flies with honey than with vinegar and that we should go with the Executive's position. We should remember that there will be the safety net of the regular reports on the biodiversity strategy, which will throw up any shortcomings in delivery, which can then be addressed at that point.

**Sarah Boyack (Edinburgh Central) (Lab):** I disagree with little of what both Mark Ruskell and Roseanna Cunningham have said. However, given the extensive debate on this at stage 2, I believe that the key point is how the Parliament, local authorities and all Scottish bodies take ownership of what is in the biodiversity strategy. Only over time will we be able to tell how successful that has been. One of the key aspects of the bill is that we will scrutinise its implementation. We have the balance right in the bill, so now is the time to gear people up to implement the strategy and over time make them accountable to us by bringing them back to the Parliament. Amendment 2 is welcome. I am glad that the minister has thought it through and we should accept it and not back amendment 45.

**Allan Wilson:** It is important to reflect at this early stage of consideration that I propose, and will propose throughout the afternoon, a



participative and consensual model, which would be jeopardised if we were to follow the prescriptive approach of Mark Ruskell and the Greens. I am a wee bit surprised at the nationalists' support for amendment 45. I want to dispel the myth, which was propagated in the chamber at stage 1 and perpetuated subsequently, that the bill is in any way, shape, manner or form, less strong than is the Countryside and Rights of Way Act 2000 south of the border. Our bill requires all public bodies, not just ministers and Government departments, to further the conservation of biodiversity, not just have regard to it, which roots the biodiversity strategy directly in legislation. It is simply untrue to suggest, as Mark Ruskell has again today, that somehow the bill is weaker than is legislation south of the border.

*Amendment 2 agreed to.*

## **Section 2—Scottish Biodiversity Strategy**

*Amendment 45 moved—[Mr Mark Ruskell].*

**The Presiding Officer:** The question is, that amendment 45 be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

### **FOR**

Adam, Brian (Aberdeen North) (SNP)  
 Baird, Shiona (North East Scotland) (Green)  
 Ballance, Chris (South of Scotland) (Green)  
 Ballard, Mark (Lothians) (Green)  
 Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fox, Colin (Lothians) (SSP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Kane, Rosie (Glasgow) (SSP)  
 Lochhead, Richard (North East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 MacDonald, Margo (Lothians) (Ind)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Neil, Alex (Central Scotland) (SNP)  
 Robison, Shona (Dundee East) (SNP)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinburne, John (Central Scotland) (SSCUP)  
 White, Ms Sandra (Glasgow) (SNP)

### **AGAINST**

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

Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 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)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Finnie, Ross (West of Scotland) (LD)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Goldie, Miss Annabel (West of Scotland) (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)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McGregor, Mr Jamie (Highlands and Islands) (Con)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (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)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)

Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)

Tosh, Murray (West of Scotland) (Con)

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 34, Against 78, Abstentions 0.

*Amendment 45 disagreed to.*

**The Presiding Officer:** We have six minutes left to deal with group 2, which is on the Scottish biodiversity strategy. Amendment 21, in the name of the minister, is grouped with amendments 22 and 46.

**Allan Wilson:** At stage 2, Nora Radcliffe lodged amendment 96, which inserted section 2(3A). That provision relates to the publication of lists of species and habitats that are of principal importance to the implementation of the biodiversity duty that we just debated. The subsection requires modification. For example, it does not provide for the revision, updating or replacement of any published list. Amendments 21 and 22 will make the necessary modifications.

Amendment 46 is intended to ensure that reports to the Parliament on the implementation of the biodiversity strategy contain details on the status of habitats and species. I reiterate what I said at stage 2 about such a provision. I remain clear that our approach to reporting must not be over-prescriptive. To augment the reporting requirements would be unnecessary and a waste of resources. It would duplicate reporting activity that takes place on the United Kingdom biodiversity action plan.

Reports on the UK biodiversity action plan, which will be delivered in Scotland through the Scottish biodiversity strategy, are already provided regularly in their own right and to the Convention on Biological Diversity. Those reports cover the status of all species and all habitats. In the past, we have distilled UK reports to draw out the Scottish elements, and work is under way to do that in the current reporting round. Given that the Scottish biodiversity strategy is our delivery mechanism for the UK BAP, it will take account of the current UK reporting processes. It will also take into account the new Scottish species list. To impose additional requirements would incur disproportionate spend, so I cannot support amendment 46.

I move amendment 21 and urge members to resist amendment 46.

**Mr Ruskell:** I am rapidly reaching the conclusion that statutory underpinning is viewed as a form of medieval torture in the Scottish Executive's Environment and Rural Affairs

Department. Amendment 46 would introduce an even more basic requirement than that in amendment 45. All that it requests is that successive Executives should report to the Parliament on progress with the priority species and habitats. That requirement is so fundamental that I was surprised that the bill did not include it.

At stage 2, the minister said—as he said today—that several detailed reports would be produced, including a report to the Convention on Biological Diversity, so where would the massive costly waste and extra reporting that the minister talked about come from? A requirement for the Executive to report back to the Parliament on the progress of its own statutory strategies and its priorities represents, in the words of Nora Radcliffe,

“an irreducible minimum level of reporting”.—[*Official Report, Environment and Rural Development Committee*, 28 January 2004; c 659.]

I will move amendment 46 in the name of sheer common sense.

**Nora Radcliffe:** I welcome amendments 21 and 22. Amendment 46 mirrors an amendment that I lodged at stage 2, the provisions of which I decided not bring forward again at stage 3.

**Allan Wilson:** I am reminded that the last person to rely on common sense was William Hague—and look what happened to him.

On behalf of the majority of members who applied their common sense to a critical analysis of what has been proposed, I resist the temptation to support Mark Ruskell's entreaties and refer members again to the fact that there will be not one or two, but three separate reporting mechanisms for detailing our record on preserving and conserving species and habitats. That will wholly fulfil our commitment under the proposed legislation. I urge members not to agree to Mr Ruskell's amendment.

*Amendment 21 agreed to.*

*Amendment 22 moved—[Allan Wilson]—and agreed to.*

*Amendment 46 moved—[Mr Mark Ruskell].*

**The Presiding Officer:** The question is, that amendment 46 be agreed to. Are we agreed?

**Members:** No.

**The Presiding Officer:** There will be a division.

**FOR**

Adam, Brian (Aberdeen North) (SNP)

Baird, Shiona (North East Scotland) (Green)

Ballance, Chris (South of Scotland) (Green)

Ballard, Mark (Lothians) (Green)

Byrne, Ms Rosemary (South of Scotland) (SSP)

Canavan, Dennis (Falkirk West) (Ind)

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

Cunningham, Roseanna (Perth) (SNP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fox, Colin (Lothians) (SSP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Kane, Rosie (Glasgow) (SSP)  
 Lochhead, Richard (North East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Neil, Alex (Central Scotland) (SNP)  
 Robison, Shona (Dundee East) (SNP)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Swinburne, John (Central Scotland) (SSCUP)  
 White, Ms Sandra (Glasgow) (SNP)

#### AGAINST

Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 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)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Finnie, Ross (West of Scotland) (LD)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (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)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 MacDonald, Margo (Lothians) (Ind)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)

McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McGregor, Mr Jamie (Highlands and Islands) (Con)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (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)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Tosh, Murray (West of Scotland) (Con)  
 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 32, Against 78, Abstentions 0.

*Amendment 46 disagreed to.*

#### Section 4—Site management statements

**The Presiding Officer:** Group 3 is on the content of site management statements; amendment 47 is the only amendment in the group.

**Maureen Macmillan (Highlands and Islands) (Lab):** Amendment 47 would make it clear that the creation of a site of special scientific interest can have a positive socioeconomic impact and that, where appropriate, site management statements should indicate that.

There is a long-standing concern among communities and their representatives—especially in the Highlands—that socioeconomic factors should be considered at the same time as scientific factors when new SSSI designations are proposed. The bill as drafted suggests that very little that is of a wider socioeconomic nature may be addressed in the management statements. There is a very general subsection, which indicates that management statements might include other matters that Scottish Natural Heritage might think fit.

Amendment 47 would allow opportunities for the understanding and enjoyment of an SSSI area by the wider public, if appropriate, to be included in the management statement, thereby supporting community well-being and perhaps assisting local tourism. It would provide greater certainty that the key issue of socioeconomic concern would, where appropriate, be addressed in the site management statement, rather than our relying on the current general and non-committal wording.

It is clear that there may be situations in which SSSIs cannot be promoted for public enjoyment and understanding because of the sensitivity of the location or the protected species. Therefore, the amendment does not make such information a requirement. However, in general, it should be considered within site management statements whether guided walks, leaflets, an information panel or general scope for access might be possible in order to provide a link to wider community interests.

Another reason why I wish to strengthen the bill in this way is that it seems that there is no requirement for SNH to consult on site management statements, which do not form part of the SSSI notification as such. Therefore, the procedures for publicising, receiving representations on and modifying notifications—which are set out in schedule 1—do not apply to site management statements. As there is no scope to influence the content of the statements once they have been produced, it is important that the bill require consideration of this key socioeconomic concern by SNH when appropriate.

I move amendment 47.

15:00

**Allan Wilson:** I am entirely in favour of the objective of Maureen Macmillan's amendment 47, and I would support any provision that would help to ensure increased enjoyment of SSSIs when that is possible and compatible with the interests of the site. That is also consistent with the idea that the site management statement can address wider socioeconomic interests, in contrast with the pure conservation focus of SSSI notification. I thank Maureen Macmillan for lodging this worthwhile amendment and I commend it to Parliament.

**Alex Johnstone:** I am, having supported two Executive amendments that made statements that will control—or attempt to control—what would be published, slightly concerned that amendment 47 now suggests that specific information may or may not be published. I would like an assurance, either from the minister or from Maureen Macmillan, that we are not putting further onerous requirements on the current minister or future ministers, which may control their liberty to define policy.

**Maureen Macmillan:** I give Alex Johnstone that assurance.

*Amendment 47 agreed to.*

### **Section 9—Denotification of sites of special scientific interest**

**The Presiding Officer:** Group 4 consists of minor amendments. Amendment 3 is grouped with amendments 4, 23, 6 to 10 and 26.

**Allan Wilson:** The amendments are all minor technical amendments. As drafted, section 9 is inconsistent with section 5 to the extent that denotification of part of an SSSI needs to be notified to all interested parties although, in the case of enlargement, only interested parties in relation to the additional area of land need be informed. In the interests of consistency, amendments 3 and 4 will make it clear that a similar arrangement is to apply in section 9 and that SNH is to be required to notify only the interested parties relevant to the part of the site that is being denotified.

Amendment 23 is a minor technical amendment that will widen ministers' regulation-making power to make provision in respect of the SSSI register. The regulation-making power will already enable ministers to empower the Keeper of the Registers of Scotland to charge fees for copies and extracts of information from the SSSI register. Amendment 23 will extend that power to enable ministers to provide for fee charging in respect of reports that are derived from the SSSI register.

Amendments 6 to 10 and 26 are all minor technical amendments.

I move amendment 3.

*Amendment 3 agreed to.*

*Amendment 4 moved—[Allan Wilson]—and agreed to.*

### **Section 12—Exercise of functions by public bodies etc**

**The Presiding Officer:** Group 5 is on the exercise of functions by public bodies and office holders. Amendment 17 is grouped with amendments 18, 19 and 20.

**Allan Wilson:** At stage 2, Roseanna Cunningham argued that the new general duty in section 12 should acknowledge explicitly the importance of maintaining the integrity of the SSSI series in addition to safeguarding individual sites. I agreed then and I agree now with her case. Amendments 17 to 20 will achieve that shared objective. The bill gives new purpose to the SSSI series, so it is right that we acknowledge that purpose. I am therefore grateful to Roseanna

Cunningham for making a helpful point in the debate.

I move amendment 17.

**Roseanna Cunningham:** Again, I express my thanks to the minister for taking on board issues that were raised at stage 2. Not only are SSSIs important as individual sites, but together they amount to more than the sum of their parts. Amendment 17 was lodged to address that issue and I am grateful to the minister for doing so.

**Nora Radcliffe:** It is important that we see SSSIs as a series, as well as as individual sites. We are glad that the Executive has taken that on board.

*Amendment 17 agreed to.*

*Amendment 18 moved—[Allan Wilson]—and agreed to.*

#### **Section 14—Operations by public bodies etc: authorised operations**

*Amendment 19 moved—[Allan Wilson]—and agreed to.*

#### **Section 22—SSSI register**

*Amendment 23 moved—[Allan Wilson]—and agreed to.*

#### **Before section 38**

**The Presiding Officer:** Amendment 5 is in a group on its own.

**Allan Wilson:** At stage 2, I undertook to bring a stage 3 amendment that would reflect the Ramsar provisions in section 77 of the Countryside and Rights of Way Act 2000. As I argued at stage 2, Ramsar sites in Scotland are already well protected through existing designations so there is, strictly speaking, no need for the kind of additional mechanism that Mark Ruskell proposed at stage 2.

However, I am happy to respond to the views that members expressed at stage 2; no doubt the lead committee's members will testify to that. Amendment 5 will therefore place on ministers a duty to notify SNH, and it will require SNH to notify formally the individuals and organisations that are most directly concerned with management of a Ramsar site. I am happy that Mark Ruskell, among others, raised the issue with me at stage 2. The amendment is consistent with arrangements in England and Wales and I am happy that the measure will be in the bill.

I move amendment 5.

**Mr Ruskell:** I welcome amendment 5 in response to my stage 2 amendment on Ramsar wetland sites. It is important that internationally

recognised wetland sites, such as Loch Leven, are given a statutory underpinning. When we sign up voluntarily to important international conventions, such as the Ramsar convention, we should do so with the intention of following those commitments through to the heart of policy and law, rather than hope that good practice will permeate naturally through public institutions. Amendment 5 will bring our commitment to protecting wetlands into legislation and ensure that Scotland does not lag behind England and Wales in delivering the UK commitment to Ramsar wetlands.

**Rob Gibson (Highlands and Islands) (SNP):** On behalf of the SNP, I will be glad to see the measure included in the bill. It will make the bill more complete. I welcome amendment 5.

**Alex Johnstone:** I also thank the minister for lodging amendment 5. After discussion, it seemed to be important that there be reference to Ramsar wetlands in the bill. As the minister is aware, I lodged a series of stage 2 amendments that were designed to foster openness and communication between SNH and landowners over SSSIs. I am particularly happy that the provisions of amendment 5 contain some detail on how communications on Ramsar sites should be carried out between SNH and landowners. I am therefore grateful to the minister for lodging amendment 5.

**Nora Radcliffe:** I add my voice to the chorus of welcome for amendment 5. It is important that we acknowledge the importance of wetlands. Ramsar sites are important and it is good that the Executive has fulfilled the commitment that it made at stage 2 to include them in the bill.

**The Presiding Officer:** Do you need to say anything more, Mr Wilson?

**Allan Wilson:** Not only are we leading England and Wales, but we have a global lead in the designation of Ramsar sites, which are more commonly referred to as wetlands. Amendment 5 is important because it will acknowledge and underpin that process in statute.

*Amendment 5 agreed to.*

#### **Section 43—Powers of investigation etc: police**

**The Presiding Officer:** Amendment 24, in the name of Allan Wilson, is grouped with amendments 16 and 34.

**Allan Wilson:** Amendments 24 and 16 will make simple corrections to the text of the bill. They will ensure that the word "may" is inserted in the right place in section 43 and schedule 6.

Amendment 34 will deliver improved consistency between closely related wildlife crime statutes. As I said at stage 2, that kind of consistency in the promotion of common procedures adds genuine

and practical value to the police. It is also of genuine and practical value to the prosecutor and the courts when they deal with such offences. That is the goal of amendment 34. It will bring section 11 of the Protection of Badgers Act 1992 into line with the enhanced provisions in section 19 of the Wildlife and Countryside Act 1981. The revisions to section 19 of the 1981 act were considered and agreed at stage 2. Consequently, amendment 34 will make a simple but worthwhile enhancement to the Protection of Badgers Act 1991.

