

# **MEETING OF THE PARLIAMENT**

Wednesday 9 November 2005

Session 2

£5.00

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## Scottish Parliament

*Wednesday 9 November 2005*

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

### Time for Reflection

**The Deputy Presiding Officer (Trish Godman):** Good afternoon. The first item of business this afternoon is time for reflection. Our time for reflection leader today is Father James Doherty, of St Joachim's church, Carmyle.

**Father James Doherty (St Joachim's Church, Carmyle):** I thought that I would begin with a bit of my own ecclesiastical DNA. It contains a bit of everything under the banner "Smile, you're in Carmyle"—I am the parish priest there. Contemporary Catholic doctrine tells me that I am a minister of the gospel of Christ to all people. Vatican II tells priests to spend ourselves in pastoral work. Well, I am not spent yet, having worked in parishes for 26 years, in hospitals, homes, schools and a drug rehab. I have survived leukaemia and I am now dealing with heart failure and sharing the joys and sorrows of people who have been hurt by the insults of experience. The words of the song "Both Sides Now" come to mind.

In this magnificent building, at this moment of energy for Scotland in our lifetime, it seems absolutely timely—the way forward—for all of us to see the priority of it all. It seems to me that this place is not about maximising the national product or state power, but about transforming attitudes and making our common humanity prevail over all other considerations.

The work of the Parliament in promoting equal opportunities and inclusion and in ending discrimination in all its ugly forms rings well with, for example, the New Zealand Catholic bishops, who say also that it is a matter of justice for someone in any relationship to leave what they want to their partner. Having a morality and moralising are two different things. My church has been trying to get its own house in order since it began. John Paul II used the image of a glasshouse for its accountability.

Both politics and religion get a bad press, even if they seem to be a standard fitting in human societies. Falling numbers in the pews or at the ballot box may indicate disillusion. However, everyone can make a difference, like Rosa Parks or the people in Carmyle who, in the course of an evening and morning last weekend, raised £1,200 for a children's project in the forgotten Congo.

Benedict XVI has coined the phrase "positive secularism" to try to end the feuding between religious and secular extremes. Dissenting voices at a recent synod show that we are a broad church with new elements and movements and not, as you might think, reduced simply to the touch of purple, red or white.

All metaphors take you so far, but I have been attracted to Christ's image of the plough opening up and drawing a furrow, never looking back, just believing that the soil will open to the seed and that in God's own time there will be a harvest and granaries. A friend of mine at a lecture in Edinburgh wanted to ask the question, "Where is the optimism today?" You and all of us are part of the answer. This is both the pride and poetry of Scotland symbolised by this and all other resources trying to make our country truly diverse and multicultural.

I end with this lovely line from the Apocalypse:

"Behold, I make all things new."

## Business Motion

14:34

**The Deputy Presiding Officer (Trish Godman):** The next item of business is consideration of business motion S2M-3536, in the name of Margaret Curran, on behalf of the Parliamentary Bureau, setting out a timetable for stage 3 consideration of the Environmental Assessment (Scotland) Bill.

*Motion moved,*

That the Parliament agrees that, during Stage 3 of the Environmental Assessment (Scotland) Bill, debate on groups of amendments shall, subject to Rule 9.8.4A, be brought to a conclusion by the time limits indicated (each time limit being calculated from when the Stage begins and excluding any periods when other business is under consideration or when the meeting of the Parliament is suspended (other than a suspension following the first division in the Stage being called) or otherwise not in progress):

Groups 1 and 2 – 20 minutes

Groups 3 and 4 – 50 minutes

Groups 5 to 7 – 1 hour and 15 minutes

Groups 8 to 10 – 1 hour and 40 minutes.—[*Ms Margaret Curran.*]

*Motion agreed to.*

## Environmental Assessment (Scotland) Bill: Stage 3

14:35

**The Deputy Presiding Officer (Trish Godman):** I will make the usual announcements about the procedures that will follow. First, we will deal with amendments to the bill, after which we will move to the debate on the motion to pass the bill.

For the amendments, members should have in front of them SP bill 38A—the bill as amended at stage 2—the marshalled list and the groupings, which I have agreed. During consideration of the amendments, the division bell will sound and proceedings will be suspended for five minutes for the first division. The period of voting for the first division will be 30 seconds. Thereafter, I will allow a voting period of one minute for the first division after the debate. All other divisions will be 30 seconds. The use of the division bell in stage 3 proceedings was agreed by the Parliamentary Bureau as part of the protocol on the use of the division bell.

### Section 2—Responsible authorities

**The Deputy Presiding Officer:** Group 1 is on responsible authorities to which section 5(4) applies. Amendment 3, in the name of Rosie Kane, is in a group on its own.

**Rosie Kane (Glasgow) (SSP):** Section 2(1) sets out a broad definition of responsible authorities, but that definition is significantly narrowed in section 2(4). Section 5(4) uses the narrower definition to exclude private companies that produce strategies that are not covered by the mandatory requirements of the European strategic environmental assessment directive.

Although that is open to interpretation, there is doubt about the extent to which companies will produce documents that set a framework for development consents, thereby making strategic environmental assessments a mandatory requirement. Amendment 3 would mean that all companies that carry out public work would have to undertake an environmental assessment of that work. If the amendment is not passed, a double standard will apply. Private companies such as Scottish Power or one that was building a private finance initiative school would be exempt from assessing the environmental effects of their work, whereas public companies such as Scottish Water would not be.

Big business's agenda is to put profit before people. We welcome the fact that public companies will be subject to SEA, but it is crucial

that private companies undergo the same scrutiny, given that they are motivated by profit.

I move amendment 3.

**Mr Mark Ruskell (Mid Scotland and Fife) (Green):** It is right that when a private body exercises functions with a public character, it should be captured by the provisions of the bill. I do not believe that it is right to leave that to ministers' discretion.

Let us take the example of a utility company such as Scottish and Southern Energy plc, which is developing the Beaully to Denny power line across Scotland. Under the bill, we would have an environmental assessment in relation to which side of Stirling the line might pass, but there would be no statutory requirement for SSE to produce a strategic environmental assessment. That is important, because it is about addressing why we need an overhead power transmission line in the first place. Whatever position a person might take in that debate, it is important that the reasoning for such a project be laid out explicitly at the outset.

I am disappointed that the Tories are going to vote against the bill and that they will probably vote against amendment 3. They are quite happy to parade around Perthshire telling people that there is no point in having pylons or transmission power lines, but they should stick to those principles in the chamber and support an amendment that would ensure that the fundamental reasoning behind the Beaully to Denny transmission line would be laid bare.

**The Deputy Minister for Environment and Rural Development (Rhona Brankin):** An amendment with a purpose similar to that of amendment 3 was rejected by the Environment and Rural Development Committee at stage 2. I remind members that private bodies exercising functions of a public character are already responsible authorities under the bill. The nature of such bodies is that they are responsible authorities under the bill only because they are given public functions by legislative, regulatory or administrative provisions. Such bodies are already caught by the bill, so they will be required to carry out SEAs for those plans and programmes that are required to deliver public functions. Therefore, we can see no purpose in extending the provisions in the way that amendment 3 suggests.

Furthermore, the bill already provides a power to ensure that, if it should ever be necessary, any other body or any of its functions can be required to meet SEA obligations. We believe that our approach, which is more targeted than the one that is proposed in amendment 3, will be more effective. That position was supported by the Environment and Rural Development Committee at stage 2. I ask members to resist amendment 3.

**The Deputy Presiding Officer:** In winding up, Rosie Kane should state whether she wishes to press or withdraw the amendment.

**Rosie Kane:** I will press amendment 3, in the hope that MSPs will support it. The current definition is far too broad. It needs to be much clearer than it is in the current draft of the bill.