I move amendment 24 and invite members to support amendments 16 and 34.

**The Presiding Officer:** I am not going to call Nora Radcliffe because we are almost out of time.

*Amendment 24 agreed to.*

#### **Section 46—SNH: power to enforce**

*Amendment 20 moved—[Allan Wilson]—and agreed to.*

#### **Section 49—Notices, applications etc**

*Amendment 6 moved—[Allan Wilson]—and agreed to.*

#### **Section 51—Protection of wildlife**

**The Presiding Officer:** Amendment 25, in the name of Allan Wilson, is grouped with amendments 27, 28, 29, 32, 33 and 33A.

**Allan Wilson:** The amendments respond to proposals that were made at stage 2 by Nora Radcliffe and Maureen Macmillan. Nora Radcliffe argued for greater protection of the nests of certain species outwith their breeding seasons. The objective of her amendment was to ensure that nests that are habitually reused are properly protected from damage. I was happy to support that initiative by lodging Executive amendments that will make it an offence to take, damage, destroy, interfere with or obstruct nests outwith the breeding season.

However, I want to consult further on which species should be covered by the new provisions. That is why I propose at this stage a schedule that lists only one species—Parliament will agree that there is a compelling case for including the white-tailed eagle. It is Scotland's largest and rarest bird of prey and it deserves the highest level of protection. Whether other species should also be included in the proposed new schedule and what those species should be is something on which I want to consult. Nora Radcliffe's original amendment provided a list of suggestions. Other people will have different ideas and I will be happy to listen to a wide range of views.

I give that commitment to Alex Fergusson. It would be premature at this stage to add the barn owl to the proposed new schedule. It is a species that can be readily considered in future consultation and I am happy to give a firm commitment to do so. On the basis that we will consult on adding the barn owl to the list of species in due course, I ask him not to move amendment 33A.

Maureen Macmillan's amendment at stage 2 was for the communal roost sites of particular bird species to be given new protection. In responding to her amendments, I expressed doubts about the approach that she took—that is a matter of record. However, I have sought to achieve the same general objective by a slightly different route. I see genuine value in providing specific additional protection to species that are most exposed to persecution and harassment, including those which roost communally. We debated that point at stage 2.

Amendment 29 will therefore create the offence of intentionally or recklessly harassing certain scheduled bird species. That is a new offence that will provide sufficient flexibility to deal with threats to communal roosts as well as having the potential to address other forms of persecution without inadvertently criminalising land managers and others who go about their lawful business.

However, I want to consult fully on which species should be listed in relation to the new offence. At this stage, there is a compelling case for including the white-tailed eagle in the list of birds that would be covered by the new offence. Other species such as the barn owl and so on can be added to the schedule in the usual way once the outcome of the consultation is clear.

I ask—given my assurances about future consultation on widening the list of species to be covered—Alex Fergusson not to move amendment 33A.

I invite support for amendments 27, 28, 29, 32 and 33. I move amendment 25.

15:15

**Alex Fergusson (Galloway and Upper Nithsdale) (Con):** I have listened very carefully to the minister's comments. Believe it or not, the purpose of amendment 33A is to give some urgently needed protection to the barn owl, which has been in steady decline for many years. It has also been the subject of considerable study and research by the Hawk and Owl Trust in my constituency of Galloway and Upper Nithsdale, which the bird appears to favour. That research suggests that time is very much not on the barn owl's side.

Members might well ask why the species deserves to be ranked alongside the white-tailed eagle in the proposed schedule. As the minister has pointed out, the white-tailed eagle is extremely rare. However, after its reintroduction following extinction, it is now happily established with a self-sustaining population.

My reasoning behind amendment 33A is very simple. As the white-tailed eagle is confined to some of the remoter parts of the already remote Western Isles, it is incredibly difficult for someone to interfere with and destroy a bird's nesting site unless that person is intent on illegal activity. Conversely, it is incredibly easy to destroy the barn owl's nesting site. Indeed, such destruction is becoming easier and more common because it is in effect encouraged by our planning regulations. As the insatiable demand for rural housing continues, the conversion of redundant farm buildings for housing and other uses is now a common and often welcome sight. However, each conversion can potentially destroy the nesting site of a barn owl, which tries to stick to the same site every year and often has great difficulty in relocating if its site is destroyed.

I am not for one second contending that the white-tailed eagle does not richly deserve the full protection of the provisions that are set out in amendment 33. However, in commending the Hawk and Owl Trust's work on the conservation of barn owls and in lodging amendment 33A, I seek to offer increased protection to the rapidly declining barn owl population alongside what is now a stable and—I hope—increasing white-tailed eagle population.

I hope that in his summing-up the minister will announce a welcome change of heart and offer his support for the barn owl by accepting amendment 33A.

**Nora Radcliffe:** I am pleased to welcome the minister's response to my stage 2 amendment. That amendment sought to afford year-round protection of the nest sites of certain bird species that return to the same site every year and whose nesting and breeding could be badly disrupted as much by nest sites' being destroyed outwith the breeding season as by their being disturbed during the season. The measures in amendment 25 can encompass the protection of man-made sites used by species such as the barn owl.

The Executive's proposal to consult on which species should be protected by the measures is the right way forward. Although I agree with Alex Fergusson's comments about the need to protect the barn owl, it would be more consistent to include the species in the consultation along with all the other species that will eventually find their way on to the list of protected species whose nest sites cannot be disturbed at any time of year.

**Allan Wilson:** Nora Radcliffe has answered Alex Fergusson's point very well. At this stage, we are not so much moving against the barn owl as moving in favour of the white-tailed eagle. We wish to consult more widely on the other species that should be incorporated in the proposed list of protected species. Alex makes a compelling case for including the barn owl, and it will be considered in the consultation.

*Amendment 25 agreed to.*

#### **After section 51**

**The Deputy Presiding Officer (Murray Tosh):** We move to group 9, which concerns the Scottish marine wildlife watching code. I call Maureen Macmillan to speak to and move amendment 48.

**Maureen Macmillan:** I have lodged amendment 48 as a result of the Whale and Dolphin Conservation Society's concerns about the impact of some boat operators on the well-being of dolphins in the inner Moray firth.

However, the amendment will have implications for other marine areas. The present voluntary code of practice is not being adhered to by a small number of operators, who have been seen to approach dolphins at speed, drive into groups of dolphins and even to chase dolphins.

The dolphins on the inner Moray firth are already under stress from shipping in the area so it is important that harassment by boat operators cease. I recognise that, even without amendment 48, the bill will protect the dolphins by making it an offence intentionally or recklessly to disturb or harass them within the 12-mile limit. The problem is in ensuring that offences are prosecuted. That means that it should be clear what constitutes disturbance or harassment, and that the police should be in no doubt that an offence is being committed.

As I said, a voluntary code is in operation for boat operators, but it does not seem to have had enough impact and there is uncertainty about its status. As far as I am aware, the breaking of that code has not led to any prosecutions. A statutory code such as that which amendment 48 proposes would signal the importance that we place on giving a clear steer to the authorities as to what constitutes disturbance and harassment of dolphins.

Amendment 48 would charge SNH, after it has undertaken appropriate consultation, with drawing up a code of advice on how commercial and leisure activities that are related to watching marine wildlife should be conducted. The code will describe activities that would disturb marine wildlife and it will give guidelines for approaching and viewing marine wildlife with the minimum of disturbance. Most important, SNH will have to

promote awareness of the code so that boat operators will be in no doubt about their responsibilities, and so that the police, the coastguard and procurators fiscal will be in no doubt as to when the law has been broken.

I move amendment 48.

**Alex Johnstone:** I congratulate Maureen Macmillan on lodging amendment 48, which serves a function that was described during stage 2 and earlier in committee consideration of the bill. As Maureen Macmillan said, there is a famous population of dolphins in the Moray firth that requires to be protected. I have recently become aware that a substantial population of dolphins and, indeed, of much larger whales exists off the east coast of Scotland, to the extent that people in the Stonehaven area who used to make a living from taking out fishing parties now make rather more of a living by taking out whale-watching and dolphin-watching parties.

Consequently, it is important that we move to a position in which a code of conduct is in place to protect marine mammals where people approach them for commercial reasons. The form in which Maureen Macmillan has lodged amendment 48 is not only acceptable but desirable. I congratulate her on her amendment.

**Nora Radcliffe:** I, too, am glad that Maureen Macmillan lodged amendment 48. If she had not done so, I would have had to lodge a similar amendment. Amendment 48's provisions will be widely welcomed by everyone who wants to see and enjoy our marine wildlife without interfering with it in a way that would be damaging to the very thing that they value.

**Eleanor Scott (Highlands and Islands) (Green):** I, too, congratulate Maureen Macmillan on lodging amendment 48 and I thank her. In the north of Scotland, we all know how important to tourism and conservation the pod of bottlenose dolphins is. It is the most northerly such colony in the world and it is an important conservation issue. The colony is also economically important because whale and dolphin watching is a big thing in our area. That activity must be properly organised. The people who make a living by doing it appropriately and reputably must be protected, as must the marine animals themselves. I very much welcome amendment 48 and I am hugely glad that Maureen Macmillan lodged it.

**Allan Wilson:** The important point about the issue is that the bill already creates a new offence of disturbing or harassing cetaceans. There are existing codes at both United Kingdom and Scotland level that cover specific localities, in particular the Moray firth, to which Alex Johnstone referred. The incidents that are causing concern there are precisely the type of undesirable conduct

that the new offence will address. Therefore, the real issue is probably one of enforcement. However, I have been persuaded that the kind of code that amendment 48 proposes will be a valuable addition to the armoury of weapons that are available to people who are concerned about preserving and conserving our valuable stock of dolphins, cetaceans, basking sharks and so on. Therefore, on that basis and because members have indicated clearly from all parts of the chamber that they want amendment 48's provisions to be included in the bill, I am happy to accept Maureen Macmillan's amendment 48.

**Maureen Macmillan:** I am very grateful for the support for amendment 48 from all sections of the chamber, and I am also grateful that the minister has agreed to it. However, I am sure that I am not nearly as grateful as the dolphins are.

*Amendment 48 agreed to.*

## Section 42—Guidance

*Amendment 7 moved—[Allan Wilson]—and agreed to.*

## Section 53—Crown application

**The Deputy Presiding Officer:** Amendment 1, in the name of Dennis Canavan, is in a group on its own.

**Dennis Canavan (Falkirk West) (Ind):** The purpose of amendment 1 is to leave out from section 53, page 32, line 29, the words, "but not Her Majesty in her private capacity".

Under section 53 of the bill as amended at stage 2, the provisions of parts 1, 2 and 4 would apply to Crown land but not to land that is owned by the Queen in her private capacity—for example, Balmoral estate. Members who were members during the previous session of Parliament may recall that there was a similar exclusion section for Balmoral in the original draft of the Land Reform (Scotland) Bill, but the Executive—and, I presume, the Queen—were eventually persuaded to accept an amendment of mine that extended the right of access to land that is owned by the Queen in her personal capacity. In the interests of consistency, I hope that the Parliament will accept amendment 1, so that parts 1, 2 and 4 of the Nature Conservation (Scotland) Bill will apply to Balmoral estate in the same way as to other land throughout Scotland.

I note that the Deputy Minister for Environment and Rural Development has now added his name to amendment 1. I welcome his support, which represents a massive U-turn on the part of the Executive. When an amendment that I lodged was being considered at stage 2, we were told that the Executive could not accept it, although it was precisely the same amendment with exactly the same wording, because there was a problem



regarding the compulsory purchase provisions in the bill.

Under the terms of the bill, Scottish Natural Heritage may compulsorily purchase land if

“it is necessary to do so for the purpose of securing the conservation, restoration or other enhancement of any protected natural feature.”

However, under the bill as amended at stage 2, such powers would not have applied to land owned by the Queen in her private capacity. The deputy minister told the Environment and Rural Development Committee that

“the compulsory purchase provisions in the bill could not be applied to Balmoral. That would be outwith legislative competence”.—[*Official Report, Environment and Rural Development Committee*, 3 March 2004; c 787.]

I am therefore very pleased that the Executive—and presumably the Queen—have been persuaded to accept amendment 1, and I trust that the Parliament will now accept it too.

Balmoral estate contains some of the most outstanding natural environment in Scotland, and the Scottish Parliament has a duty to conserve it instead of just leaving that to the discretion of the Queen or her factor. We cannot have one law for the Queen and another law for every other landowner in Scotland. As I have said before in this Parliament, Scotland's mountains, lochs and glens are not simply the property of royalty or landed gentry. They are part of our natural heritage and this Parliament must recognise that.

I move amendment 1.

**Roseanna Cunningham:** I welcome Dennis Canavan's amendment. As members may know, the SNP is generally in favour of anything that restores to the person of the monarch all the rights and privileges afforded to ordinary citizens of Scotland, and I hope that everybody else will endorse amendment 1, too.

15:30

**Alex Johnstone:** I rise to take the traditional Tory position of defending the Queen—and I would tug my forelock were it long enough—against the ravages of Dennis Canavan. However, in relation to amendment 1, it is important to note the precedent in the access provisions, and in other provisions, in the Land Reform (Scotland) Bill. I have seen some of the correspondence between the deputy minister and Dennis Canavan and I know that the deputy minister has changed his position, so I would like to give the deputy minister the opportunity to explain in greater detail what correspondence there has been; whether there has been correspondence between himself and the Queen on this matter; what arrangement has been entered into; and why we should support

Dennis Canavan's amendment 1, which the minister supports.

**Allan Wilson:** Alex Johnstone will recall—indeed, he mentioned it, as did Dennis Canavan—that the Land Reform (Scotland) Bill contained a precedent for the issue that we are now considering in relation to the Nature Conservation (Scotland) Bill. For the benefit of members who may not remember, I was the minister who took the Land Reform (Scotland) Bill through stage 2 and stage 3, and I was happy to agree—then as now—to Dennis Canavan's amendment.

What I did at stage 2 of the Nature Conservation (Scotland) Bill—which Dennis Canavan now misrepresents by mistake, I am sure, rather than deliberately—was to give a clear commitment, which I was happy to repeat to the Presiding Officer at the time, that I would consider the proposal carefully and, indeed, lodge an amendment in my own name if that were necessary. I made it equally clear in a subsequent letter that I would support the amendment if I felt that a convincing case existed. I had to be satisfied that such a convincing case indeed existed. I am not sure whether Dennis believed me then, either, but those were straightforward commitments and I would argue that I have kept my word.

Crown application is a relatively complex area but I am now satisfied that there is absolutely no reason why the current exemption in section 53 should not be removed. I am satisfied that my concerns in relation to compulsory purchase—to which Dennis Canavan referred—were not valid.

However, an important point must be made. It would be entirely incorrect to suggest, if anyone was of a mind to do so, that the Queen or her advisers have somehow or other sought to secure a privileged position in relation to the SSSI arrangements in the bill. The exemption was not requested by the palace and no objection of any kind has been made to the prospect of the exemption being removed from the bill. I can absolutely reassure Mr Canavan on that point—and the traditional Tories in our midst. The original wording in the bill merely reflected the status quo.

Incidentally, I can confirm to members that amendment 1 causes no difficulties as far as future royal assent to the bill is concerned. I am happy to support amendment 1.

**Dennis Canavan:** I thank all members and all parties who have expressed support for amendment 1. I thank the deputy minister and, indeed, the Scottish Executive. It is always difficult for a minister or a deputy minister to come to the dispatch box and admit that he was wrong and for the deputy minister to admit that he has had to do a U-turn to get himself out of the difficulty that he

experienced during the committee stage of the bill. Nevertheless, I thank the deputy minister for his support, albeit belated.