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

**Members:** No.

**The Deputy Presiding Officer:** There will be a division. In line with the new protocol, I suspend the meeting for five minutes.

14:41

*Meeting suspended.*

14:46

*On resuming—*

**The Deputy Presiding Officer:** We will now proceed with the 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)  
 Fabiani, Linda (Central Scotland) (SNP)  
 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)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 Morgan, Alasdair (South of 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)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Welsh, Mr Andrew (Angus) (SNP)

#### AGAINST

Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 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)  
 Brownlee, Derek (South of Scotland) (Con)  
 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)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Dr Sylvia (Stirling) (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)  
 Livingstone, Marilyn (Kirkcaldy) (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)  
 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)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (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)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Wallace, Mr Jim (Orkney) (LD)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

**The Deputy Presiding Officer:** The result of the division is: For 30, Against 73, Abstentions 0.

*Amendment 3 disagreed to.*

### Section 3—Consultation authorities

**The Deputy Presiding Officer:** Group 2 is on consultation authorities. Amendment 4, in the name of Rosie Kane, is in a group on its own.

**Rosie Kane:** Section 3 of the bill identifies the three consultation authorities. Although each of those bodies has a significant range of skills, it would not be fair to suggest that between them they can address adequately all the information that is required for the environmental reports. In particular, we question the extent to which any of the consultation authorities can deal adequately with issues relating to human health or population. We suggest that inclusion of NHS Health Scotland, the national body for the promotion and protection of public health in Scotland, would allow the expertise contained therein to be brought to bear on providing information that is required for the environmental reports. That would give a further layer of protection to communities whose health has been blighted by developments or who have concerns about how their health may be affected by developments.

I move amendment 4.

**Mr Ruskell:** I was disappointed that the Executive decided to reject the amendment that I lodged at stage 2, which, in giving ministers the flexibility to choose additional consultation authorities, would have mirrored the point that the minister made about flexibility in identifying responsible authorities. As a result, there is now a gap in the bill's provisions on consultation authorities, especially with regard to health. I support amendment 4.

**The Minister for Environment and Rural Development (Ross Finnie):** We understand perfectly the principle of the concern that is expressed by Rosie Kane, supported by Mark Ruskell—namely, that there might be gaps in the knowledge and data of what are described as the consultation authorities. I wholly agree with Rosie Kane that the present named consultation authorities—the Scottish Environment Protection Agency, Scottish Natural Heritage and Historic Scotland—have a huge range of expertise that will cover a large number of situations.

I make it absolutely clear that the Executive accepts that, in a number of cases, there may be gaps. However, let us be equally clear that, where there are such gaps, the responsible authorities, if they are going to discharge their duties under the bill to identify, describe and evaluate the likely significant environmental effects, will have to seek advice elsewhere. It does not seem to me to be practicable to specify every possible other source of advice. That is why we have not specified



bodies other than the three consultation authorities.

We believe that that flexible approach is much more practical than prescribing the sources of advice. We want to assist the responsible authorities to identify the appropriate additional source of advice in each case. We consider it to be more effective and more appropriate to make practical and administrative provisions than to make statutory provisions. We believe that that solution has two benefits. First, it highlights the many additional sources of advice that cover all the issues that might arise, not just those on health. Secondly, it avoids placing an inappropriate burden on a single body by requiring it to scrutinise every strategic environmental assessment, regardless of whether that is relevant to its field of expertise.

I assure the Parliament that comprehensive guidance will be produced. We are already developing a list of data and advice sources and we are collaborating with NHS Health Scotland on health matters to produce comprehensive guidance on strategic environmental assessment health issues. I believe that the bill as drafted provides a practical solution that will facilitate the assessment of environmental issues, including those that relate to health. Accordingly, I ask the Parliament to resist the amendment.

**The Deputy Presiding Officer:** I ask Rosie Kane to wind up and to press or seek to withdraw her amendment.

**Rosie Kane:** We want the amendment to pass, because then we would get a full range of expertise on environmental effects and so ensure the protection of the environment. If the amendment falls, health experts will not give their advice on the health aspects of development. For example, experts could expose the dangers to children with asthma of increased levels of benzene or particulates from toxic waste dumps that could result from the construction of the M74 northern extension. Health is an enormous issue in relation to the environment; it can often be a litmus test of where failings exist. Given that the minister admits that there are gaps, members should support the amendment and fill in those gaps.

**The Deputy Presiding Officer:** The question is, that amendment 4 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)  
Curran, Frances (West of Scotland) (SSP)  
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
Ewing, Mrs Margaret (Moray) (SNP)  
Fabiani, Linda (Central Scotland) (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)  
Kane, Rosie (Glasgow) (SSP)  
Leckie, Carolyn (Central Scotland) (SSP)  
Lochhead, Richard (North East Scotland) (SNP)  
MacAskill, Mr Kenny (Lothians) (SNP)  
Marwick, Tricia (Mid Scotland and Fife) (SNP)  
Matheson, Michael (Central Scotland) (SNP)  
McFee, Mr Bruce (West of Scotland) (SNP)  
Morgan, Alasdair (South of Scotland) (SNP)  
Robison, Shona (Dundee East) (SNP)  
Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
Scott, Eleanor (Highlands and Islands) (Green)  
Sturgeon, Nicola (Glasgow) (SNP)  
Swinburne, John (Central Scotland) (SSCUP)  
Welsh, Mr Andrew (Angus) (SNP)

#### AGAINST

Aitken, Bill (Glasgow) (Con)  
Alexander, Ms Wendy (Paisley North) (Lab)  
Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
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)  
Brownlee, Derek (South of Scotland) (Con)  
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)  
Gillon, Karen (Clydesdale) (Lab)  
Glen, Marlyn (North East Scotland) (Lab)  
Gordon, Mr Charlie (Glasgow Cathcart) (Lab)  
Gorrie, Donald (Central Scotland) (LD)  
Henry, Hugh (Paisley South) (Lab)  
Home Robertson, John (East Lothian) (Lab)  
Hughes, Janis (Glasgow Rutherglen) (Lab)  
Jackson, Dr Sylvia (Stirling) (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)  
Livingstone, Marilyn (Kirkcaldy) (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)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (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)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (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)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Wallace, Mr Jim (Orkney) (LD)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

**The Deputy Presiding Officer:** The result of the division is: For 30, Against 72, Abstentions 0.

*Amendment 4 disagreed to.*

#### Section 4—Plans and programmes

**The Deputy Presiding Officer:** Group 3 is on the application of the bill to defence and civil emergency plans and programmes. Amendment 12, in the name of Rob Gibson, is grouped with amendment 9. If amendment 12 is agreed to, amendment 9 will be pre-empted.

**Rob Gibson (Highlands and Islands) (SNP):** Amendment 12 would create a new subsection under which Scottish ministers would have the power to allow, by order, the Ministry of Defence not to publish a strategic environmental assessment of those plans and programmes that may be of national security importance. Therefore, our intention is to ensure that the MOD, when its activities take place in Scotland, meets the requirements of the bill.

Why would we want to do that? Scotland is not unique in having to deal with the MOD's plans and programmes, but some aspects of what is happening here are unique. At the top end, for example, the Government in London could well decide in the next few years to order a replacement for Trident nuclear missiles. In the case of an SEA on the impact in Scotland of the deployment of such a replacement, it would be important for us to have a handle on the matter, for our ministers to be involved with it and for the

relevant structure to be within the powers of this Parliament.