I would also like to thank Her Majesty the Queen, who, I presume, was consulted under the standing orders of the Parliament. It was drawn to my attention by the deputy minister that, under the standing orders, if the Queen is affected in a personal capacity by a piece of legislation, there has to be some consultation or at least communication between the Scottish Executive and the Queen. Whether that has amounted to her giving approval, I do not know, but it seems that she has perhaps given a nod of consent. The minister may like to enlighten the Parliament as to whether he gave her any assurance as to whether Scottish Executive ministers or Scottish Natural Heritage would indeed use compulsory purchase orders regarding the Balmoral estate. I somehow doubt it, under this Administration, but who knows what the future holds?

**The Deputy Presiding Officer:** The question is, that amendment 1 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

#### For

Adam, Brian (Aberdeen North) (SNP)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Ballance, Chris (South of Scotland) (Green)  
 Ballard, Mark (Lothians) (Green)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Canavan, Dennis (Falkirk West) (Ind)  
 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, Frances (West of Scotland) (SSP)  
 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)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Fox, Colin (Lothians) (SSP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marilyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)

Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kane, Rosie (Glasgow) (SSP)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 Lochhead, Richard (North East Scotland) (SNP)  
 Lyon, George (Argyll and Bute) (LD)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 MacDonald, Margo (Lothians) (Ind)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Morgan, Alasdair (South of Scotland) (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)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Robison, Shona (Dundee East) (SNP)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Scott, Tavish (Shetland) (LD)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 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)

#### AGAINST

Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)

#### ABSTENTIONS

Aitken, Bill (Glasgow) (Con)  
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 Davidson, Mr David (North East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)

Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Johnstone, Alex (North East Scotland) (Con)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (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)

**The Deputy Presiding Officer:** The result of the division is: For 97, Against 1, Abstentions 16.

*Amendment 1 agreed to.*

### Section 56—Interpretation

*Amendments 8 to 10 moved—[Allan Wilson]—and agreed to.*

### Schedule 5

#### PART 2: TRANSITIONAL ARRANGEMENTS

*Amendment 26 moved—[Allan Wilson]—and agreed to.*

### Schedule 6

#### PROTECTION OF WILDLIFE

*Amendments 27 to 29 moved—[Allan Wilson]—and agreed to.*

**The Deputy Presiding Officer:** Group 11 relates to the prohibition of, and the placing of restrictions on, certain methods of killing or taking wild animals. Amendment 11, in the name of the minister, is grouped with amendments 12, 30, 13, 14, 49, 15 and 50.

**Allan Wilson:** Maureen Macmillan's proposals at stage 2 on drag snares and identification tagging and record keeping for legal snares were helpful and welcome, and I believed that they deserved further careful consideration. Although I indicated then that I was not entirely convinced by the specific wording of the amendments that Maureen Macmillan had lodged, I argued that the underlying ideas had attractions. I want them to be given a wider airing, so it is already my intention to consult on a number of technical issues in relation to snaring. For example, there is an obvious case for requiring a stop or neck block to be fitted on all snares. The existing order-making power in paragraph 10(7) of schedule 6 will allow that to happen.

The intention of amendments 11 to 15 is simply to enable similar potential action to deal with the issues that Maureen Macmillan has raised, if that proves appropriate. However, I want to make it clear at this juncture that no action will be taken on her proposals or on any of the other technical issues until they have been the subject of proper

and full public consultation. Although amendments 11 to 15 will enable possible future action, they do not prejudice the outcome of the consultation. We will welcome all views on implementation.

Amendment 30 seeks to make a minor change that will ensure that there is a "reasonable excuse" defence against the charge of possessing certain types of snare, such as self-locking snares.

I believe that amendments 49 and 50, which Rosemary Byrne lodged, are unnecessary and unduly heavy-handed. I see nothing wrong with the increase in the number of qualified full-time gamekeepers that amendment 49 proposes; on the contrary, I support that. However, I suspect that Rosemary Byrne's main intention is not to further the interests of the Scottish Gamekeepers Association—although I could be wrong about that. It is not in dispute that, if snares are to be used, they must be set, monitored and maintained in a professional manner. If that is not done, the criminal sanctions that are contained within the bill will bite.

Amendment 50 is simply unnecessary: causing or permitting the use of an illegal snare or other prohibited device is an offence at the moment and the provisions in Rosemary Byrne's amendment would complicate the situation. Incidentally, the provisions of the amendment would also create a technical offence that should be of concern to anyone who is engaged in the sport of archery. The amendment would make it an offence to allow anyone to possess or use a bow, even for competition purposes, it would appear. Similarly, anyone with a net, mirror, sound recording equipment or any mechanically propelled vehicle ought to be worried. I cannot see my colleague Nicol Stephen being particularly happy about the last category.

It is my firm view that the policy that the Executive has adopted on snaring is balanced, rational and effective. The provisions in the bill, together with the additional provisions that are contained in amendments 11 to 15 and amendment 30, are the right way to deal with the issue.

I invite members to support amendment 11 and the other amendments in my name. I ask Rosemary Byrne to give due consideration to my request not to move amendments 49 and 50.

I move amendment 11.

**Ms Rosemary Byrne (South of Scotland) (SSP):** As the minister said, I have lodged two similar amendments, which aim to make landowners liable for any snaring offences that are committed on their land. I want to impose a duty that will help to ensure that such offences are avoided.

Although I will focus on amendment 50, which is my preferred amendment, my comments are relevant to both amendments 49 and 50. Amendment 49 has the same objective as amendment 50, but it would achieve it by giving the minister the power to introduce regulations. Unless the minister gives a clear assurance that he will look favourably on such regulations, I intend to press amendment 50.

As all of us know, snaring has been a contentious issue throughout the progress of the bill. At stage 2, I made it clear that my preference was for a ban on snaring. I believe that snares are cruel, unnecessary and indiscriminate. Unfortunately, when Eleanor Scott of the Green party lodged an amendment at stage 2, the amendment was defeated by the Environment and Rural Development Committee. In the absence of a ban, I believe that landowners and occupiers should face responsibility for the snaring offences that are committed on their land. If landowners make a decision to let snares be used on their land, ultimately they should be held responsible for ensuring that the snares are used properly.

Amendment 50 would also protect gamekeepers. There may be a number of gamekeepers who are under pressure from landowners to place too many snares for them to be able to maintain them effectively. All too often, gamekeepers can be pressured by their employers into employing illegal or suspect predator control techniques to maximise the number of animals that are killed and so protect game birds. My amendments would stop that happening and would put the legal responsibility where it belongs, on the landowner.

Although I do not for a minute suggest that most landowners condone the breaking of the law, it is clear that it does happen. Landowners would be better encouraged to have the law obeyed on their estates if they themselves had a legal duty to see that that is the case.

**Margo MacDonald (Lothians) (Ind):** I agree with Rosemary Byrne that landowners should be held legally responsible, but what if the snare was set by a poacher?

**Ms Byrne:** If that was the case, the monitoring process, which will also be used to protect gamekeepers, would record the fact. In such cases, the bill's current provisions would protect landowners and gamekeepers.

Employers are responsible for the health and safety of people on their land and landowners should accept a similar responsibility for wildlife. The injuries to animals that are caused by snaring are often so severe that there should be a positive duty on landowners to ensure that their gamekeepers obey the law.

It is clear that snares can cause both prolonged mental suffering and serious physical injuries to animals. Evidence from Les Stalker of the St Tiggywinkles wildlife hospital showed graphically that snares can cause pressure necrosis, which results when pressure from the snare causes damage to the cells of internal or external tissues. The consequent degeneration of those tissues causes death several days later.

Another problem with snares is their inherently indiscriminate nature. Devices with razor-sharp teeth are used by gamekeepers as part of an apparent drive to target systematically wildlife that is deemed to pose a risk to estates' game bird stocks. I could go on and give more examples, but the Presiding Officer is about to tell me to stop.

As it stands, the law protects bad landowners by shielding them from the consequences of actions that are carried out on their behalf. I say to Margo MacDonald that if my amendments 49 and 50 were agreed to, and there was not enough evidence to prosecute a particular gamekeeper, the landowner would be forced to take responsibility for the actions of his employees.

I ask members to support amendments 49 and 50.

15:45

**The Deputy Presiding Officer:** Eight members wish to speak, so I appeal for brevity.

**Eleanor Scott:** I made my views on snaring clear at stage 2, when in effect I proposed a complete ban on snaring. During evidence taking on the bill, the Environment and Rural Development Committee heard powerful and compelling evidence from animal welfare organisations on the cruelty that can be inflicted by snares. We heard that we are one of only five European Union countries that allow snaring—I cannot speak for the new EU countries. We heard that under the Bern convention, to which we are a signatory, snares are supposed to be used only to trap and restrain animals, not kill them, yet we heard from gamekeepers that rabbits in particular are almost always dead when found in snares.

When we went on site visits, we heard from gamekeepers that they are expected to look after and manage huge areas of land, such that one man is doing what six people did a generation ago. We know that they are setting snares in places where they cannot adhere to good practice. We know that the Scottish Gamekeepers Association and the British Association for Shooting and Conservation have codes of good practice for snaring, but we also know that someone does not have to show that they adhere to those codes of practice to be employed as a gamekeeper. Indeed, people do not need to have

any qualifications to be employed to perform gamekeeping duties.

The animals are paying the price and they are suffering. My preference is for a complete ban on snaring. Clearly, that was not supported at stage 2, and I did not expect it to be supported at this stage, which is why I did not lodge an amendment to that effect. However, I will support any amendment that makes the law on snaring more stringent and which increases penalties, enforcement and the animal welfare aspect of an outdated mode of pest control that will not survive the next few decades.

**Nora Radcliffe:** We spent a lot of time in the committee discussing snaring. I am comfortable with the view that the committee reached that we should retain snaring as one of the options for vermin control, but should take steps to ensure that best practice prevails and that the inevitable suffering is minimised. It is good that we are leaving the door open for further action as we get more information on the topic.

**Sarah Boyack:** The Environment and Rural Development Committee debated snaring extensively at stage 1 and took a range of evidence from many organisations. No one on the committee pretends that the issue is easy, and we did not want to have a fudge or cop-out that made it look like we had a solution when we did not. The issues are difficult.

If we accept the minister's amendments 11, 12, 30, 13, 14 and 15, we will be in the right place, which, as Nora Radcliffe said, is to view snaring as one form of pest control. It is not pleasant, but neither are other forms of pest control, which impact on humans, the environment and animals. There is nothing pleasant about this discussion.

As a committee, we had to make a reasonable judgment on the best way forward. The bill that was presented to us is not the bill that members have in front of them. The bill that is in front of members was amended by us at stage 2.

Margo MacDonald's question to Rosemary Byrne on poaching was not answered adequately. We argued about such issues in depth at the committee. Rosemary Byrne would have benefited had she engaged in those discussions.

The bill is better now. Snaring is not pleasant. We have tried to get better animal welfare standards, and I welcome Allan Wilson's amendments 11, 12, 30, 13, 14 and 15.

One of the most powerful representations that I Maureen Macmillan and others received was made by the Scottish Society for the Prevention of Cruelty to Animals, which said that even if we keep snaring, we can do it a lot better than we do

it at the moment. We have a huge opportunity to improve best practice.

As Eleanor Scott said, it was apparent from the representations that the committee received that some land managers think that we can do better. For example, the BASC codes provide a way forward. We must ensure that best practice is applied throughout the land management process. The bill can help to deliver that.

I welcome Allan Wilson's amendments and the commitment to consider the detailed representations that Maureen Macmillan made at stage 2 about drag snares, the design of snares and how snares are laid. We have already agreed that snares should be monitored more frequently than they have been in the past to minimise animal suffering. More can be done and the bill provides an opportunity to do it. Members of the committee will agree that the issue is an easy one on which to grandstand, but we must reach a workable solution that promotes animal welfare, which the bill will do. I encourage the minister to take on board the comments that Maureen Macmillan and others made at stage 2.

**Margo MacDonald:** I accept the member's explanation of why the bill allows for a form of snaring and I support that. However, she talked about the need for enforcement. Is the implication that much more resource will have to be committed to implement the proposals?

**Sarah Boyack:** Two sets of resources need to be applied. One concerns land managers. We hope that the bill and the new framework will raise standards of practice among land managers and will make people think carefully about laying snares if they do not have the time to monitor them properly. That is a key issue. The other set of resources is those that will come from the bill's wildlife crime provisions. The committee argued that police resources should be applied in a focused way. Margo MacDonald is right that resources will be required, but part of the issue is about improving best practice and raising standards. Simply passing the bill will not achieve that; follow-up discussions will be required. Those discussions can take place when the subordinate legislation that may come about as a result of Allan Wilson's amendments is considered.

**Alex Johnstone:** Opposition to snaring is not limited to one group of members; members from all parties in the chamber are opposed to it. The Environment and Rural Development Committee entered into heavy deliberations on snaring during stage 1 and in considering the proposed amendments on the issue at stage 2. In the current context, we need to ensure that snaring is available as a pest control measure in certain circumstances in Scotland. For that reason, it is important that we retain the practice. We must

recognise that the bill as introduced contained significant regulation of snaring that will vastly improve the circumstances in which snares will be used, and that the committee introduced further measures that will ensure that snaring is carried out only in a heavily regulated form. The minister has granted the concession that he will continue to consider the matter. For that reason, I will support his amendments.

Amendments 49 and 50 would impose an unreasonable requirement on landowners. The people who set snares should always be primarily responsible for the snares that they set. For that reason, I will not support amendments 49 and 50. After long deliberation, the committee arrived at a reasonable solution for the present. In future, the Parliament and the committee—or subsequent committees—will consider the issue further, but the bill, with the minister's amendments, provides a reasonable compromise for today.

**Mrs Margaret Ewing (Moray) (SNP):** I rise to speak against amendments 49 and 50 and to thank the minister for the hard work that has been undertaken on his amendments and for the future work that will be done to ensure that the best possible code of practice is introduced.

As members have said, the subject is difficult. It may horrify members to know that, as a child, I set snares. That was part of country life and a natural way of keeping down vermin, particularly rabbits, which destroy crops. It does not matter whether the crops are organic, non-organic or some other form—rabbits eat them. Snaring was a legal way of controlling rabbits, and a responsible landowner would tell the gamekeeper, the farm worker or the orraman that snares had to be checked at least once daily.

Members who want to outlaw snaring totally raise the prospect of bringing back diseases such as myxomatosis that were used to control pests. It is a lot crueller to kill rabbits with myxomatosis than it ever is to catch them in snares.

I say to Rosemary Byrne that catching landlords snaring will not end poaching. Anyone who knows anything about snaring knows exactly where the snares should have been placed, so it is possible to detect when poachers have been operating on the land; the difficulty is catching them at it.

It is argued that not enough people work in the countryside to continue snaring, but I say that that is a strong argument for bringing back more people to be employed in the countryside. The people who work there are the real guardians of our environment.

**Maureen Macmillan:** I thank the minister for lodging amendments 11 to 15, because the amendments that I lodged at stage 2, which were not agreed to, had a lot of merit. I point out to the

minister that those stage 2 amendments were supported not only by the SSPCA but, for the most part, by the Scottish Gamekeepers Association and other countryside organisations, so, on the whole, they were not contentious. I am also pleased that the minister will consult further on the provisions that his amendments 11 to 15 will enable so that we may have snaring that is regulated as closely as possible so that snares are used as humanely as possible.

Margo MacDonald asked about the cost of some of the measures. I point out to her that one of the measures that I suggested was that snares should have identity tags. That would probably cost about 7p per snare, which is not a lot of money for an estate to fork out, but it would have helped with record keeping and would have helped us to find out whether snares were genuinely being set by estate workers or being set by poachers.

The ban on snaring that Eleanor Scott proposed at stage 2 was overwhelmingly defeated. That is because everybody else in the committee realised that snaring was necessary to control vermin in the countryside and that the alternatives—such as gassing, which has human health implications—were no more pleasant.

I thank the minister for taking my suggestions on board. I hope to see them come before the Parliament as regulations soon.

**Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP):** I welcome the work that the committee carried out, particularly its rejection of those who have argued for an outright ban on the use of snares. I also welcome the balanced approach that we have heard from those committee members who acknowledge that snares are needed.

Last summer, I was happy to attend the Moy game fair, at which the SGA launched its code of conduct on snaring practice. Anyone who has read that code will see that the gamekeepers are determined to ensure that best practice is followed within and outwith their organisation. I hope that the minister will consult the SGA fully on amendment 14, because I have a slight concern about it. It states that there will be a code on snaring and that breach of that code will be a criminal offence. Ministers who are familiar with this area of the law will recognise the caution that we need to apply when we create new criminal offences, particularly on highly sensitive issues. I hope that members recognise that the best way to ensure the end of the inappropriate and cruel use of snares is by education.

Instead of attacking gamekeepers, as the Scottish Socialist Party and the Greens have done by proposing a ban, we should value the contribution that they make as the real custodians

of the countryside, because, unlike us, they are not talking about looking after wildlife; they do it day in, day out and year in, year out. Gamekeepers manage wildlife, and they know what they are doing. We must be very careful about assuming that we know better than they do, so instead of taking that approach, we should value the work that they do.

I welcome the approach that the Environment and Rural Development Committee has taken, but I ask the minister to take the greatest care in the preparation of the forthcoming code. We should tread very warily indeed in this territory. Gamekeepers already feel victimised by many measures that the Parliament has taken and we should not add to their misery.

16:00

**Allan Wilson:** I will deal with the last point first. I am grateful for the support that has come from most parts of the chamber on this issue, and I give an assurance that the consultation that I propose will, as ever, be wide ranging. It will be designed to secure a consensus on future progress on the matter, not just in the chamber but in the country.

For clarity, amendment 12 makes it an offence to set in position or otherwise use a snare of a

“type specified in an order made by the Scottish Ministers.”

That is in addition to the existing offence of using a self-locking snare. I point out to Rosemary Byrne that the intention behind the consultation is to give ministers sufficient powers, if necessary and depending on the outcome of that consultation and on other considerations, prospectively to ban other methods of land management that are deemed to be cruel or unnecessary.

**Margo MacDonald:** Does the minister have any indication of the number of prosecutions that might be expected under the proposed new legislation, or of the amount of resource, roughly speaking, that would need to be committed to implementing it?

**Allan Wilson:** As I was saying, we will consult on any future proposals for technical specifications relating to snaring. Like Sarah Boyack, I do not think that Rosemary Byrne answered Margo MacDonald's question about poachers. Amendment 49 would allow ministers to require, by order, the owner or occupier of any land where snaring was permitted to employ a qualified gamekeeper to operate, monitor and maintain snares, which would obviously require a substantial financial commitment. Of itself, that proposal is not a bad thing, but it implies a misconception that all land is held in vast holdings and that it is possible to employ people of the required specification to undertake the snaring. It

ignores the fact that much snaring is done by ordinary farmers and crofters—those who work the land. It is not our intention to turn those people into criminals. We accept that snaring is a necessary part of proper land management techniques.

Without overstating it, the bill already makes it an offence not only to misuse snares and other devices, such as crossbows, to which Rosemary Byrne has referred; it also addresses the setting of illegal snares and the illegal use of other devices. It would be unfair and unreasonable in the extreme to make the land manager, land occupier or landowner responsible for the illegal setting of snares of which he or she would otherwise be unaware. That is an unreasonable proposal.

In the interests of securing the broad consensus that I seek, both in the chamber and in the country, and given my assurances, I ask Rosemary Byrne not to press her amendments.

*Amendment 11 agreed to.*

*Amendments 12, 30, 13 and 14 moved—[Allan Wilson]—and agreed to.*

*Amendment 49 moved—[Ms Rosemary Byrne].*

**The Deputy Presiding Officer:** The question is, that amendment 49 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

#### FOR

Baird, Shiona (North East Scotland) (Green)  
Ballance, Chris (South of Scotland) (Green)  
Ballard, Mark (Lothians) (Green)  
Byrne, Ms Rosemary (South of Scotland) (SSP)  
Canavan, Dennis (Falkirk West) (Ind)  
Curran, Frances (West of Scotland) (SSP)  
Fox, Colin (Lothians) (SSP)  
Harper, Robin (Lothians) (Green)  
Harvie, Patrick (Glasgow) (Green)  
Kane, Rosie (Glasgow) (SSP)  
Leckie, Carolyn (Central Scotland) (SSP)  
Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
Scott, Eleanor (Highlands and Islands) (Green)  
Sheridan, Tommy (Glasgow) (SSP)

#### AGAINST

Adam, Brian (Aberdeen North) (SNP)  
Aitken, Bill (Glasgow) (Con)  
Alexander, Ms Wendy (Paisley North) (Lab)  
Baillie, Jackie (Dumbarton) (Lab)  
Baker, Richard (North East Scotland) (Lab)  
Barrie, Scott (Dunfermline West) (Lab)  
Boyack, Sarah (Edinburgh Central) (Lab)  
Brankin, Rhona (Midlothian) (Lab)  
Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
Brown, Robert (Glasgow) (LD)  
Butler, Bill (Glasgow Anniesland) (Lab)  
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)

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)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Finnie, Ross (West of Scotland) (LD)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marilyn (North East Scotland) (Lab)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Gorrie, Donald (Central Scotland) (LD)  
 Grahame, Christine (South of Scotland) (SNP)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lochhead, Richard (North East Scotland) (SNP)  
 Lyon, George (Argyll and Bute) (LD)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 MacDonald, Margo (Lothians) (Ind)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McMahan, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 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)  
 Neil, Alex (Central Scotland) (SNP)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Robison, Shona (Dundee East) (SNP)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)

Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 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)

**The Deputy Presiding Officer:** The result of the division is: For 14, Against 101, Abstentions 0.

*Amendment 49 disagreed to.*

*Amendment 15 moved—[Allan Wilson]—and agreed to.*

*Amendment 50 moved—[Ms Rosemary Byrne].*

**The Deputy Presiding Officer:** The question is, that amendment 50 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

#### FOR

Baird, Shiona (North East Scotland) (Green)  
 Ballance, Chris (South of Scotland) (Green)  
 Ballard, Mark (Lothians) (Green)  
 Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Curran, Frances (West of Scotland) (SSP)  
 Fox, Colin (Lothians) (SSP)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Kane, Rosie (Glasgow) (SSP)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Sheridan, Tommy (Glasgow) (SSP)

#### AGAINST

Adam, Brian (Aberdeen North) (SNP)  
 Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 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)  
 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)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)



Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Finnie, Ross (West of Scotland) (LD)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Gorrie, Donald (Central Scotland) (LD)  
 Grahame, Christine (South of Scotland) (SNP)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lochhead, Richard (North East Scotland) (SNP)  
 Lyon, George (Argyll and Bute) (LD)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 MacDonald, Margo (Lothians) (Ind)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 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)  
 Neil, Alex (Central Scotland) (SNP)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Robison, Shona (Dundee East) (SNP)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stevenson, Stewart (Banff and Buchan) (SNP)

Swinburne, John (Central Scotland) (SSCUP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 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)

#### ABSTENTIONS

Brown, Robert (Glasgow) (LD)

**The Deputy Presiding Officer:** The result of the division is: For 14, Against 100, Abstentions 1.

*Amendment 50 disagreed to.*

**The Deputy Presiding Officer:** We come to group 12, on non-native species. Amendment 35, in the name of the minister, is grouped with amendments 36 to 44.

**Allan Wilson:** I undertook at stage 2 to come back at stage 3 with a response to amendment 241, in the name of Mark Ruskell, which dealt with the sale of invasive and damaging non-native species. Amendment 35 fulfils that commitment and provides additional powers to regulate the sale of particularly undesirable non-native species. It would make it an offence to sell, offer or expose for sale or possess or transport for the purposes of selling any species that ministers specify by order. The new mechanism will complement other existing prohibitory regimes, such as mink-keeping orders and fishery regulations and it will allow ministers to prohibit the sale of species of non-native animals or plants that they consider to be a significant threat to the environment.

I make it clear that any proposed order would be subject to detailed prior consultation and that species will not be listed without our giving interested parties a proper opportunity to make their views known about whether those species should be included. That commitment would of course be backed up in statute. Consultation is a legal requirement imposed by section 26 of the Wildlife and Countryside Act 1981.

Amendments 36 to 44 are all consequential on that basic proposal. I am grateful to Mark Ruskell for making that constructive proposal at stage 2. I invite support for amendment 35 and the other amendments in the group.

I move amendment 35.

**Mr Ruskell:** I welcome the minister's amendments, which he has lodged in response to my stage 2 amendment on non-native invasive plant species. Contrary to rumour, that was not an attempt by the Greens to pull a sneaky one on genetically modified crops, although if I had thought of that at the time, I might have suggested something. The damage that invasive plants do to our ecology is costly. I was a conservation volunteer in my teenage years and much of the

work that I undertook to improve important habitats such as ponds and woodlands involved the often laborious job of removing non-native plants that had swamped the ecology of an area.

Prevention is desirable and will in the long run save millions of pounds of public money. I welcome the commitment to extend the list of target species and the rapid consultation on the list that the Executive undertook after stage 2. I also welcome the commitment to ban the sale of the target species. That move is supported by the gardening trade and should prevent more garden escapees from compounding the problems.

I welcome the amendments, which I hope will allow us to avoid future problems, but I would like to hear from the minister what measures the Executive is taking to tackle the sizeable problems now, as he has not seen fit to extend SNH's powers to tackle the issue under the bill.

**Nora Radcliffe:** I welcome the Executive's fulfilment of a commitment that was given at stage 2 and the fact that it is opening up further properly considered measures through secondary legislation.

**Allan Wilson:** One brief point arose from those comments. As Mark Ruskell knows, our consultation runs until 30 June and is based on the suggested list of non-native species to which he referred in March. Decisions on the addition of species to schedule 9 to the 1981 act will be made in the light of responses to the consultation. If making additions proves appropriate, such changes will be effected by statutory instrument under the existing legislative mechanisms in the 1981 act.

I hope that with those assurances, we can all support amendment 35.

*Amendment 35 agreed to.*

*Amendment 36 moved—[Allan Wilson]—and agreed to.*

**The Deputy Presiding Officer (Trish Godman):** Group 13 is on the protection of racing pigeons. Amendment 31, in the name of Alex Neil, is the only amendment in the group.

**Alex Neil (Central Scotland) (SNP):** The racing-pigeon sport is historic and has been important in Scotland and the rest of the UK. Dennis Canavan will be glad to know that Her Majesty the Queen is a pigeon fancier. I hope that that will influence the Tory vote on the amendment—I am a traditional crawler.

The racing-pigeon industry and sport have a real problem in predation by raptors. Amendment 31 is designed to deal with just one aspect of the problem—attacks by sparrow-hawks on pigeons in lofts. Other problems arise in flight not only from

sparrow-hawks but from peregrines, but the amendment is meant to break the back of one problem.

I will say what the proposal is not and deal with some of the propaganda from the RSPB, which is the royal society for the protection of some birds and not others. I want to protect birds of all types, including the pigeon and the raptor. The pigeon men are not in favour of a cull of raptors. We want a proper and rational approach to the problem.

The amendment's purpose is to build into the bill the right of the pigeon fancier—the racing-pigeon owner—to protect their birds in the same way as other people protect their birds. Some people might say that deterrence is the way to deal with the problem. For the past 30 years, every known form of deterrent has been tried and has failed. There is no known long-term effective deterrent for the problem. Were such a deterrent available, pigeon fanciers would be happy to employ it. Their purpose is not to attack sparrow-hawks but to defend the pigeons in their lofts.

Members will have seen photographs of some of the worst effects of attacks on pigeons. I do not think that anyone who cares about nature and about all birds can be other than disturbed by some of those photographs.

16:15

I want to refer to a study that has just been completed. I chaired a working party involving the Scottish Homing Union and the SNH. The conclusions of that study, which was not carried out in the best way, have again been deliberately misinterpreted and spun by certain people. The problem is not that 50 per cent of the pigeon population is attacked and killed by sparrow-hawks every year. There are concentrations around particular lofts and there are mass—often repeated—attacks on lofts by sparrow-hawks. Therefore, if the amendment is agreed to, it would not result in a massive cull of sparrow-hawks, but would allow the pigeon fancier to deal, under licence—I emphasise that—with the problem of rogue sparrow-hawks that continually attack the lofts of fanciers. That means that we could attack the problem without any significant impact on the sparrow-hawk population.

I know that some people laugh at the issue and that many people regard it as a fairly peripheral issue, but it should be remembered that many pigeon fanciers—of whom there are many thousands in Scotland—have invested a fair amount of their money in their sport and are entitled to their sport in the same way that everyone else is entitled to theirs. They also raise a great deal of money for charity.

Therefore, I say to members that they should take the issue seriously and save the sport of racing pigeons from possible extinction within the next 10 years.

I move amendment 31.

**The Deputy Presiding Officer:** I want to call a significant number of back benchers, so I ask members to be brief.

**Miss Annabel Goldie (West of Scotland) (Con):** I am not usually minded to support Alex Neil in anything, but today we find ourselves bonded by racing pigeons. I should explain that the Conservative group—again, with commendable democracy—is having a free vote on the issue.

I am a member of the RSPB and a supporter of the protection of raptors. In Scotland, there are around 12 species of raptor, of which 10 are certainly vulnerable. However, sparrow-hawks enjoy a robust presence, with an estimated 34,500 pairs in the UK. That number is exceeded by the number of kestrels, of which there are estimated to be 100,000 pairs in the UK.

I have three reasons for arguing that, to protect racing pigeons, protection for sparrow-hawks—and only sparrow-hawks—should be waived, as the amendment suggests. First, there is no question but that the sparrow-hawk is a threat to racing pigeons—it is the Exocet missile of the ornithological world and pursues other birds in flight, unlike the kestrel, which will tend to eat voles and insects. Secondly, the racing pigeon is not like other feral birds. It is domesticated and trained to return to lofts. That might reassure people who think that some precedent might be set. However, those two reasons would not be sufficient for me. The third reason is that the sparrow-hawk enjoys a sufficiently sustainable population not to be at threat from such a limited removal of protection. Again, a precedent would not be set.

My colleague Mr McLetchie was worried that a pigeon fancier might confuse a peregrine falcon with a sparrow-hawk and trap the wrong bird. That would be difficult. The peregrine is bigger and has a white face with big black moustaches, so that would be like confusing Groucho Marx with Jasper Carrot.

I support Mr Neil's amendment.

**Eleanor Scott:** I rise to urge members not to agree to amendment 31.

Members will have received the briefing from RSPB Scotland. The research that the Central Science Laboratory carried out into the impact of birds of prey on racing pigeons had nothing to do with RSPB Scotland. The RSBP Scotland briefing states that the CSL found that

“Over half of all pigeon lofts reported no losses of pigeons to sparrowhawks. Less than 1% of all substantiated, probable and possible pigeon losses are attributed annually to sparrowhawks.”

The briefing states:

“The results broadly reflect previous research across the UK on this subject, which has shown that sparrowhawk impacts on racing pigeons are very low when compared to other factors such as straying, bad weather, domestic cats and collisions ... The current scientific evidence suggests that sparrowhawks are a negligible problem in comparison with these other factors.”

There are issues for particular lofts that are situated in wooded areas, where there is cover for sparrow-hawks and where sparrow-hawks hunt, but that is no reason to cull sparrow-hawks. If we reduce the number of sparrow-hawks, we could end up simply with fewer sparrow-hawks.