It is also important that we recognise the MOD's impact on our environment at various other levels. An example that I raised at stage 2 is when the MOD marks on navigation charts, without any consultation, remarks such as "firing practice area" for lochs that contain, for example, oyster farms and fish farms. In a broad range of areas, the MOD is not making itself open to the kind of scrutiny that would require our Government to be involved behind the scenes. Currently, daily activities are impeded by decisions that are not up for consultation. We believe that it is essential to ensure that the MOD's activities in Scotland are subject to the letter of the bill and are not excluded from strategic environmental assessment. We ask the Parliament to agree to amendment 12 to ensure that that happens.

I move amendment 12.

**The Deputy Presiding Officer:** Amendment 9 is in the name of Mark Ruskell.

**Mr Ruskell:** As Rob Gibson pointed out, the MOD has an impact on the environment. For example, radioactivity has recently been found at Forthside in Stirling and at Dalgety Bay. That has arisen because of mistakes that were made in the past, when we did not have SEAs. We must ensure that we do not make such mistakes in the future.

I am not saying that the MOD will always have a negative impact on the environment. It has made positive impacts, as I said at stage 2. For example, it was found that there was a lot of ecological regeneration of the sea-bed in a torpedo testing area on the west coast of Scotland. I am not here to judge the MOD, but it is extremely important that we should see the environmental impacts, whether positive or negative, of its activities. An SEA is not an alien concept to the MOD; it already carries out SEAs on some of its plans and programmes. Amendment 9 is about enshrining that best practice in legislation.

There is a debate about when we would not want to bother considering the environmental impacts of the MOD's activities. Such instances are outlined in the Westminster Government's definition of when it is not sensible to consider environmental impact, as I mentioned at stages 1 and 2. Before the summer, John Reid said in a policy statement:

"I will invoke any powers given to me to disapply legislation only on the grounds of national security when such action is absolutely essential to maintain operational capability."

That is a robust definition of when we would not want to consider environmental impact, although at stage 2 Maureen Macmillan described it as

woolly. Well, that was the first time that I had heard John Reid being called “woolly”. At stage 2, the minister said that there was no legal basis for such an approach, despite the fact that there is a director of operational capability in the MOD.

An SEA does not make a decision; if there is an overriding interest, a decision can be made. However, it is important that we should look, in as many instances as is sensible, at the environmental impact of the MOD. I appreciate what Rob Gibson is proposing in his amendment 12, which I believe reflects the Canadian experience and the words in Canadian legislation. What I am saying is, “Let’s stick to Labour Party policy at Westminster. Let’s enshrine those words within our Scottish legislation.”

15:00

**Rhona Brankin:** The exemptions in the bill are few in number and we have sought to ensure the widest possible coverage for SEA and the greatest possible transparency. In exempting plans and programmes the sole purpose of which—I emphasise “sole”—is to serve national defence and civil emergency, we are recognising that those are two exceptional areas of public policy. Expediency of implementation is often critical and it is simply not safe or reasonable to compromise either area of operation to any degree. Amendment 12 runs the risk of doing that.

I make it clear that the bill does not exempt the MOD; it exempts only certain clearly defined plans or programmes. We are talking about civil emergency, not long-term civil contingency plans. We are talking about, for example, urgent reactive plans to deal with genuine emergency situations such as natural disasters.

The policy statement by the Secretary of State for Defence, from which Mr Ruskell has taken the definition that he uses in amendment 9, helpfully sets out the policy on circumstances in which the secretary of state would seek to exercise his powers under the many exemptions in law that apply to the MOD. In addition, a published protocol between the MOD and Scottish ministers ensures that information is exchanged and that proper working arrangements are in place, including arrangements for plans and programmes such as the ones that we are discussing. Both those documents should reassure everyone that the exemption will be applied only when absolutely necessary. There are good examples of authorities that are engaged in national defence—for example, the MOD—carrying out environmental assessment of plans when it has proved possible and safe to do so. I see no reason to doubt that the MOD will continue to do that.

**Dennis Canavan (Falkirk West) (Ind):** The long title of the bill refers to directive 2001/42/EC of the European Parliament and the European Council. Does the directive apply to the plans and programmes that the Executive proposes to exclude under section 3 of the bill?

**Rhona Brankin:** Any plans that the MOD has in place are covered by the bill. In the exceptional areas of public policy, we are talking about civil emergency and not about long-term civil contingency plans. We are talking about reactive, urgent plans to deal with genuine emergency situations such as natural disasters. Of course, MOD plans would be covered. Both the documents that I referred to should reassure everyone that the exemption will be applied only when absolutely necessary. There are good examples, as I said, of authorities that are engaged in national defence carrying out environmental assessment of plans. Those authorities will continue to do so. Amendments 12 and 9 are not in the best interests of Scotland. The national defence and civil emergency exemptions are entirely necessary. The two amendments should be decisively resisted.

**Rob Gibson:** I intend to press amendment 12 because I have not heard a satisfactory answer from the minister about how the bill will deal with MOD plans. She has tried to apply a narrow definition, referring only to civil emergencies and things that have to happen in a hurry. However, as Mark Ruskell said, the arrangements in Canada are slightly different. The Department of National Defence and the Canadian Forces has a commitment to

“meet or exceed the letter and spirit of all federal environmental laws and, where appropriate, be compatible with municipal, provincial, territorial, and international standards.”

Amendment 12 would allow the Scottish Government to set standards in such a spirit, rather than allow the MOD to continue to have its activities environmentally assessed under lesser rules.

**The Deputy Presiding Officer:** The question is, that amendment 12 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)  
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)

Fabiani, Linda (Central Scotland) (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)  
 Lochhead, Richard (North East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 Morgan, Alasdair (South of 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)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Welsh, Mr Andrew (Angus) (SNP)

#### AGAINST

Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 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)  
 Brownlee, Derek (South of Scotland) (Con)  
 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)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marilyn (North East Scotland) (Lab)  
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Dr Sylvia (Stirling) (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)  
 Livingstone, Marilyn (Kirkcaldy) (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)  
 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)  
 Mitchell, Margaret (Central Scotland) (Con)

Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Tosh, Murray (West of Scotland) (Con)  
 Wallace, Mr Jim (Orkney) (LD)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### ABSTENTIONS

Curran, Frances (West of Scotland) (SSP)  
 Fox, Colin (Lothians) (SSP)  
 Kane, Rosie (Glasgow) (SSP)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 MacDonald, Margo (Lothians) (Ind)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

**The Deputy Presiding Officer:** The result of the division is: For 28, Against 72, Abstentions 6.

*Amendment 12 disagreed to.*

**The Deputy Presiding Officer:** Mr Ruskell, do you want to move amendment 9?

**Mr Ruskell:** I would like to move amendment 9. I think that the minister—

**The Deputy Presiding Officer:** I think that you should sit down, Mr Ruskell. You have moved the amendment.

The question is, that amendment 9 be agreed to. Are we agreed?

**Members:** No.

**The Deputy Presiding Officer:** There was definitely a no, albeit that it was slow in coming. 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)  
 Fabiani, Linda (Central Scotland) (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)  
 Kane, Rosie (Glasgow) (SSP)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 Lochhead, Richard (North East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 MacDonald, Margo (Lothians) (Ind)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 Morgan, Alasdair (South of 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)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Welsh, Mr Andrew (Angus) (SNP)

#### AGAINST

Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 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)  
 Brownlee, Derek (South of Scotland) (Con)  
 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)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Finnie, Ross (West of Scotland) (LD)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marilyn (North East Scotland) (Lab)  
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
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 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Johnstone, Alex (North East Scotland) (Con)  
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 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 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)  
 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)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Morrison, Mr Alasdair (Western Isles) (Lab)

Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Tosh, Murray (West of Scotland) (Con)  
 Wallace, Mr Jim (Orkney) (LD)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

**The Deputy Presiding Officer:** The result of the division is: For 34, Against 72, Abstentions 0.

*Amendment 9 disagreed to.*

**The Deputy Presiding Officer:** Group 4 is on the application of the bill to financial or budgetary plans and programmes. Amendment 5, in the name of Rosie Kane, is in a group on its own.

**Rosie Kane:** We are extremely concerned about the exclusion of financial or budgetary plans and programmes from SEA under section 4(3)(b). Given that the Executive has clearly decided to extend the scope of the bill beyond the requirements of the directive, it is unclear why financial or budgetary plans, programmes and strategies should remain excluded from the SEA process.

The allocation of resources between sectors can have critical environmental implications and should be subject to the same screening provisions as other plans, programmes and strategies. Strategic environmental assessment would make the budgetary process more transparent to the Parliament and the public, thereby improving scrutiny and accountability. Use of the widely accepted and recognised SEA approach could ensure that the Executive's commitment to incorporate sustainable development principles into its budgetary process is delivered in practice.

I move amendment 5.

**Mr Ruskell:** We had a lengthy discussion in committee at stage 2 about what comes first: the financial budget, or the plan or programme. I accept that if a plan or programme were to accompany a budget, we would not want to see that budget analysed as part of that process, as it would already have gone through screening.

However, there are situations in which we want to analyse financial budgets. Two examples of budgets for which we need to understand the environmental impacts are the £1.65 million that is spent on rail freight facilities and the £12.4 million that is to be spent under the route development fund. We could have a hell of a debate in the chamber as to whether positive or negative environmental benefits result from the fund. The important thing to remember is that we need to know the impacts of the financial plans and programmes. I support amendment 5.

**Ross Finnie:** The Executive's view remains as it was when the subject was debated at some considerable length at stage 2. In general terms, budgetary numbers are not practical items on which strategic environmental assessment can be carried out. It remains our view that it is much more appropriate to carry out strategic environmental assessment on the plans or programmes that lead to the provision of a financial amount or that arise from an allocation of funds.

On the examples that Mark Ruskell gave, there will be a policy statement on what a plan or programme seeks to achieve—that, rather than the money, is the issue. Of course, funding levels and budget provisions change over time and when such a change calls for the modification of a plan and that modification will have a significant environmental effect, a strategic environmental assessment will be required.

Strategic environmental assessment is targeted at plans and programmes that have significant environmental effects. I believe that targeting it in that way helps us to deal with the real issue and to target our resources on the import of the bill. If all the budget lines and financial provisions are included, as amendment 5 seeks to do, resources will be redirected in a way that will not achieve the bill's aims. Therefore, I urge Parliament to resist amendment 5.

**The Deputy Presiding Officer:** Although she pressed her button late, I call Sarah Boyack.

**Sarah Boyack (Edinburgh Central) (Lab):** I want only to make a brief point. We discussed the issue at great length at the Environment and Rural Development Committee, principally to air the discussion that has been put in front of the chamber today about when it is appropriate to carry out environmental assessment. Committee members wanted to reassure themselves that before something goes into a budget or when it is being considered as a project, there will be an SEA process. The majority of us thought that the applicability of the bill to plans, programmes and strategies adequately covered that point. The bill's measures did not slide through without scrutiny at stage 2 but were debated extensively.

The examples that Mark Ruskell gave, such as the rail freight grant, should be picked up through the development of the rail strategy for Scotland and the national transport strategy. We expect such things to be properly analysed under strategic environmental assessment. In addition, we expect the planning system to pick up individual projects and perform detailed environmental impact assessments on them. It is all about ensuring that the hierarchy works. For those reasons, the majority of us were persuaded that amendment 5 is not required.

**Rosie Kane:** When budgetary decisions are made, they are not always attached to a plan. Mark Ruskell made a couple of points about that. If amendment 5 falls, a spending announcement about a reduction in funding for an energy-efficiency initiative or for organic farming, for example, that was not attached to a plan would not be scrutinised, despite the fact that there would obviously be environmental implications. When the bill was drafted, we asked that a safety net be put in place. We are taking a second opportunity to get the Parliament to support the amendment to ensure that everything is in place for the protection of the environment when we need it most, which is when budgetary and financial changes take place.

**The Deputy Presiding Officer:** The question is, that amendment 5 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)  
 Fabiani, Linda (Central Scotland) (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)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 Lochhead, Richard (North East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 Morgan, Alasdair (South of 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)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Welsh, Mr Andrew (Angus) (SNP)

#### AGAINST

Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 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)  
 Brownlee, Derek (South of Scotland) (Con)  
 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)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Dr Sylvia (Stirling) (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)  
 Livingstone, Marilyn (Kirkcaldy) (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)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)

Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Tosh, Murray (West of Scotland) (Con)  
 Wallace, Mr Jim (Orkney) (LD)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

**The Deputy Presiding Officer:** The result of the division is: For 34, Against 70, Abstentions 0.

*Amendment 5 disagreed to.*

#### Section 7—Exemptions: pre-screening

15:15

**The Deputy Presiding Officer:** Group 5 is on pre-screening. Amendment 6, in the name of Rosie Kane, is in a group on its own.

**Rosie Kane:** The inclusion of the term “strategies” in the bill is broadly to be welcomed. However, a number of important definitional gaps remain, particularly in relation to the phrase “minimal effect” in section 7(1)(b). It has proved difficult to identify any precedent in legislation for the concept. The term “minimal effect” might mean something different to the responsible authority and to the community, but it will be the responsible authority’s definition that has authority, while the community will bear the brunt of the minimal effect. From an initial reading of the bill, there is dispute as to the meaning of “minimal effect”. That will be resolved only by going to court, which is often not an option for concerned communities. We want amendment 6 to be passed because it would remove the ambiguity that surrounds the term “minimal effect”.

I move amendment 6.

**Mr Ruskell:** At stage 1, I said that there is a danger that the phrase “minimal effect” would turn into weasel words. I still think that that is the case. No accepted legal definition of the term exists. The minister attempted to clarify the issue during the bill process, when he stated:

“The very wide gap between minimal and significant is covered by the screening process; minimal should be seen as a difficult test to meet and is always assessed in the context of each individual plan.”

That is not clear.

The minister has just rejected an amendment relating to the Ministry of Defence on the basis that the term “operational capability” does not have a legal definition. Now, with a different amendment, we are arguing that we should get rid of a term because it does not have a proper accepted legal definition. I believe that the term “minimal effect” is a hostage to fortune and that it will certainly delight lawyers, who will no doubt try to test the issue in the courts.

**Rhona Brankin:** As drafted, the bill provides for pre-screening exemptions for plans and programmes that have no, or minimal, environmental effects. Amendment 6 seeks to limit pre-screening to plans and programmes that have no environmental effect, which is an almost impossible standard to meet. During stage 2, the Environment and Rural Development Committee gave due consideration to a similar amendment, which was rightly disagreed to. Amendment 6 would undermine the positive benefits that the pre-screening provisions as drafted will provide, such as the reduction of administration and the targeting of resources at plans that have significant effects. Those benefits were welcomed by respondents to our public consultation, particularly local authorities.

I reiterate the commitment that I gave at stage 2 that guidance will be produced to provide as much clarity as possible. Achievement of clarity on the meaning of the term “minimal effect” is at the heart of the issue, as that will help us to retain the full benefits of pre-screening while giving reassurance that pre-screening decisions will involve a tough and clearly understood test. Therefore, clear guidance, rather than amendment 6, is the way forward. Members should be further reassured by our commitment to establish a pre-screening register, which will render the whole pre-screening process more transparent. Also, the Scottish ministers will have powers to direct an SEA to be carried out, which provides a suitable safety net.

I ask members to resist amendment 6.