**Phil Gallie (South of Scotland) (Con):** If the problem with sparrow-hawks is so minimal, why is Eleanor Scott resisting amendment 31, which simply addresses a specific instance where they are a threat?

**Eleanor Scott:** Birds of prey are protected because they are particularly vulnerable. That protection should not be lifted without good reasons. I do not think that the study that the Scottish Homing Union was party to commissioning, the results of which it has now rejected, gives evidence to suggest that we would be justified in removing that protection from these specific raptors.

**Dr Sylvia Jackson (Stirling) (Lab):** I will be brief, as most of what I wanted to say has been said by Eleanor Scott. I am an RSPB member—that may not go down terribly well, following what Alex Neil said. We must address the issues that are raised in the scientific report. I acknowledge the concerns of the Scottish Homing Union—everything that Alex Neil said about the injuries to pigeons is a live issue—and I have asked it to attend the next meeting of the cross-party group in the Scottish Parliament on animal welfare, so that we can take the matter further. However, as Eleanor Scott said, we must go with the scientific evidence that we have from the report. In reply to Phil Gallie's question, we cannot go further and agree to amendment 31 if we do not have the evidence in front of us that sparrow-hawks are harming racing pigeons. Therefore, I think that we have to go cautiously.

**Alasdair Morgan (South of Scotland) (SNP):** This is not something on which I have made up my mind either way at the moment, but I understand that amendment 31 would allow Scottish ministers to issue licences to allow trapping to take place only in specific places. I presume that Scottish ministers would issue a licence for a specific place only if there were evidence of a specific problem.

**Dr Jackson:** At the moment, there are other routes that we can go down. The RSPB has suggested that there are non-lethal solutions to deal with predation that are based on deterrent methods, loft siting, habitat management around the loft and race routing. There are many ways in which we can address the problem before we go down the route of trapping.

**Fergus Ewing:** As Annabel Goldie has pointed out, with a population of 34,500 pairs, the sparrowhawk is not a rare bird that is under pressure. Eleanor Scott is quite wrong to suggest that amendment 31 calls for a cull. It does nothing of the kind, and it is important that that should be clearly understood by those who, like Alasdair Morgan, are interested in listening to the arguments.

**Carolyn Leckie (Central Scotland) (SSP):** Can Fergus Ewing say how many pigeons there are? The number of sparrowhawks seems to be relevant, but how many pigeons are there?

**Fergus Ewing:** I would not like to see one pigeon with its neck bitten off, as we have seen. I would not like to see one pigeon suffer unnecessary cruelty because there is no legal possibility of obtaining a Larsen trap—not to kill the raptor, but to trap it and then liberate it. That is what the trap is for—it is not about killing raptors.

**Brian Adam (Aberdeen North) (SNP):** Can Mr Ewing please tell us how many sparrowhawks are being killed by the pigeons?

**Fergus Ewing:** That was an exceptionally intelligent intervention.

**The Deputy Presiding Officer:** Eleanor Scott. *[Interruption.]* Sorry. Shiona Baird. *[Interruption.]* Order. I made a mistake. We all make mistakes.

**Shiona Baird (North East Scotland) (Green):** Can Fergus Ewing explain how a sparrowhawk can be trapped by a Larsen trap?

**Fergus Ewing:** I think that everyone has woken up, Presiding Officer.

The Scottish Homing Union says that deterrents simply do not work. That is a serious point because the allegation has been made that they do work. They do not work, but if they did, they could be used in conjunction with the appropriate type of trap, and there would be no problem; the sparrowhawk would fly away, no doubt to some other pigeon. The trap could then be used.

Pleasant though this is, all good things must come to a close. It is odd that, to paraphrase George Orwell, all birds are equal, but some are more equal than others. I will play no part in the propagation by the RSPB and others of a form of avian apartheid.

**Allan Wilson:** I am tempted to quote Shakespeare because all this is much ado about nothing.

I invite Alex Neil to withdraw amendment 31. He knew that I would do that because we have discussed the issue for the best part of three—probably four—years; perhaps it has been longer. As Alasdair Morgan suggested during the debate, the existing powers in the Wildlife and Countryside Act 1981 already allow licences to be granted for that purpose.

**Miss Goldie:** How many licences have been granted?

**Allan Wilson:** Before any licence is granted for curtailment of any species predating on another, there has to be sound scientific reasons for granting it. As she is a reasonable member of the Parliament, I am sure that Annabel Goldie will accept the logic inherent in that position.

In front of me, I have the most recent report on this very emotive issue. I understand that it raises strong feelings on both sides of the argument. When I discussed the issue at the committee, it agreed that the findings of the scientific work being carried out by the CSL should inform its further consideration of the topic. The CSL's report has been published and I praise the Scottish Homing Union and SNH for working with the CSL to produce it. Alex Neil's role in that process is to his great credit.

I am also well aware that the Scottish Homing Union is disappointed with elements of the report's findings. I am not one of those who is spinning the outcome. I acknowledge that the report shows that some of the Scottish Homing Union's earlier concerns about predation of pigeons by raptors, to which Alex Neil referred, are well founded in certain parts of Scotland.

Alex Neil has met me and my officials and we have considered the matter long and hard during the two weeks since the report was published. I am satisfied that the 1981 act contains the powers that Alex Neil is seeking. I can confirm that the Executive will consider a licence application from any racing pigeon fancier who can prove that his birds are being killed by sparrowhawks. The existing tests that the Executive uses for other licence applications will also be employed. There must be clear evidence that sparrowhawks are causing the death of the owner's pigeons. The owner must be able to demonstrate that there is no alternative to deter sparrowhawks from his loft area. As with all other licence applications, we will also have to consider the numbers of sparrowhawks being considered for control and take into account their current population.

**Fergus Ewing:** Will the minister give way?

**The Deputy Presiding Officer:** No. The minister is winding up.

**Allan Wilson:** In short, I am not asking pigeon fanciers to jump over any additional hurdles. It is all there in the existing legislation.

On that basis, and with that unequivocal statement, I invite Alex Neil—and I am sure that he will see the wisdom in my invitation—to withdraw amendment 31, so that the matter can be dealt with in the manner that I have described.

16:30

**The Deputy Presiding Officer:** I ask Alex Neil whether he intends to press or withdraw amendment 31.

**Alex Neil:** I will press amendment 31.

**The Deputy Presiding Officer:** The question is, that amendment 31 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

#### FOR

Adam, Brian (Aberdeen North) (SNP)  
 Aitken, Bill (Glasgow) (Con)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Gorrie, Donald (Central Scotland) (LD)  
 Grahame, Christine (South of Scotland) (SNP)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Johnstone, Alex (North East Scotland) (Con)  
 MacDonald, Margo (Lothians) (Ind)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Mundell, David (South of Scotland) (Con)  
 Neil, Alex (Central Scotland) (SNP)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Tosh, Murray (West of Scotland) (Con)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)

#### AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baird, Shiona (North East Scotland) (Green)  
 Baker, Richard (North East Scotland) (Lab)  
 Ballance, Chris (South of Scotland) (Green)  
 Ballard, Mark (Lothians) (Green)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)

Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 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, Frances (West of Scotland) (SSP)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Davidson, Mr David (North East Scotland) (Con)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Fox, Colin (Lothians) (SSP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kane, Rosie (Glasgow) (SSP)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 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)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Morgan, Alasdair (South of Scotland) (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)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Robison, Shona (Dundee East) (SNP)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)

Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### ABSTENTIONS

Byrne, Ms Rosemary (South of Scotland) (SSP)

**The Deputy Presiding Officer:** The result of the division is: For 30, Against 87, Abstentions 1.

*Amendment 31 disagreed to.*

**The Deputy Presiding Officer:** If no member objects to a single question being put on amendments 37, 16 and 38 to 42, I ask the minister to move them en bloc.

*Amendments 37, 16 and 38 to 42 moved—[Allan Wilson]—and agreed to.*

**The Deputy Presiding Officer:** Amendment 51, in the name of Roseanna Cunningham, is grouped with amendments 52 to 54. You have one minute.

**Roseanna Cunningham:** I will be brief. Amendments 51 and 52 would mean that all wildlife offences would be dealt with in the same way—it would be a matter for the procurator fiscal and/or the court as to whether they were taken on indictment or on a summary complaint. That is already the case in some respects; all we want to do is to spread that provision to cover all such offences.

Amendments 53 and 54 would allow the procurator fiscal to take into consideration financial costs as well as conservation impacts—for example, a small fine might be seen simply as a running cost for those who steal falcon chicks to sell to the middle east. That ought to be taken into consideration when we look at penalties. Although killing a white-tailed eagle and killing a blackbird are both considered to be offences in the bill, one is far more serious than the other. Although the Procurator Fiscal Service can deal with such considerations at present, it does not always do so, and we believe that it should be told that it must. I am afraid that I gabbled my comments.

I move amendment 51.

**The Deputy Presiding Officer:** There is no time for the minister to speak. Are you for or against amendment 51?

**Allan Wilson:** Against.

**The Deputy Presiding Officer:** Does Roseanna Cunningham wish to press amendment 51?

**Roseanna Cunningham:** I will press amendment 51.

**The Deputy Presiding Officer:** The question is, that amendment 51 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

#### FOR

Adam, Brian (Aberdeen North) (SNP)  
 Baird, Shiona (North East Scotland) (Green)  
 Ballance, Chris (South of Scotland) (Green)  
 Ballard, Mark (Lothians) (Green)  
 Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Frances (West of Scotland) (SSP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fox, Colin (Lothians) (SSP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Kane, Rosie (Glasgow) (SSP)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 Lochhead, Richard (North East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 MacDonald, Margo (Lothians) (Ind)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Neil, Alex (Central Scotland) (SNP)  
 Robison, Shona (Dundee East) (SNP)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)

#### AGAINST

Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 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 (Galloway and Upper Nithsdale) (Con)  
 Finnie, Ross (West of Scotland) (LD)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)

Goldie, Miss Annabel (West of Scotland) (Con)  
 Gorrie, Donald (Central Scotland) (LD)  
 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)  
 Johnstone, Alex (North East Scotland) (Con)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 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)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Tosh, Murray (West of Scotland) (Con)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

**The Deputy Presiding Officer:** The result of the division is: For 37, Against 78, Abstentions 0.

*Amendment 51 disagreed to.*

*Amendment 43 moved—[Allan Wilson]—and agreed to.*

*Amendment 52 not moved.*

*Amendment 44 moved—[Allan Wilson]—and agreed to.*

*Amendment 53 moved—[Roseanna Cunningham].*

**The Deputy Presiding Officer:** The question is, that amendment 53 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

#### FOR

Adam, Brian (Aberdeen North) (SNP)  
 Baird, Shiona (North East Scotland) (Green)  
 Ballance, Chris (South of Scotland) (Green)  
 Ballard, Mark (Lothians) (Green)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Curran, Frances (West of Scotland) (SSP)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Grahame, Christine (South of Scotland) (SNP)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 Lochhead, Richard (North East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 Morgan, Alasdair (South of Scotland) (SNP)  
 Neil, Alex (Central Scotland) (SNP)  
 Robison, Shona (Dundee East) (SNP)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Welsh, Mr Andrew (Angus) (SNP)  
 White, Ms Sandra (Glasgow) (SNP)

#### AGAINST

Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Byrne, Ms Rosemary (South of Scotland) (SSP)  
 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 (Galloway and Upper Nithsdale) (Con)  
 Finnie, Ross (West of Scotland) (LD)  
 Fox, Colin (Lothians) (SSP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Gorrie, Donald (Central Scotland) (LD)  
 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)  
 Johnstone, Alex (North East Scotland) (Con)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 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)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Scott, Tavish (Shetland) (LD)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Tosh, Murray (West of Scotland) (Con)  
 Wallace, Mr Jim (Orkney) (LD)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### ABSTENTIONS

MacDonald, Margo (Lothians) (Ind)  
 Swinburne, John (Central Scotland) (SSCUP)

**The Deputy Presiding Officer:** The result of the division is: For 32, Against 81, Abstentions 2.

*Amendment 53 disagreed to.*

*Amendment 54 not moved.*

*Amendment 32 moved—[Allan Wilson]—and agreed to.*

*Amendment 33 moved—[Allan Wilson].*

**The Deputy Presiding Officer:** I ask Alex Fergusson to indicate whether he wishes to move amendment 33A.

**Alex Fergusson:** For the sake of the barn owl, I will move amendment 33A.

*Amendment 33A moved—[Alex Fergusson].*

**The Deputy Presiding Officer:** The question is, that amendment 33A be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There will be a division.

#### FOR

Aitken, Bill (Glasgow) (Con)  
 Baird, Shiona (North East Scotland) (Green)  
 Ballance, Chris (South of Scotland) (Green)  
 Ballard, Mark (Lothians) (Green)  
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 Byrne, Ms Rosemary (South of Scotland) (SSP)  
 Canavan, Dennis (Falkirk West) (Ind)  
 Curran, Frances (West of Scotland) (SSP)  
 Davidson, Mr David (North East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Fox, Colin (Lothians) (SSP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kane, Rosie (Glasgow) (SSP)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McLetchie, David (Edinburgh Pentlands) (Con)  
 Milne, Mrs Nanette (North East Scotland) (Con)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Mundell, David (South of Scotland) (Con)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Scott, John (Ayr) (Con)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Tosh, Murray (West of Scotland) (Con)

#### AGAINST

Adam, Brian (Aberdeen North) (SNP)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Richard (North East Scotland) (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)  
 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)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)



Finnie, Ross (West of Scotland) (LD)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Grahame, Christine (South of Scotland) (SNP)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lochhead, Richard (North East Scotland) (SNP)  
 Lyon, George (Argyll and Bute) (LD)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 MacDonald, Margo (Lothians) (Ind)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Maxwell, Mr Stewart (West of Scotland) (SNP)  
 May, Christine (Central Fife) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 McMahon, 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 (South of Scotland) (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)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Robison, Shona (Dundee East) (SNP)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scott, Tavish (Shetland) (LD)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 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)

**The Deputy Presiding Officer:** The result of the division is: For 32, Against 84, Abstentions 0.

*Amendment 33A disagreed to.*

*Amendment 33 agreed to.*

*Amendment 34 moved—[Allan Wilson]—and agreed to.*

**The Deputy Presiding Officer:** That ends the consideration of amendments.

## Nature Conservation (Scotland) Bill

**The Deputy Presiding Officer (Trish Godman):** The next item of business is a debate on motion S2M-995, in the name of Ross Finnie, that the Nature Conservation (Scotland) Bill be passed.

16:38

**The Minister for Environment and Rural Development (Ross Finnie):** I am pleased to open the stage 3 debate on the Nature Conservation (Scotland) Bill. Let me deal first with an important formality. For the purposes of rule 9.11 of the standing orders, I advise the Parliament that Her Majesty, having been informed of the purport of the Nature Conservation (Scotland) Bill, has consented to place her prerogative and interests, so far as they are affected by the bill, at the disposal of the Parliament for the purposes of the bill.

**Dennis Canavan (Falkirk West) (Ind):** Hear, hear!

**Ross Finnie:** Members who were present earlier heard, and those who read the *Official Report* tomorrow will see, a touching and moving speech of thanks to Her Majesty by Dennis Canavan. Further, those who were present earlier observed what other members can read about in the *Official Report*, which was the Tories rising in support of amendment 1, claiming to be the supporters and defenders of Her Majesty. Members will find that the Tories abstained in the vote on amendment 1. I am sure that Her Majesty will be deeply comforted by that support.

The bill is the culmination of more than three years of careful and sometimes gruelling work by the Executive and a broad range of stakeholders, consultees and members of the Parliament, particularly the members of the committee that scrutinised the bill. The bill lays the foundation for a new, integrated system of nature conservation for Scotland. Efforts to conserve our natural heritage and protect our environment cannot be pursued in isolation. That is why we have put the conservation of biodiversity at the heart of the bill.