**Rosie Kane:** The Parliament has promised on many occasions to ensure environmental justice. Mark Ruskell made the point that lawyers will have a field day with the wording “minimal effect”. If amendment 6 is not agreed to, a consultation authority may exempt a plan that it believes will have a minimal effect when the community that is affected by the plan may believe the effects to be more than minimal. The wording is crucial. I ask members to support amendment 6 to ensure, once again, that a safety net is in place.

**The Deputy Presiding Officer (Murray Tosh):** The question is, that amendment 6 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)  
 Fabiani, Linda (Central Scotland) (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)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 Lochhead, Richard (North East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 Morgan, Alasdair (South of 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)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Welsh, Mr Andrew (Angus) (SNP)

#### AGAINST

Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 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)  
 Brownlee, Derek (South of Scotland) (Con)  
 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)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Dr Sylvia (Stirling) (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)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (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)  
 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)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (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)  
 Wallace, Mr Jim (Orkney) (LD)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

**The Deputy Presiding Officer:** The result of the division is: For 34, Against 71, Abstentions 0.

*Amendment 6 disagreed to.*

**The Deputy Presiding Officer:** Group 6 is on a pre-screening register. Amendment 7, in the name of the minister, is grouped with amendment 1.

**Rhona Brankin:** I promised the committee at stage 2 that I would lodge a further amendment requiring a pre-screening register, and I have done so. I thank Rob Gibson for lodging amendment 1, which clearly demonstrates that we share the same concerns regarding the transparency of pre-screening decisions. However, I believe that amendment 1 does not address the concerns of the committee quite as thoroughly as amendment 7 does. In particular, amendment 7 asks responsible authorities to provide some details of the plan or programme, which improves transparency and enables a greater degree of public scrutiny. Amendments 7 and 1 have a similar purpose but, because I consider amendment 7 to be rather more effective, I ask Rob Gibson not to move his amendment.

Pre-screening is an immensely useful administrative tool, which has been welcomed by the vast majority of practitioners, because it avoids wasting valuable time and resources. Pre-screening achieves that by empowering responsible authorities to exempt from SEA plans and programmes that have no or only minimal environmental effects.

Having said that, I fully acknowledge the concern that the Environment and Rural

Development Committee and others expressed that pre-screening as originally proposed might not be sufficiently transparent. Amendment 7 addresses such concerns by, first, requiring responsible authorities to notify pre-screening decisions to the consultation authorities, along with a brief description of the plan or programme; secondly, by requiring Scottish ministers to make arrangements for a register to be kept of all such notification; and thirdly, by empowering the Scottish ministers to make that register publicly available.

A publicly available register, as proposed in amendment 7, must reassure anyone who had concerns over transparency. The fact that the register is to include a description of the plan must reassure anyone who had concerns about the level of scrutiny that the register will enable. I urge colleagues to accept amendment 7 and to resist amendment 1.

I move amendment 7.

**Rob Gibson:** As members will see from the number of my amendment, I ensured that a debate would take place on pre-screening activity. I am glad to say that, following the committee's scrutiny of the bill at stage 2, the minister has come back with a much more detailed approach, so that both screening and pre-screening can be done and so that pre-screening is done in an open and accountable way. The details of the provisions in amendment 7 are entirely acceptable to me and, I hope, to the rest of Parliament, so I am happy not to move amendment 1.

**Mr Ruskell:** I will take a slightly more positive tone now. I withdrew an amendment at stage 2, on the publication of a pre-screening register, on the understanding that the minister would introduce an amendment on the matter at stage 3. Amendment 7 does the job—it is a thorough amendment and I welcome it. I still believe that the whole process of pre-screening is a bit of an irrelevance but, if we are going to have it, it needs to be done in an open and accountable way, and amendment 7 will achieve that. I support amendment 7.

**Sarah Boyack:** I welcome amendment 7, which is in Rhona Brankin's name. Other members of the committee have referred to the fact that there was extensive and detailed debate about the subject and the committee split between those of us who did not agree with pre-screening and those of us who felt that the idea was important, as part of a proportionate act that will cover every issue under the sun, and that the responsible authorities have to be prepared to be accountable. For those reasons, I am glad that we are now much clearer about what to expect. If an authority decides that it is going to pre-screen something, it has to come out and say what its decision is and make that

decision available publicly. There must be openness and transparency in the process.

I note that amendment 7 is welcomed by Scottish Environment LINK and I acknowledge the constructive comments that Rob Gibson made when he was speaking to his amendment. I think that we can all agree on this subject and that the fact that we have scrutinised the amendment carefully at stage 3 will reassure people who had concerns about the situation.

The amendment will ensure that the rules in the bill are straight and that we will have proper openness, accountability and transparency, which is what everyone wanted.

*Amendment 7 agreed to.*

*Amendment 1 not moved.*

### Section 9—Screening: procedure

**The Deputy Presiding Officer:** Group 6 is on the settlement of disputes to do with screening. Amendment 13, in the name of Rosie Kane, is grouped with amendments 14 and 15.

**Rosie Kane:** The bill requires Scottish ministers to act as arbiters in the event of a dispute between the consultation authorities and the responsible authority, even if the Scottish Executive is the responsible authority. Clearly, in such a situation, a conflict of interests would arise, which means that an independent body must be established to act as an arbiter. The amendments will address the obvious conflict of interest. If the amendments do not pass, the Scottish ministers could be asked to be the arbiter in a dispute in which the Scottish Executive is one of the bodies in the dispute.

I move amendment 13.

**Ross Finnie:** Rosie Kane is right. Section 9(7) attempts to provide a procedure for resolving disputes. The difficulty that we have with the amendments is that they require that an unspecified person or body would be appointed by agreement between the responsible authority and the consultation authorities. They make no provision as to how that person or body would be identified or, indeed, what duty might be placed on that person or body. I think that an interesting and difficult interpretation would be placed on the precise role of that unnamed person or body.

Although I understand where Rosie Kane is coming from, the amendments lack clarity and appear to be a heavy-handed approach to a situation in which the risks of conflict were generally regarded as being remote. That was not only my view but the view of the overwhelming majority of respondents to the consultation on the bill. It was broadly felt that Scottish ministers ought to determine cases of disagreement, which is what appears in the bill.

I ask members to resist amendments 13, 14 and 15.

**Rosie Kane:** I am shocked and flattered that the minister has twice today said that I am right. I am left, but I thank him anyway.

In the drafting of the bill, there have been many opportunities to discuss a specific body that could fill the position that the minister talks about. It is clear that we need such a body and it is a pity that, after all this time, there have been no moves to put one in place. The Scottish Executive would do well to support the amendment, as it would put it above suspicion and criticism if it were to find itself being one of the bodies in a dispute.

I will press amendment 13 and hope that Mr Finnie will once again tell his colleagues that I am right.