The effective protection of Scotland's most special natural places—our sites of special scientific interest—is hugely important. Further measures to clamp down on wildlife crime reflect how seriously we take that issue. However, the bill's big vision and innovation is the new biodiversity duty that we place on public bodies. A fragmented approach to nature conservation that protects a few isolated nature reserves but ignores

the bigger picture simply could not succeed in the longer term.

A key theme of the bill has been an emphasis on people and nature and the recognition that nature conservation and protection of the environment do not happen in a vacuum. We need to reconnect people with the natural world to achieve a sensible, sustainable balance for the future. The bill will make a difference on many levels. It forms part of a coherent larger vision for not only a new system of nature conservation, but a sustainable relationship with our natural environment and the planet on which we live. I urge the whole of Parliament to pass the Nature Conservation (Scotland) Bill.

I move,

That the Parliament agrees that the Nature Conservation (Scotland) Bill be passed.

16:42

**Roseanna Cunningham (Perth) (SNP):** I thank again the staff of the Environment and Rural Development Committee, who worked extremely hard throughout all the bill's stages, but particularly at stage 2. I am grateful to all the outside organisations that showed an interest in the bill's progress and supported committee members with evidence, briefings and proposals for amendments.

I said at the start of the stage 1 debate that the Scottish National Party had no hesitation in supporting the bill's general principles; indeed, we have supported the bill right through to this stage. A number of my concerns about detail at earlier stages of the bill were addressed by concessions that the minister made as a result of amendments that other members and I had lodged. The amendments were either agreed to at stage 2 or brought back in slightly altered form by the minister today at stage 3. I am grateful for that consideration.

I am pleased that the minister took on board my arguments at stage 2 about the need to make it clear that the bill covers all holders of any public office that might have an impact on biodiversity. The bill sets out explicitly that the duty applies to all of a body's functions and that bodies cannot red-line certain areas. The minister also accepted my arguments about the need for section 12 to focus more on the effect that the functions of public bodies will have on SSSIs and the need to acknowledge explicitly the importance of maintaining the integrity of the SSSI series in addition to safeguarding individual sites.

I am particularly pleased to support section 51, which relates to wildlife crime. When I first entered the Parliament and was considering a possible member's bill, that was the subject to which I gave

serious consideration. There had been a number of incidents of raptor poisoning in my constituency and I was concerned that the powers that were available to the police and the courts were far from strong enough. I was told that wildlife crime would not be an appropriate topic for a member's bill because the Executive was going to introduce legislation on that subject. The legislation is here at last and I am delighted to support it.

Two news stories this week have underlined to me the importance of the bill, which emphasises the unacceptability of wildlife crime. Members will have read reports of Lord Tryon, who is being sued for constructive dismissal by his former estate manager. The former manager alleges that, on seeing a golden eagle, his lordship told him:

"Eagles have no place on my grouse moor."

That took place near Comrie, which is in my constituency. The current edition of *The Hebridean* newspaper carries a front-page report of a raid on a golden eagle's eyrie, in which collectors stole the eggs. Frankly, I cannot understand what motivates people to kill such wonderful creatures or to steal their eggs. However, it is clear that such things happen and that the bill is necessary.

There have been a couple of controversial issues this afternoon—snaring and pigeons—and despite the broad consensus across all parties in support of the bill, there were areas of contention. We have dealt with snares, and I tell members for the avoidance of all doubt that the SNP also had a free vote on the issue of pigeons. I did not support Alex Neil's amendment, as I felt that the scientific evidence was such as to make it unnecessary. I do not see the point of unnecessarily anthropomorphising animals. Eagles are no more cruel than my cat is cruel—they simply are what they are—and to judge them on that basis is quite wrong.

The bill will be an important measure in protecting and conserving Scotland's natural heritage, and it will assist us in meeting our commitments under the United Nations Convention on Biological Diversity. I am pleased to say that I and my fellow SNP members will vote for it.

16:46

**Alex Johnstone (North East Scotland) (Con):** The Conservatives will also support the bill. The bill has been characterised by the way in which it has passed through Parliament, as it has perhaps offered a contrast to some of the legislation that was imposed during the first session of Parliament. The bill is welcome and it will contribute many things that will be of benefit. We can broadly welcome the commitment to

biodiversity and we look forward to seeing the results in the longer term.

The consultations that took place with interested parties on changes in the regulations for sites of special scientific interest have resulted in a number of changes that have been broadly accepted by landowning and land-managing interests. The bill also serves to change the way in which compensation is paid to those who have sites of special scientific interest on their land, and that provision has also been broadly welcomed by those representative organisations.

In spite of the fact that many of my amendments at stage 2 were not accepted, I believe that the bill will deliver greater openness and transparency in the way in which Scottish Natural Heritage deals with sites of special scientific interest and other commitments that it is responsible for managing. The bad relationship that has existed in certain quarters is a result of failure to ensure that that openness existed, and the bill will make a significant step towards promoting greater understanding between those parties.

As far as wildlife crime is concerned, I too welcome the fact that the bill has taken further steps to prevent the use of poison in relation to wildlife. Poisoning is a wholly unacceptable practice and one that we should be very happy to have put a stop to. The issue of snaring has been controversial, but it is my view that we have come to the correct decision during the passage of the bill. I hope that the minister's further commitments will result in further consideration of the process over time to ensure that snaring can continue in the few circumstances in which it is necessary.

One issue that was raised in the Environment and Rural Development Committee at stage 1 but which has not featured so far today is resourcing. I remain concerned that resources may be inadequate to ensure, first, that the system of sites of special scientific interest is properly run and, secondly, that the policing of wildlife crime can be properly financed. When the question was asked, the ministerial response appeared to be that the bill would be largely revenue neutral, but I am sure that we all know that achieving the full objectives of the bill, and getting its full benefits, will cost money. As a consequence, I remain convinced that the bill will require further appropriate resourcing if it is to deliver what we hope it can deliver.

16:49

**Nora Radcliffe (Gordon) (LD):** It has been a pleasure and a privilege to work on the bill. The bill has been a long time in the making—more than three years—and over that time there has been a huge input from Scottish Executive staff, non-

governmental organisations, individuals, ministers and committee members. All that has been organised and pulled together by the staff who support the Environment and Rural Development Committee and I extend to them many thanks. I think that, between us all, we have done a pretty good job.

Among others, I pressed for provisions to allow arrests and custodial sentences for wildlife crimes to be included in the Criminal Justice (Scotland) Act 2003, to get them on the statute book a year earlier than they would have been if we had waited for the Nature Conservation (Scotland) Bill. I think that we were right to do that, and that has been demonstrated by the fact that those provisions have been used a number of times since then. Section 3 of the bill that we are considering today builds on and reinforces the provisions of the 2003 act. I commend section 3.

A number of people will be disappointed that we have not taken the opportunity that the bill presented to outlaw snaring. However, I believe that we confronted a difficult issue and came to a balanced and correct view. As I have said, we have left the door open to take further action on snaring. On the available evidence, the stance that was taken on pigeon predation was also correct.

Part 2 of the bill, on clarifying and modernising the SSSI system and providing for better involvement of stakeholders and greater understanding of the process, will be of great benefit to everyone involved. The provisions in part 2 are to be commended.

Part 1 of the bill covers biodiversity, which has both an intrinsic and a financially quantifiable value. We can take our pick of the reasons for its importance, but the fact that it is important is well recognised. The figures underline the need to take action to protect biodiversity: there has been a decline in the numbers of native land mammals and, in the two decades of the 1970s and 1980s, one third of bird species—including 60 per cent of farmland birds—showed marked reductions in range. It is not only the birds and the beasts that we should worry about. Since the 1940s, we have lost about a third of Scotland's native woodland of ancient origin. Only about 1 per cent of the original Scots pine forest remains.

That wildlife tourism is the third highest priority for VisitScotland after golf and walking demonstrates how much it underpins a major part of our economy. Both for the intrinsic value of biodiversity and for its economic value, we should protect it.

We are extraordinarily blessed in our land and landscape and in the wonderful birds and beasts that, thankfully, abound. We are the custodians of all that and have the duty and the pleasure of

protecting, fostering, sharing and passing on our heritage. In many ways, the bill will help us to do that. I commend it to the Parliament.

16:52

**Sarah Boyack (Edinburgh Central) (Lab):** This is a landmark day for nature conservation in Scotland. I hope that we will pass the bill—perhaps even unanimously. The bill is stronger as a result of the parliamentary scrutiny process and the comments that we have received from many organisations. The Environment and Rural Development Committee was able to develop consensus, but only after many discussions and arguments and much detailed consideration of the evidence. Organisations will now act on the provisions in the bill and we will see an improvement in our natural heritage and in our wildlife across Scotland.

The bill has the potential to introduce a much more joined-up approach to nature conservation; people have said that we need such an approach. From this bill will come many opportunities that we have not had time to explore this afternoon. For example, opportunities will come from reform of the common agricultural policy and they will have to be considered alongside the provisions in the bill. In the Labour Party, we believe that the bill offers a golden opportunity to improve on our existing agri-environment schemes and to implement new schemes that will deliver greater public benefit from farming to Scotland's environment.

Much of what the bill does is to modernise the framework for the conservation of SSSIs. The bill offers greater opportunities for consultation among people who live locally to SSSIs and among key stakeholders. Such consultation will, I hope, lead to more open processes.

In Scotland, we take it for granted that we have an excellent natural environment of uniform quality, but that is not the case. During the passage of the bill, we learned about the poor state of many of our SSSIs. Attention must be given to them.

Nora Radcliffe spoke about the importance of tourism and the economy. The natural heritage is one of Scotland's key assets and we need to protect and enhance it for the future.

The Environment and Rural Development Committee considered many issues in great depth, but we do not have the time to discuss them today. Maureen Macmillan spoke about fossils; we must ensure that our natural history is properly interpreted and protected. We have not even debated today the issues that surround many of the wildlife species that are better protected as a result of the bill. Birds of prey, badgers and

dolphins are now better protected from wildlife crime.

I will finish by talking about the parliamentary process. The committee was expertly supported by hard-working committee members, clerks and researchers from the Scottish Parliament information centre, and by all those who submitted evidence and amendments that helped to shape the bill. We were also supported by the minister's relatively positive approach, which was not to knock out every amendment automatically but to consider the merits of each argument. Although the minister resisted some amendments to the bitter end, he took others away and came back with reworked amendments at stage 3. That, in part, is why the bill is a better bill; there has been a listening process and we have engaged in a dialogue.

My final point is for the business managers. The fact that we have had much longer than usual between stage 2 and stage 3 has assisted that positive approach by giving the minister and his officials a little bit more time to breathe. It also gave us the time to talk to many organisations and to ensure that, by stage 3, we had made use of that space. I think that the result of that has been a better bill, which I hope that everyone will support.

**The Deputy Presiding Officer:** I can give Rob Gibson about two to two and a half minutes.

16:55

**Rob Gibson (Highlands and Islands) (SNP):** We have been presented with a significant, welcome and necessary improvement to the law on nature conservation. The Executive is now beholden to deliver on the annual system through which crises in our natural heritage will be reported on from year to year. That will be very important, because the bill at last opens up the possibility of people playing a much more positive part in conserving wildlife and the natural heritage.

In light of some of the debates that we have had, it is interesting that there will be an extended list of protected birds, which the Executive will consult on at an early stage. I am sorry that the bill will not protect game birds, which in some cases are extremely endangered, and I hope that the list of protected birds will be extended in that direction at some future time.

There are some important matters that impinge on the public. Giant hogweed and the other non-native species that we see alongside railways and on roadsides must be dealt with, as they are extremely invasive. It is helpful that we are at last getting to grips with that list.

There are many positive things to say about the bill. I hope that it will be implemented in the spirit

that was intended. The Scottish National Party gives the bill its whole-hearted support.

16:57

**The Deputy Minister for Environment and Rural Development (Allan Wilson):** That support is welcome. I am grateful to the members of all parties who have contributed constructively to this stage 3 debate on the Nature Conservation (Scotland) Bill.

The way in which the bill has been developed and scrutinised over the past seven months has shown our new Scottish Parliament at its very best, as an effective and professional legislature. The bill may well be the best example yet of the new politics that were envisaged by many at the birth of this institution. Its origins provide a first-class example of co-operation, dialogue and debate among stakeholders at large. There has been enormous interest from outside the Parliament in the first Scottish bill for the conservation of our natural heritage.

The fact that Scotland's wider civic society has played a vital role in helping to formulate the bill is a healthy indication that the principles that drove our original vision for devolution are alive, well and prospering.

**Alex Fergusson (Galloway and Upper Nithsdale) (Con):** Will the member give way?

**Allan Wilson:** Time does not allow me to take an intervention.

**Members:** Aw.

**Allan Wilson:** Och, okay then.

**Alex Fergusson:** On amendment 33 in your name, will you give me some indication of the timescale of the consultation exercise on species inclusion that you intend to carry out?

**Allan Wilson:** We will do that as soon as is possible.

Time does not allow me to thank everyone who has been involved in the refinement process. Roseanna Cunningham was correct to say that the narrative behind the bill is important. The expert working group toiled for more than three years to consider the intricacies and challenges of reforming the SSSI system and the partnership for action against wildlife crime has been invaluable. The steering group of the Scottish biodiversity forum made a vital contribution, which will also result in the launch later this month of a new biodiversity strategy for Scotland.

All members will want to join me in thanking parliamentary staff and, in particular, the clerk to the Environment and Rural Development Committee and her team for the outstanding

assistance that they have provided over the past seven months.

Last, I know that Dennis Canavan will want to join me in giving special thanks to Her Majesty the Queen for all her help and assistance. [*Applause.*]

I thank everyone for their contributions and for what has been achieved so far. The challenge that has been thrown down—not just for the Executive, dare I say—is to continue the good work, put into effect the provisions of this important bill and, in so doing, better preserve and conserve our invaluable natural heritage for the enjoyment of future generations.

## Business Motions

17:01

**The Presiding Officer (Mr George Reid):** The next item of business is consideration of business motion S2M-1257, in the name of Patricia Ferguson, on behalf of the Parliamentary Bureau, setting out a revised programme of business for Thursday afternoon.

*Motion moved,*

That the Parliament agrees as a revision to the programme of business for Thursday 6 May 2004—

Thursday 6 May 2004

delete,

3.00 pm Executive Debate on Scotland's  
Beaches – A National Resource

insert,

3.00 pm Ministerial Statement

*followed by* Executive Debate on Scotland's  
Beaches – A National Resource.—  
[*Patricia Ferguson.*]

*Motion agreed to.*

**The Presiding Officer:** The next item of business is consideration of business motion S2M-1258, in the name of Patricia Ferguson, on behalf of the Parliamentary Bureau, setting out a business programme.