15:30

**The Deputy Presiding Officer:** The question is, that amendment 13 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)  
 Fabiani, Linda (Central Scotland) (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)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 Lochhead, Richard (North East Scotland) (SNP)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 Morgan, Alasdair (South of 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)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Welsh, Mr Andrew (Angus) (SNP)

#### AGAINST

Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 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)  
 Brownlee, Derek (South of Scotland) (Con)  
 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)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Dr Sylvia (Stirling) (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)  
 Livingstone, Marilyn (Kirkcaldy) (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)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (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)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Wallace, Mr Jim (Orkney) (LD)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

## ABSTENTIONS

Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

**The Deputy Presiding Officer:** The result of the division is: For 33, Against 73, Abstentions 1.

*Amendment 13 disagreed to.*

*Amendment 14 moved—[Rosie Kane].*

**The Deputy Presiding Officer:** The question is, that amendment 14 be agreed to. Are we agreed?

**Members:** No.

## 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)  
 Fabiani, Linda (Central Scotland) (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)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 Lochhead, Richard (North East Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 Morgan, Alasdair (South of 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)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Welsh, Mr Andrew (Angus) (SNP)

## AGAINST

Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 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)  
 Brownlee, Derek (South of Scotland) (Con)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 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)  
 Glen, Marlyn (North East Scotland) (Lab)

Godman, Trish (West Renfrewshire) (Lab)  
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Dr Sylvia (Stirling) (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)  
 Livingstone, Marilyn (Kirkcaldy) (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)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (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)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Wallace, Mr Jim (Orkney) (LD)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### ABSTENTIONS

Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)

**The Deputy Presiding Officer:** The result of the division is: For 34, Against 70, Abstentions 1.

*Amendment 14 disagreed to.*

*Amendment 15 moved—[Rosie Kane].*

**The Deputy Presiding Officer:** The question is, that amendment 15 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)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Fox, Colin (Lothians) (SSP)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Grahame, Christine (South of Scotland) (SNP)  
 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)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 McFee, Mr Bruce (West of Scotland) (SNP)  
 Morgan, Alasdair (South of 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)  
 Swinney, Mr John (North Tayside) (SNP)  
 Welsh, Mr Andrew (Angus) (SNP)

#### AGAINST

Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 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)  
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 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Fergusson, Patricia (Glasgow Maryhill) (Lab)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Finnie, Ross (West of Scotland) (LD)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
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 Johnstone, Alex (North East Scotland) (Con)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)

Macintosh, Mr Kenneth (Eastwood) (Lab)  
 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)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McMahon, Michael (Hamilton North and Bellshill) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
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 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (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)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Wallace, Mr Jim (Orkney) (LD)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### ABSTENTIONS

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

**The Deputy Presiding Officer:** The result of the division is: For 32, Against 71, Abstentions 2.

*Amendment 15 disagreed to.*

#### After section 19

**The Deputy Presiding Officer:** Group 8 is on annual reports. Amendment 8, in the name of the minister, is grouped with amendments 8A, 10 and 10A.

**Ross Finnie:** I am grateful to the Environment and Rural Development Committee—and to Nora Radcliffe in particular—for raising the question of annual strategic environmental assessment reporting. At stage 2, we gave a commitment to consult the committee further before returning to the issue at stage 3 and we have done exactly that. We have given the matter due consideration and I believe that amendment 8 demonstrates our commitment to a sound basis of annual reporting.

Amendment 8 takes the matter even further than was discussed at stage 2. It states that Scottish ministers must

“prepare and publish a report on—

- (i) the exercise of the functions of the Scottish Ministers under this Act; and
- (ii) such other activities carried out in relation to environmental assessments as the Scottish Ministers consider appropriate”.

That is a broad remit, which will enhance accountability and transparency by placing a reporting duty on Scottish ministers and ensuring that the report is laid before the Parliament.

As I said, that approach goes beyond simple reporting on compliance. I expect people to be interested in the inclusion in the report of any gateway functions or other activities. Further, the approach is practical. Reporting is new and the provisions need to respond to emerging needs. That is why amendment 8 requires consultation after five years on future arrangements, which will help to ensure that they are effective and appropriate.

Concerns have been expressed about whom we would consult. To avoid doubt, I guarantee that the Environment and Rural Development Committee would be consulted.

I believe that all members agree that the benefits are desirable. I hope very much that amendment 8, which will deliver those benefits to best effect, will receive wide support. As a result of the more comprehensive provision and the undertakings that I have just given, I hope that Nora Radcliffe will feel that she need not move amendment 10. As I said, she can take due credit for having raised the matter as a concern.

I will say a few words about amendment 8A and amendment 10A, which may be considered if amendment 10 is moved. The amendments, which have identical aims, would extend the contents of the annual report to include

“co-ordination of environmental assessment activities”

and the “support, advice and guidance” that are provided to responsible authorities. To an extent, I understand where the amendments come from. That is what I said about Rosie Kane’s amendments, but that does not necessarily mean that I agree with them—I merely understand perfectly why they have been lodged.

Amendments 8A and 10A would not be entirely workable, because the meaning of terms such as “co-ordination” and “advice”, as expressed in the amendments, is unclear. Amendment 8 will provide the necessary clarity and flexibility without the additional amendment. We ask members to resist amendments 8A and 10A and we hope that we can persuade Nora Radcliffe not to move amendment 10.

I move amendment 8.

**Mr Ruskell:** The bill is innovative. As a result, scrutiny of its effectiveness will be needed in parliamentary session 3. I am pleased that the Executive has responded to the committee's concerns and proposed an annual reporting structure that is quite robust. However, the committee is still concerned about the core functions of a gateway—especially the co-ordination of environmental assessments and the provision of the support, advice and guidance that need to follow the bill's implementation. We have debated whether those functions should be delivered by a gateway, an independent body or another organisation, but the important point is that they should be performed and we should not be in the same situation that arose after the Local Government in Scotland Act 2003, when bodies that were established to support community planning withered away.

That is why I lodged amendment 8A. I acknowledge what the minister said about the gateway, but if the functions are to be performed and implementation of the bill is to be successful, it is important for the committee to be able in session 3 to scrutinise how the functions have been delivered, regardless of whether that happens through a gateway or another structure. I appeal again to the minister to take amendment 8A in the spirit of amendment 8. We need such a measure in order to scrutinise the effectiveness of this innovative bill. I ask the minister to accept amendment 8A, please.

I move amendment 8A.

**Nora Radcliffe (Gordon) (LD):** I thank the minister for his kind remarks and welcome the Executive's acceptance that annual reporting is a good idea, at least for the first five years while everyone gets to grips with implementing the bill. There are slight differences between what the Executive and I propose. I will compare and contrast.

My aim was that a brief summary report that focuses on compliance should be laid before the Parliament once a year. That would enable parliamentary scrutiny and enable us to check implementation. It would also be an opportunity to follow up any concerns that had emerged. My amendment 10 includes Scottish ministers, the consultation authorities and responsible authorities, whereas the Scottish Executive's amendment 8 specifies Scottish ministers and undefined "other activities". We agree that there should be flexibility and a sunset clause, but my amendment would allow ministers to come back to the Parliament after five years and either to modify or repeal by way of order the requirement for annual reporting. I thought that that proposal would fulfil the twin objectives of flexibility and guaranteed scrutiny by the Scottish Parliament.

If I have a criticism of the Executive's amendment, it is that it is a bit woollier than mine because it states that

"the Scottish Ministers must consult with such persons as they consider appropriate"

on the reporting arrangements that should be continued after the five-year cut-off point. That proposal could be taken to slightly absurd extremes—Scottish ministers could, in effect, consult themselves and then decide to proceed. However, I am happy to accept that that is highly unlikely to happen.

In some ways, I prefer my amendment 10, but the Executive's amendment 8 meets—and in some respects exceeds—what I wanted. Therefore, I will be happy not to move amendment 10.

**The Deputy Presiding Officer:** There will be two winding-up processes. First, members may wind up on amendment 8A, which is an amendment to amendment 8. I will allow the minister to make a few final comments strictly and solely on amendment 8A before I invite Mr Ruskell to say whether he will press that amendment.

**Ross Finnie:** I will be brief.

I have made my view clear. The way in which we have expressed the broad remit that we have incorporated in subparagraphs (i) and (ii) of paragraph (a) of subsection (1) in amendment 8 will extend the scope of the report much wider than the scope that was originally discussed in the committee. The amendment incorporates and encapsulates what Mark Ruskell has proposed. We do not necessarily agree about that, but I am sticking to the proposal and ask members to resist amendment 8A.

**Mr Ruskell:** I am disappointed that the Executive has not entered into the spirit of my amendment 8A. The minister has not yet given me a form of words that has been recorded in the *Official Report* and which says that the annual reports that will be produced in the years between 2006 and 2010 will deal with the co-ordination of environmental assessment activities and how support, advice and guidance are being provided by the responsible authorities. If I had been given that commitment, I would have been prepared to seek to withdraw amendment 8A, but that has not happened. As a result, I will press amendment 8A.

**The Deputy Presiding Officer:** The question is, that amendment 8A 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)  
 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)  
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 McFee, Mr Bruce (West of 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)  
 Swinney, Mr John (North Tayside) (SNP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Welsh, Mr Andrew (Angus) (SNP)

**AGAINST**

Aitken, Bill (Glasgow) (Con)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Baker, Richard (North East Scotland) (Lab)  
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 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
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 Kerr, Mr Andy (East Kilbride) (Lab)  
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 Livingstone, Marilyn (Kirkcaldy) (Lab)  
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 Macmillan, Maureen (Highlands and Islands) (Lab)  
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 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 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)  
 Mitchell, Margaret (Central Scotland) (Con)  
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 Scanlon, Mary (Highlands and Islands) (Con)  
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 Scott, Tavish (Shetland) (LD)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Wallace, Mr Jim (Orkney) (LD)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

**The Deputy Presiding Officer:** The result of the division is: For 31, Against 73, Abstentions 0.

*Amendment 8A disagreed to.*

15:45

**The Deputy Presiding Officer:** Minister, you have the right to wind up on amendment 8 if there is anything further to be said.

**Ross Finnie:** I wish briefly to reiterate the assurance that I gave to Nora Radcliffe, who raised the possibility that ministers might simply consult themselves. For the avoidance of doubt—for the second time, but to be absolutely clear—I state for the *Official Report* that the Scottish Executive would include the Environment and Rural Development Committee in any such consultation.

*Amendment 8 agreed to.*

**The Deputy Presiding Officer:** Group 9 is on the SEA gateway. Amendment 2, in the name of Rob Gibson, is in a group on its own.

**Rob Gibson:** At an earlier stage, in the committee debates, we heard strong arguments for setting up a body that would act as the gateway for people to use to expedite the process. Safeguarding the gateway for up to five years

would send out the signal that the Government wants to make it possible to get quality environmental assessments undertaken and to create consistency in a way that helps people to see a transparent means whereby the Executive is welcoming people to undertake best practice.

We have removed from the amendment that was discussed at stage 2 any suggestion that that body ought to be an arbiter. We think that the gateway is a suitable place to provide support and advice on best practice and to host the pre-screening register, which was discussed earlier. Co-ordination, support, advice and monitoring through the gateway will ensure that the standard of reporting and environmental assessment activities is consistent.

It was suggested, in early evidence to the committee, that monitoring the assessments that are being done just now is an important function in getting much better work done. We have argued, earlier in the debate, about the way in which bodies over which we have no control might impact on the environment. There are many bodies that are within our control and we want to ensure that they follow best practice.

The Executive will have an overview and will be well placed to make recommendations to ministers through the gateway. That would be an obvious way of saying that the Executive considers this process to be up front and out there—a statement that strategic environmental assessment is something that it takes seriously and which will kick in before many of the decisions that will be taken in future policy directions.

It is, therefore, the Scottish National Party's belief that a gateway of the sort that I propose in amendment 2 should be included in the bill. We look to the Executive to accept the amendment in the spirit in which we accepted its earlier arguments about pre-screening and the need to have quality and consistency.

I move amendment 2.

**Mr Ruskell:** I thank Rob Gibson for enthusiastically resurrecting at stage 3 one of my amendments from stage 2. It is important that we get some security for the key functions of the gateway, especially in the early years after implementation of the act. If we are to ensure that our implementation of the directive is successful—if we are to show best practice across Europe—it is important that we have strong functions of co-ordination, support, advice and guidance.

As I said in the debate on the previous group of amendments, it is important that we learn the lessons of the Local Government in Scotland Act 2003 and ensure that the sort of support, advice and co-ordination that were required in that act for community planning but which did not materialise

after a couple of years are secured in this case for the SEA process. We have an innovative bill, but we must ensure that those key functions are preserved to enable the bill to be a success. I support amendment 2.

**Rhona Brankin:** Amendment 2 is very similar to one that was disagreed to following a considered debate by the Environment and Rural Development Committee at stage 2. At stage 2, we clearly stated our commitment to the gateway, saying that it is here to stay. Furthermore, we committed ourselves to go back to the committee if we were considering changing the arrangements. I am sure that amendment 8 on SEA reporting underlines our on-going commitment to SEA.

To operate effectively, the gateway must be dynamic in nature and it must be enabled to respond to needs that are, as yet, unknown. That will be done best and most flexibly through administrative provisions. Statutory provisions, on the other hand, might risk constraining the development of the gateway and prevent it from operating as effectively as it might.

Our commitment to the gateway is further demonstrated by the fact that it is already operational. A team of Scottish Executive civil servants is dedicated to SEA duties in support of Scottish ministers. That team is unique in the United Kingdom and it performs valuable functions such as the provision of advice; the development of SEA guidance, including user templates; the gathering of statistics; liaison with consultation authorities; and management of the review of SEA practices to develop good practice.

In suggesting an audit and monitoring role, amendment 2 seems partly to reflect concerns over quality control. I offer reassurance on that point, because quality control is already addressed in several ways. There are statutory provisions to ensure the publication of SEA documents and for consultation to allow for public and expert consultation authority scrutiny.

Statutory provisions will allow ministers to direct that an SEA be carried out, even after the plan has been adopted. There are also statutory provisions for monitoring the significant environmental effects of plans and programmes after adoption to enable responsible authorities to take remedial action should there be any unforeseen adverse effects. The gateway can assist quality control and the smooth operation of SEA by acting as the administrative hub for SEA.

We are whole-heartedly committed to effective administration, provision of support and quality control. We believe that those are best served by robust, practical and flexible administrative provisions that can respond and develop to meet



emerging needs. I therefore urge members to resist amendment 2.

**Rob Gibson:** The inclusion of a strategic environmental assessment gateway on the face of the bill, with the functions that I propose in amendment 2, would give a guarantee that the Executive was up front. I hear what the minister says about needing to be flexible, but amendment 2 would not inhibit flexibility. Instead, it would send a clear signal that the Scottish Government and Parliament believe that a gateway is essential to act as the main means of showing people that the way in which we operate is absolutely transparent, open and welcoming. Agreeing to amendment 2 would help that process and I hope that members will support it.

**The Deputy Presiding Officer:** The question is, that amendment 2 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)  
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 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Finnie, Ross (West of Scotland) (LD)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)  
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 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Dr Sylvia (Stirling) (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)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
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 Martin, Paul (Glasgow Springburn) (Lab)  
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 McCabe, Mr Tom (Hamilton South) (Lab)  
 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)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
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 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
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 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Wallace, Mr Jim (Orkney) (LD)  
 Wilson, Allan (Cunninghame North) (Lab)

#### ABSTENTIONS

Swinburne, John (Central Scotland) (SSCUP)

**The Deputy Presiding Officer:** The result of the division is: For 32, Against 69, Abstentions 1.

*Amendment 2 disagreed to.*

## Before section 20

*Amendment 10 not moved.*

## Schedule 2

### CRITERIA FOR DETERMINING THE LIKELY SIGNIFICANCE OF EFFECTS ON THE ENVIRONMENT

**The Deputy Presiding Officer:** That brings us, finally, to group 10, on the criteria for determining effects likely to be significant. Amendment 11, in the name of Rosie Kane, is in a group on its own.

**Rosie Kane:** Schedule 2 provides no reference to the implications that a plan, programme or strategy might have for national environmental goals and targets—[*Interruption.*]

**The Deputy Presiding Officer:** Order.

**Rosie Kane:** I refer to targets such as renewable energy targets, emissions targets or even targets for noise levels in the chamber.