*Motion moved,*

That the Parliament agrees the following programme of business—

Tuesday 18 May 2004

9.30 am Time for Reflection

*followed by* Parliamentary Bureau Motions

*followed by* Executive Debate on Hearings  
Review – Getting it Right for Every  
Child

2.30 pm Continuation of Executive Debate on  
Hearings Review – Getting it Right  
for Every Child

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Wednesday 19 May 2004

9.30 am Parliamentary Bureau Motions

*followed by* Scottish Conservative and Unionist  
Party Business

2.30 pm Executive Debate on Sustainable  
Management of Scotland's Marine  
Environment

*followed by* Business Motion

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time  
*followed by* Members' Business  
 Thursday 20 May 2004  
 9.30 am Parliamentary Bureau Motions  
*followed by* Executive Debate on Skills and Continued Learning  
 12 noon First Minister's Question Time  
 2.00 pm Question Time—  
 Education and Young People,  
 Tourism, Culture and Sport;  
 Finance and Public Services and  
 Communities;  
 General Questions  
 3.00 pm Executive Debate on Major Events  
 and Festivals in Scotland  
*followed by* Parliamentary Bureau Motions  
 5.00 pm Decision Time  
*followed by* Members' Business

Wednesday 2 June 2004

2.30 pm Time for Reflection  
*followed by* Parliamentary Bureau Motions  
*followed by* Scottish National Party Business  
*followed by* Business Motion  
*followed by* Parliamentary Bureau Motions  
 5.00 pm Decision Time  
*followed by* Members' Business

Thursday 3 June 2004

9.30 am Executive Business  
 12 noon First Minister's Question Time  
 2.00 pm Question Time—  
 Environment and Rural  
 Development;  
 Health and Community Care;  
 General Questions  
 3.00 pm Stage 1 Debate on the Tenements  
 (Scotland) Bill  
*followed by* Parliamentary Bureau Motions  
 5.00 pm Decision Time  
*followed by* Members' Business.—[*Patricia  
 Ferguson.*]

*Motion agreed to.*

## Parliamentary Bureau Motions

17:01

**The Presiding Officer (Mr George Reid):** The next item of business is consideration of three Parliamentary Bureau motions. I ask Patricia Ferguson to move motions S2M-1249, S2M-1250 and S2M-1251, on the designation of lead committees.

*Motions moved,*

That the Parliament agrees that the Justice 1 Committee be designated as lead committee in consideration of the Act of Sederunt (Fees of Solicitors and Witnesses in the Sheriff Court) (Amendment No.2) 2004 (SSI 2004/196).

That the Parliament agrees that the Justice 2 Committee be designated as lead committee in consideration of the European Communities (Services of Lawyers) Amendment (Scotland) Order 2004 (SSI 2004/186).

That the Parliament agrees that the Justice 2 Committee be designated as lead committee in consideration of the Supervised Attendance Order (Prescribed Courts) (Scotland) Order 2004 (SSI 2004/194).—[*Patricia Ferguson.*]

**The Presiding Officer:** The questions on the motions will be put at decision time.

## Decision Time

17:02

**The Presiding Officer (Mr George Reid):** There are two questions to be put as a result of today's business. The first question is, that motion S2M-995, in the name of Ross Finnie, that the Nature Conservation (Scotland) Bill be passed, be agreed to.

*Motion agreed to.*

That the Parliament agrees that the Nature Conservation (Scotland) Bill be passed.

**The Presiding Officer:** The second question is, that motions S2M-1249, S2M-1250 and S2M-1251, in the name of Patricia Ferguson, on the designation of lead committees, be agreed to.

*Motions agreed to.*

That the Parliament agrees that the Justice 1 Committee be designated as lead committee in consideration of the Act of Sederunt (Fees of Solicitors and Witnesses in the Sheriff Court) (Amendment No.2) 2004 (SSI 2004/196).

That the Parliament agrees that the Justice 2 Committee be designated as lead committee in consideration of the European Communities (Services of Lawyers) Amendment (Scotland) Order 2004 (SSI 2004/186).

That the Parliament agrees that the Justice 2 Committee be designated as lead committee in consideration of the Supervised Attendance Order (Prescribed Courts) (Scotland) Order 2004 (SSI 2004/194).

## Disabled Parking Spaces

**The Deputy Presiding Officer (Murray Tosh):**

The final item of business today is a members' business debate on motion S2M-1235, in the name of Duncan McNeil, on space invaders. The debate will be concluded without any question being put.

*Motion debated,*

That the Parliament notes the difficulties experienced by people within local communities who have secured disabled parking spaces outside their homes; deplores the fact that these spaces can become a focus of conflict within communities where people seek to use such a space, despite not having a disabled parking badge; notes with equal dismay the figures published by the Baywatch campaign group that show that over 20% of disabled parking bays in supermarket car parks are being used by non-disabled drivers; recognises that the current legal position, which distinguishes between courtesy parking spaces and those supported by traffic regulation orders, creates problems for people with disabilities who need to rely on a designated parking space outside their home; appreciates, in the case of car parks on private land such as those belonging to supermarkets, the frustration of disabled drivers where the store management appears reluctant to enforce its own parking policy; acknowledges that, for their part, some store managers are not clear about their powers to compel drivers to move from specially designated bays; notes that this situation leaves supermarkets vulnerable to future legal action under the Disability Discrimination Act 1995 (as amended); therefore believes that the Scottish Executive, local authorities and all relevant agencies should work together to develop an awareness campaign to highlight the rights of disabled people and to emphasise the unacceptability of harassing those who have been allocated disabled parking spaces, and considers that, if a satisfactory solution cannot be found, the possibility of legislating to address the problem and giving local authorities the appropriate enforcement powers should be examined.

17:03

**Mr Duncan McNeil (Greenock and Inverclyde)**

**(Lab):** I thank Johann Lamont for working with me to secure the debate. As members know, the motion is a composite; it brings together two motions that Johann Lamont and I lodged on the difficulties that disabled drivers face. I suggest that, unlike the products of some meetings on composites, which Johann Lamont and I remember fondly from days of yore, this motion enjoys widespread support.

I thank members from all parts of the chamber who supported one or other—or, indeed, both—of the previous motions and who have supported the successor motion. Although I would not presume to speak for Johann Lamont, I think that I am safe in saying that we are grateful to all the members who have made time to attend the debate.

I will focus my speech on the problems that disabled drivers face in private car parks and on the work that the Baywatch campaign has done.



Let me give an example. A young woman who is the primary carer for her mother came to me at a surgery in Inverkip in my constituency. She told me that the highlight of her mother's week was her outing to the shops in Greenock—as soon as she was back in the house after one trip, she was looking forward to the next. That is a simple pleasure, I am sure members will agree, but it is made almost impossible to enjoy through selfishness and indifference. Fresh from the young woman's Herculean efforts to get her mother up and dressed, they get to the shops only to find the disabled parking spaces filled with the cars of perfectly able-bodied people. That is unacceptable, unless sheer bone idleness is counted as a disability.

When disabled drivers and their carers make representations, they get a shrug from the car park attendant or warm words, but no action from the store management. That is not a clever move. Turning a blind eye could leave stores facing legal action under the Disability Discrimination Act 1995—indeed, they are vulnerable to legal action now, not just in October when the additional rules come into effect.

As every member here tonight knows perfectly well, the case to which I have referred is not an isolated one. A survey conducted by the campaign group Baywatch shows that the rate of abuse rose from 18.5 per cent in January 2003 to nearly 21 per cent in January 2004. In other words, more than one in five disabled parking bays are being used by non-disabled drivers. Although we might not like to admit it, we in Scotland are the laziest and most selfish of the lot. We abuse the system at a rate of 27 per cent, whereas in Wales only 23 per cent of bays are dishonestly occupied and only 19 per cent of bays are abused by the far more considerate English.

A survey of more than 800 car parks that belong to the big four supermarkets throughout the United Kingdom showed that in more than a third—37 per cent—of stores disabled people were unable to park in a designated space because of abuse by non-badge holders. All supermarkets have seen an increase in abuse levels. People who complain to stores say that the response they receive has worsened, with only 30 per cent saying that stores responded well to complaints, compared with 32 per cent in 2003.

What can be done? First, the anger and frustration of disabled drivers and their carers must be recognised, as must the severe impact that the abuse of disabled parking bays has on their quality of life. Secondly, I ask for the minister's help in getting all the interested parties round the table to discuss the powers that are currently on the statute book, how they can be used and by whom. Thirdly, will the minister

assure me that, if those steps fail, we will examine the possibility of extending the powers of local authorities to allow parking attendants or environmental wardens to enforce parking policies in private car parks? It is sad that we might need to stop appealing to people's better nature and to start appealing to their pockets, but if that is what it takes to make it game over for the space invaders, that is what will have to happen.

17:09

**Johann Lamont (Glasgow Pollok) (Lab):** I welcome the opportunity to contribute to this important debate. I am grateful to all the members who signed my motion and that of Duncan McNeil. I am glad that he is more amenable in applying his compositing skills nowadays than he was in the old days in the Labour Party, but that is bitterness from times past.

Our motions deal with designated parking spaces and the disregarding of the needs of people with disabilities. Before going on to the substance of my speech, however, I will simply mention two related issues that need to be considered—the blocking by cars of step-down pavements and the abuse of parent-and-child spaces at supermarkets, which can cause a lot of difficulties.

The misuse of designated parking spaces and the abuse of people who have been deemed to be entitled to disabled parking spaces reflect the discourtesy, antagonism and intimidation that too often is the experience of ordinary people in our communities. In demanding action on the matter, we reinforce our commitment to the creation and sustenance of safe communities in which people can go about their business free from harassment and intimidation. We should not see the issue as an isolated one; we should see it in the context of action against bullying and intimidation in all its forms.

I will focus on designated parking bays outside people's homes, many of which are courtesy bays that the local authority deems to be appropriately placed. Those spaces often do not have traffic regulation orders attached to them, not least because of the nature of the process that is required to establish such orders and the cost of enforcement. As someone who requires a bus bay to park in, I must confess that it had never crossed my mind that an enforcement procedure might be required. In my innocence, I thought that, if a person was deemed to be entitled to a space, they would simply be allowed to use it. I have been shocked by examples not only of spaces being used by people who do not have a disability, but of people who are entitled to spaces being abused, insulted and intimidated by those who resent their having such a space.

It is sometimes argued that, because the system for securing a space is weak, that somehow justifies abusing anyone who has one. Fair enough—if the system needs checking, that should be done, but the fact that some people might be abusing the system does not justify berating others in the street. People with disabilities should not have to negotiate their rights on the street. Some people feel that those who have secured a space have somehow got one over on everyone else and have won a privilege, but the reality is that no one aspires to a courtesy parking space or a blue badge—they are not a privilege, but a recognition of need. As the mother of a disabled daughter said, if people want the parking space, they can have the disability that goes with it.

Clearly, there is a particular problem in parts of our cities where parking spaces are at a premium, which can be used as a rationalisation for selfish behaviour. Of course, by definition, areas in which there are more cars than spaces are the very areas where disabled spaces are important. If an able-bodied person cannot park beside their door, all that happens is that they need to walk a little further, but if disabled spaces are taken up, that is much more of a difficulty for people who have mobility problems. Those who seek to rationalise their behaviour need to be confronted and told that the central selfishness of their actions is simply intolerable.

What action should we take? As the motion says, we need a hard-hitting, in-your-face campaign to challenge people's laziness and self-justification with clear messages about the consequences for disabled people of their actions. However, as Duncan McNeil said, a campaign is not enough; it needs to be backed up with enforcement. As members will be aware, in other aspects of policy, I am in favour of persuading first and taking hard action afterwards, but we must recognise that there should be consequences. I am all in favour of winning hearts, but I will settle for hitting pockets.

Members have been pursuing the issue for some time. I seek direct assurances from the minister that he will not simply reiterate the current position, because that position is unacceptable. I urge him to confirm that hard and creative thinking will be done to address what is a serious problem for people with disabilities. The existence of the problem diminishes us all in a society that claims to be tolerant and fair.

17:13

**Mr Kenny MacAskill (Lothians) (SNP):** As is customary, I congratulate Duncan McNeil and his colleagues, particularly Johann Lamont, on the motion. It may be composite, but it is apt and

appropriate that we should discuss it. The motion raises broader issues of disabled access, although it focuses on one specific issue with which there is an on-going problem. People might suggest that, in the grand scheme of the affairs of state, the issue is not important, but the Parliament must be judged not only on its work on major statutes, but on what it does on a variety of matters that impact significantly on people's day-to-day lives. Many disabled people, or carers for disabled people, suffer substantially as a result of the problem.

I agree with many of the points that have been made. The issue is part of a broader problem with the orange-badge scheme and other systems that have been introduced. There is a perception that many badges and spaces are obtained fraudulently and that there is on-going abuse. When we speak to organisations that represent the rights of disabled people and their carers, such as Capability Scotland, we find that the reasons behind that perception usually boil down to anecdotal evidence: somebody has seen people who are fit and able-bodied, who have all their limbs and who appear perfectly normal, coming out of vehicles that have been parked in disabled parking spaces. That ignores the fact that those people could be carers or could have a disease that does not necessitate the use of a wheelchair or any other form of assistance, but that restricts their movement or ability to walk, so that, although they may appear outwardly healthy, they are incapable of walking significant distances. Such perceptions are a cultural problem.

The points that Duncan McNeil and Johann Lamont made are correct and it is important that we should discuss the matter. As the minister will doubtless say in his response, we must decide whether to deal with the matter simply through education or whether we need to introduce specific legislation. That matter will have to be debated. Political leaders will have to give a signal that the abuse of disabled parking is unacceptable. However, if the individuals who carry out the abuse will not learn the lesson, will not listen to others and are not capable of understanding the difficulties that the disabled community faces, the matter may have to be dealt with by legislation. That is a matter of balance and the minister will doubtless refer to it in due course.

Duncan McNeil mentioned the difficulties for organisations such as supermarkets that do their best to cater for customers with disabilities who wish to park. Johann Lamont also made the good point that it is not only disabled parking bays that are abused; the provisions made for people with young children are also abused. That issue is just as important as the abuse of disabled parking bays and it causes equal difficulties. I understand the difficulties that many combines and supermarkets will have in deciding whether it is

their job to participate in enforcement and whether they wish to lose custom by plastering cars with "Don't park here" signs or whatever else other organisations, such as the University of Edinburgh, do to those who, to their cost, are recalcitrant and abuse the system. Many retailers will make that judgment call and decide that enforcement is not necessarily in their commercial interest.

That is why it is important that the topic has been raised. It should be made clear that people are given disabled badges only after a great deal of consideration and that the badges are not granted on a whim. The badges must be respected, because they allow disabled people to participate in actions that we view as basic and normal. If people abuse disabled parking, society should say from the top down that such behaviour is unacceptable and will be addressed.

It is a matter for the minister to decide whether we should consider legislation. That judgment will need to be made on the basis of the statistics that groups such as the one that Duncan McNeil mentioned are taking. If the abuse is not being addressed, we will need to consider extending the powers of the authorities that can enforce the system, because it is becoming clear that many organisations will not self-enforce. The judgment is whether we can achieve cultural change through education or whether we will have to extend the powers of those who can act to address the abuse.

Once again, I congratulate the drafters of the composite motion. It is important that we should get the message out that the abuse of disabled parking spaces is antisocial behaviour and will not be accepted.

17:18

**Mike Pringle (Edinburgh South) (LD):** I too welcome the composite motion from Duncan McNeil and Johann Lamont, and I suspect—although I am not certain—that I should declare an interest as a blue badge holder. I am not certain whether I am the only member who has a blue badge, because, as Kenny MacAskill said, somebody might have a blue badge without our being aware of it, because disability often cannot be seen.

Not long after I was elected as a councillor in Edinburgh in 1994, I became involved with the campaign to get the City of Edinburgh District Council to recognise disability on the street and to get people and the council to recognise that people with disabilities had real problems.

I remember that the lady who first approached me and prompted me to get involved in the issue used two crutches and had great difficulty getting

into a car. She lived in the basement flat of a tenement and it was absolutely impossible for her to get parked. Afterwards, once we managed to persuade the council to adopt a scheme—there are now 500 designated spaces across Edinburgh—and she was able to use her disability pass outside her door, she said that life had changed for her. The space meant that she could go out and come back home more than once a day. Previously, when she went out in the morning, she sometimes had to wait for over an hour after she came home to find a parking space outside her door.

I asked the City of Edinburgh Council about the matter yesterday and found that there does not seem to be too much abuse of the scheme that it is running. Traffic regulation orders govern what I call yellow boxes. The white boxes, which are the ones that I have just been speaking about, are not governed by any kind of regulation.

On some occasions, I have been keen to bring the issue home to drivers. Often, there are no spaces left at a location, despite the disabled parking signs on the road. On one occasion when I went to the Royal Lyceum theatre, I found that, of the six spaces available, four were occupied by non-disabled drivers, with the other two occupied by cars driven by disabled parking badge holders. I immediately telephoned the police and then went into the Lyceum. When I came out, all four of the spaces that had been occupied by non-disabled drivers were empty. I took some sort of perverse pleasure in knowing that those four drivers were about to face a fine of £135. That is the direction that we need to go in.

The new blue badge scheme, which applies right across Europe, is a great scheme. I have a blue badge and I have used it in different countries. There is usually no abuse of the scheme in those countries, where disabled parking spaces are left free. I agree that the situation in Scotland is not good. I am surprised that only 20 per cent of spaces are abused, which is what I think Duncan McNeil said that Baywatch found. In my experience, such abuse seems to take place much more often than that.

My local supermarket has only four spaces for disabled people, despite being one of the busiest supermarkets in the United Kingdom. When I want to park in one of those four spaces to shop, I often find that they are all full. Mostly, the drivers who have parked there are not disabled. The problem is that people then have to go and see the manager and ask him what he is going to do about the situation. Managers have a real reluctance in that regard, because they give the matter a low priority—however, it is not a low priority for the disabled driver who is trying to get into the space. Managers do not want to get involved because

they do not want the conflict and to have to face up to people, who then abuse the staff. However, if people who have parked in the parking bays are not abusing the member of staff who tells them to get out of the bays, they are abusing the disabled driver who is asking them not to park in the space where the disabled driver wants to park. The issue is one of changing people's habits.

The motion mentions private land. At many large supermarkets or shopping complexes, such as the one at Straiton, some disabled spaces are not in yellow boxes, and traffic regulation orders do not apply to them. Local authorities are responsible for the land, however, so they should enforce the correct use of the white spaces. Unfortunately, local authorities have serious problems with traffic regulation orders. They are reluctant to impose traffic regulations on all such spaces, and I can see that that is a problem for them.

**The Deputy Presiding Officer:** Please come to a close now.

**Mike Pringle:** I repeat the question that Kenny MacAskill asked: what are we going to do about the situation? My researcher discovered that a spokesman for the Department for Transport said that the department was still waiting for a suitable bill in which to include the desired powers. I urge the Scottish Executive and the Minister for Transport to consider the issue seriously. We need to address the problem and to solve it for the thousands of people around Scotland who are just trying to run their own lives, like all the able-bodied people in the chamber.

**The Deputy Presiding Officer:** This is the only debate in which a blue ticket could have got you that amount of extra time, Mr Pringle.

17:24

**Robin Harper (Lothians) (Green):** I congratulate Duncan McNeil and Johann Lamont on raising this important issue of the difficulties that disabled people experience in relation to parking spaces. I offer congratulations to the Baywatch campaigners, to *Disability Now* and to the various disability organisations that have placed pressure on politicians such as us and on others to act on the present situation.

There is clear as well as anecdotal evidence of disabled people being challenged when entering a disabled parking space if they are not wheelchair users or have a hidden disability, to which Mike Pringle referred. Non-disabled people sometimes challenge their right to park there, because if a non-disabled person cannot spot a disability at first sight, they do not think that a person can be disabled. It is a shameful situation when disabled people are denied access to their parking bays,

and even when bays are available, they can still be subjected to verbal abuse or harassment.

The root of the problem is that society refuses to make space for disabled people generally. I will therefore place the issue of disabled parking spaces in the wider context of disability prejudice and discrimination. Members will all be aware of the report, "Hate Crime Against Disabled People in Scotland: A Survey Report", which the Disability Rights Commission published recently and which is extremely worrying. The report's definition of attack covers verbal attack, such as taunts, name calling, threats and intimidation; spitting; physical attack, such as hitting, pushing, shoving and kicking; theft; damage to property; and harassment on the street. Some 31 per cent of the disabled people surveyed who were the victims of hate crime experienced attacks at least once a month. What a context in which to set the particular harassment of disabled people that we are talking about.

Nearly half the disabled people—47 per cent—who responded to the survey said that they had experienced hate crime because of their disability. Respondents described feeling scared, embarrassed, humiliated and stressed by the attacks, the bulk of which are carried out by strangers. People in all categories of disability experience attacks. That includes people with mobility problems who are not in wheelchairs; people in wheelchairs; people with visual impairments and blind people, representing 23 of the respondents; and people with hearing disabilities—which are completely invisible disabilities—representing 17 of the respondents. In our supermarket car parks one is at risk if one has a hearing disability, because uncontrolled traffic moves around, and the further that those people have to walk, the more they are at risk. It is really shameful that 63 per cent of respondents to the survey who have learning difficulties and 82 per cent of respondents who have mental health problems—who do not fall within the scope of the motion—reported regular harassment.

Hate crime is a significant problem for disabled people in Scotland and has a major impact on their lives. Despite the evidence that hate crimes against older people and disabled people and gender-specific hate crimes are serious problems, the Executive rejected my amendment to legislation last year to give minorities further protection. However, it has set up a working group and the end of the consultation period was last Friday. I look forward to the Executive making legislative proposals that might take into account what is happening to disabled people in relation to their parking spaces. I call on the Executive to launch a campaign to challenge prejudice and emphasise that society will not tolerate such behaviour. I strongly urge the Executive to launch

a public awareness campaign to tackle that unacceptable prejudice and behaviour.

17:28

**Mrs Nanette Milne (North East Scotland) (Con):** I, too, welcome the debate secured by Duncan McNeil and Johann Lamont, which highlights an extremely important issue. It is surprising that the issue was never raised with me during my 11 years as a councillor on Aberdeen City Council or during my past year as an MSP. I wish that I could say that that reflected the good nature of north-east folk, but I do not think that that is the case.

It is clear that there are two separate problems. One is that of parking in spaces that are allocated to disabled people by councils either outside their homes or in council car parks and the other is that of indiscriminate parking in designated spaces within privately owned premises such as supermarkets.

Today I was in touch with Aberdeen City Council and Aberdeenshire Council to ask what the current situation is with parking areas for which they are responsible. Aberdeen City Council has 800 residential disabled spaces. As we know, those are courtesy places that other motorists are asked to leave clear, which means that they are unenforceable. No record is kept of how often that system is abused, although I am sure that it is abused from time to time. Aberdeenshire Council has 138 residential spaces for the disabled and further reserved spaces in 10 council-operated car parks. The council's spokesman said that relatively few problems were encountered with those spaces—certainly far fewer than the 20 per cent figure that was quoted for problems at supermarkets. Aberdeen City Council also has 23 disabled places in city car parks in which blue badge and green badge holders can park for free. A further 24 places are kept under council buildings for the shopmobility scheme and another 22 are kept in the city centre for green badge holders, who are the more severely disabled. Between 260 and 270 penalty tickets are issued per year to unqualified users of the spaces in all those car parks. That figure is significant, but it does not present as major an issue as does the abuse of disabled parking at supermarkets and similar locations.

In the Aberdeen area, council-controlled disabled car parking works reasonably satisfactorily. It is monitored as far as possible and fines are issued to those who abuse the parking spaces. I do not have figures for the private sector in the area, but my own observation and anecdote suggest that selfish and inconsiderate parking is increasingly prevalent at large retail premises. I see no reason to dispute the Baywatch

campaign's 20 per cent figure but, like Mike Pringle, I wonder whether the actual figure is higher.

It is unacceptable that disabled spaces are taken up by able-bodied drivers, most of whom have given little or no thought to the hardship and distress that they cause to deserving people. I do not hesitate to support the proposal in the motion that all interested parties, including the Executive, should work together to increase awareness of disabled people's rights in the first instance and, if the problem continues, to consider empowering local authorities to enforce the proper use of designated parking facilities.

17:32

**Trish Godman (West Renfrewshire) (Lab):** I, too, congratulate Duncan McNeil and Johann Lamont on the motion, because it is important to discuss such matters in this place. Johann Lamont said that an in-your-face campaign might be the way forward.

Three or four years ago, I was in my car in my constituency listening to Radio 4 broadcast a programme that was in your face. People who were parked in disabled parking bays in supermarket car parks, but who should not have been, were interviewed. That they were parked where they should not have been was pointed out to them and they were asked to move their cars, but not one would do so. We heard answers such as, "Why should I? I'm shopping here like anybody else, so I can park wherever I like."

On the strength of that, in November 2001 I lodged a motion about disabled drivers and supermarkets. The motion praised what Asda, Safeway and Tesco were doing to encourage people not to park in disabled parking spaces, and what they were doing to tackle the problems of selfish drivers who park in those bays. I had hoped that we would not need another motion that said the same thing in 2004.

Duncan McNeil's part of the motion goes further than my motion did—it recognises that the legal position creates problems for people who have disabilities. Johann Lamont said that problems also arise when people park in parent-and-child bays. Members who have been councillors will know that another problem crops up when a driver who is not disabled drops off a disabled person at school or work and parks their car in a disabled parking bay. The badge is for the person, not for the car but I can understand why that situation is difficult to police. We had serious problems with that in Glasgow. People argued long and hard that they should be allowed to park in a disabled parking bay because they had been driving someone who was disabled—albeit that they were not doing so at that moment.

Duncan McNeil and Mike Pringle said that when supermarket staff ask people who are not entitled to park in disabled spaces to move, they are usually met with verbal abuse. That was what I found when I spoke to Asda, Safeway and Tesco in 2001. We should not kid ourselves. Nowadays, we normally walk away from people who are verbally abusive, so we cannot blame staff for not pursuing the matter. On the other hand, we should ensure that supermarket managers and staff are aware of the powers that they have, as Duncan McNeil said.

Only last week, a young couple parked in a clearly marked disabled bay in a street as I was walking past. I thought that perhaps they had not noticed that the bay was marked, although it was clearly marked. When they got out of their car and walked off, I called after them, "Excuse me. You've parked in a disabled parking bay." To say that they gave me two fingers would be to put it mildly. A word was said that I am not allowed to say, otherwise I will be Toshed.

Critics of the Parliament—of whom there are many—will ask why we are discussing the issue in Parliament. I would ask why we should not. Among other things, we are here to defend rights and to help those who cannot help themselves.

The use of disabled bays by those who should not use them is selfishness at its worst. Duncan McNeil said that if we need to legislate, we should do so, but what an indictment of our society that would be.

17:36

**The Minister for Transport (Nicol Stephen):** I agree with Trish Godman's closing remarks—I have witnessed more than one incident of such spaces being used. Recently, I used a parent-and-child space and saw people alongside me making use of such spaces, who were not parents and who had no children in or near their cars. I have seen what goes on. My mother has a disabled badge and I know that some incidents at disabled parking spaces are disgraceful. Humanity can be seen at its worst—at its most selfish and greedy—in such situations.

That most supermarkets are now making parking spaces available for disabled people and parents is good, but there are still significant shortages at some supermarkets. Mike Pringle highlighted some of his frustrations in that respect.

Disgraceful things happen. Wheelchair users who can use only the lift in a particular shop or shopping centre can be seen being denied access to that lift because of able-bodied people walking straight past them. Young mothers with buggies or prams can be seen in similar situations. People must challenge their consciences and they must

be challenged to be more considerate. Such people are, in effect, preying on the weakest and most vulnerable people in our society. There are parking spaces and rules to try to support people with disabilities and to make more equal an unequal world. If Parliament or I, as the Minister for Transport, have any opportunity to champion the cause of the disabled and of taking tougher action to enforce such parking spaces, I am prepared to consider what must be done.

Duncan McNeil—who, with Johann Lamont, is to be congratulated on lodging the motion—challenged me earlier to try to pull together individuals and organisations who have an interest in the matter and to do more. I am happy to say that I will do exactly that and will try to approach supermarkets, local authorities, disabled users and disabled users' groups to discuss what more can be done with Baywatch to give the issue a higher profile.

However, more than that will be required. We can advertise from now until the cows come home and we can urge people to behave more responsibly. That will be effective with perhaps 90 per cent or 95 per cent of people, but there will be a core of 5 per cent who—because they are selfish—simply will not respond to all the urging, advertising and highlighting of problems. As other members have said, such people will not respond positively if they are challenged, whether by supermarket staff or by passing MSPs. I suppose that, at the end of the day, supermarkets exist to make profits from selling their goods rather than to deal with such difficult situations, but they could be encouraged to work with disabled groups and to think about ways of doing more.

One of the problems is that traffic regulation orders can be costly and time consuming to put in place. The Executive supports strongly the use of traffic regulation orders by local authorities. We should make it clear that local authorities can put in place traffic regulation orders in respect of supermarket car parks, but it is not done because supermarkets do not ask for it and local authorities do not regard it as being a priority. That would be one possible way ahead; if it were done, the Executive would support it strongly.

Road traffic regulation orders are given statutory status by the Road Traffic Regulation Act 1984, which is legislation on a reserved matter. To try to amend the regulations to make them more straightforward and give local authorities blanket authority to introduce them in supermarket car parks would require amendment of that legislation. Finding solutions will not always be straightforward, but I am happy to approach the UK Government on the issue if that is what is required.

The blue badge scheme is a devolved matter. So far, we have tried to have an integrated UK-wide scheme, but if we were to regard changes to that scheme as a priority, I would be willing to consider introducing such changes in Scotland.

It has been mentioned that some of the parking spaces outside people's homes are often courtesy spaces that are not covered by traffic regulation orders; the same is true of spaces in supermarket car parks. The co-operation of the public in ensuring that those spaces are not used by people other than blue badge holders is important, and in many communities the space outside an individual's home is respected. Nevertheless, that is not always the case, and there can be fierce arguments between neighbours about such spaces. I believe that we will, in time, have to do more legislatively to ensure enforcement. Under civil law, owners of private car parks can fine drivers and remove their vehicles if they are determined to take that course of action; however, many supermarkets do not wish to take such action against individuals who are their customers. Clamping by supermarkets and others is not allowed under the law in Scotland.

I agree that the Baywatch survey, which shows that more than 20 per cent of disabled parking bays in supermarkets are being used by drivers who are not displaying blue badges, highlights a big problem and a major concern. That is one of the reasons why I would be prepared to approach the major supermarkets for their ideas on how the problem can be overcome. There was an early positive start from the supermarket groups and early enthusiasm for the matter, but something needs to be done to refresh the momentum and to get focus back on the issue. Increasingly, people—particularly disabled people—feel that they are facing an uphill struggle.

The Executive has been working directly with Baywatch to identify ways to improve public awareness. Following consultation with the Mobility and Access Committee for Scotland, we are in early discussions with councils with a view to carrying out pilot schemes that will examine the disabled parking problem and test possible solutions. If, following this evening's debate, members of Parliament want to suggest possible solutions, or if they know of disabled groups that can suggest ways ahead, I will be happy to put those suggestions to the group that I intend to pull together.

I pledge to everyone here tonight that I am prepared to write to the supermarkets, to disabled groups, to local councils and to others. If members believe that there are individuals with expertise in the subject who should be involved, I would be pleased to receive that information. It is time we started to campaign to raise the profile of the issue

and gave people some hope that action will be taken.

We have already introduced new legislation in Scotland. As recently as 1 January 2004 we gave police, traffic wardens and local authority parking wardens the powers to inspect blue badges. Those powers were aimed at tackling the problem that has been aired this evening: abuse of the scheme by able-bodied people who are using badges that are not their own, or who are forging or tampering with badges. Amazingly, all those things happen; people forge, or tamper with, blue badges.

I sympathise with the concerns of all the MSPs who have raised the issue and I am grateful to the two members who lodged the motion. It has never been my ambition to speak in a composite motion debate but I have spoken in one now—it could not have been on a more important issue. I assure members that the Executive will continue to take the issue seriously and, following today's debate, that we will do something about it.

*Meeting closed at 17:46.*





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