The Executive has no national targets on emissions or recycling, despite calls from the environmental movement for such targets to be adopted and despite the Executive's constant claim that it has a green agenda. The inclusion of such targets is key to the bill. A result on the amendment would force the Executive to adopt such targets, which would be to the benefit both of the environment and of the communities that have to live with, for example, the blight of high levels of air pollution or a landfill site on their doorstep.

I move amendment 11.

**Mr Ruskell:** Targets are of course extremely important, but I will be interested to hear what the minister says about schedule 2. If he can give us a commitment on the record that paragraph 2(f)(ii) of schedule 2 relates specifically to targets such as those for emissions and recycling, we might have to think twice about supporting amendment 11. However, we need a commitment from the minister that paragraph 2(f)(ii) relates to those very important national targets.

**Ross Finnie:** Amendment 11, in the name of Rosie Kane, would add the words

"national environmental targets on emissions and recycling" to paragraph 2 of schedule 2.

I am grateful to Mark Ruskell for drawing the member's attention to the provisions that are already contained in paragraph 2(f)(ii) of schedule 2. I ask her to look carefully at that paragraph, which gives the following criteria for determining the likely significance of effects on the environment:

"Characteristics of the effects and of the area likely to be affected, having regard, in particular, to ... the value and vulnerability of the area likely to be affected due to ... exceeded environmental quality standards or limit values".

For the benefit of Rosie Kane and Mark Ruskell, I state that I am absolutely clear that the broad definition in paragraph 2(f)(ii) refers to matters on which the Executive has set an environmental quality standard or a limit value. I believe that paragraph 2(f)(ii) not only answers the point that is raised in Rosie Kane's amendment but, in so far as it is not specific, it goes further than it. Any environmental quality standard or limit value that the Executive sets will be caught by the mischief of paragraph 2.

Given that the matter is well provided for, I hope that Rosie Kane will not press amendment 11.

**Rosie Kane:** Targets, goals and aims are essential and they should be enshrined clearly in the bill. Targets are essential so that we know where we are going, as well as how and when we will get there. Surely all members can get behind amendment 11. The inclusion of targets is crucial to aiming for and achieving a better, safer environment and to showing whether we have done so. I press amendment 11.

**The Deputy Presiding Officer:** The question is, that amendment 11 be agreed to. Are we agreed?

**Members:** No.

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

### FOR

Curran, Frances (West of Scotland) (SSP)  
Fox, Colin (Lothians) (SSP)  
Kane, Rosie (Glasgow) (SSP)  
Leckie, Carolyn (Central Scotland) (SSP)  
Murray, Dr Elaine (Dumfries) (Lab)

### AGAINST

Adam, Brian (Aberdeen North) (SNP)  
Aitken, Bill (Glasgow) (Con)  
Alexander, Ms Wendy (Paisley North) (Lab)  
Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
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)  
Brownlee, Derek (South of Scotland) (Con)  
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)  
Fabiani, Linda (Central Scotland) (SNP)  
Ferguson, Patricia (Glasgow Maryhill) (Lab)  
Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
Finnie, Ross (West of Scotland) (LD)  
Gibson, Rob (Highlands and Islands) (SNP)

Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gordon, Mr Charlie (Glasgow Cathcart) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Grahame, Christine (South of Scotland) (SNP)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Johnstone, Alex (North East Scotland) (Con)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lochhead, Richard (North East Scotland) (SNP)  
 Lyon, George (Argyll and Bute) (LD)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central 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)  
 Mitchell, Margaret (Central Scotland) (Con)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robison, Shona (Dundee East) (SNP)  
 Robson, Euan (Roxburgh and Berwickshire) (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)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Swinney, Mr John (North Tayside) (SNP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Wallace, Mr Jim (Orkney) (LD)  
 Welsh, Mr Andrew (Angus) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### ABSTENTIONS

Baird, Shiona (North East Scotland) (Green)

Ballance, Chris (South of Scotland) (Green)  
 Ballard, Mark (Lothians) (Green)  
 Harper, Robin (Lothians) (Green)  
 Harvie, Patrick (Glasgow) (Green)  
 Ruskell, Mr Mark (Mid Scotland and Fife) (Green)  
 Scott, Eleanor (Highlands and Islands) (Green)  
 Swinburne, John (Central Scotland) (SSCUP)

**The Deputy Presiding Officer:** The result of the division is: For 5, Against 94, Abstentions 8.

*Amendment 11 disagreed to.*

## Environmental Assessment (Scotland) Bill

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

The next item of business is a debate on motion S2M-3435, in the name of Ross Finnie, that the Environmental Assessment (Scotland) Bill be passed.

16:01

**The Minister for Environment and Rural Development (Ross Finnie):** Every bill requires a great deal of collective effort, work and engagement, and this bill is no exception. I thank the Finance Committee, the Subordinate Legislation Committee and, in particular, the members and convener of the Environment and Rural Development Committee for their constructive engagement and positive contribution to the development of the bill.

There was wide consultation, and external bodies spent much time contributing to the positive debate. I thank organisations such as the Convention of Scottish Local Authorities, the Scottish Environment Protection Agency, Scottish Natural Heritage, Historic Scotland, Scottish Environment LINK and all those who offered evidence to the Environment and Rural Development Committee and responded to our several consultations.

In environmental terms, this is without any shadow of doubt a landmark bill, which will place on the statute book a wide-ranging approach to strategic environmental assessment. It will ensure that all public sector strategies, plans and programmes with significant environmental effects are assessed and monitored; that awareness is raised of environmental effects and how they may be avoided or mitigated; that there is proper democratic opportunity for people to influence assessment and the resultant decisions; and that the statutory provisions are supported by a robust and flexible administrative framework, ensuring transparency of process. By extending the scope of strategic environmental assessment to cover all public sector strategies, plans and programmes, Scotland is leading the way in Europe in the fight to protect our environmental future. Therefore, the Parliament can be proud of the bill.

The administrative arrangements in Scotland will be unique in the United Kingdom and in Europe. I refer mainly to the SEA gateway—a dedicated team that will not only provide SEA templates, guidance and advice, but will review and develop strategic environmental assessment practices to ensure that they are effective. The Executive is committed whole-heartedly to the strategic

environmental assessment gateway and sees it as having a central role in SEA implementation.

In introducing strategic environmental assessment, I am mindful of the fact that there may be challenges ahead for those involved in carrying out assessments, but we have sought to minimise the resource impact and to provide for robust but light administrative requirements. Strategic environmental assessment has been designed to work with existing processes, will help to speed implementation and will minimise the impact on resources.

Furthermore, I anticipate savings both in monetary and, more important, environmental terms. For example, strategic environmental assessment will help to avoid the costly remedial action that can result from environmental harm being discovered far too late in the production and implementation of plans. I hope that strategic environmental assessment will make a tremendous contribution to the concept of sustainable development. In my view, resources that are employed in strategic environmental assessment will and must be seen as a positive investment in the future. We are determined to make that investment so that the next generation does not have to pay for mistakes, as it does now; we can no longer live now and pay later.

Strategic environmental assessment ensures assessment and positive action across a broad range of issues: protecting the natural environment; enhancing the built environment; tackling climate change; and respecting our cultural heritage. SEA has the potential to build on and improve our performance in all those areas. There is a great deal to cherish in Scotland's environment and the bill will help to ensure that it stays that way in years to come.

Strategic environmental assessment will further enhance public participation in decision making. The bill will do that by extending public consultation and by requiring that consultees' comments must be taken into account. Therefore, strategic environmental assessment has the potential to render public decision making more inclusive and accessible. That puts SEA right at the heart of our drive for environmental justice.

Strategic environmental assessment is designed to improve public decision making by ensuring that decisions are taken within the context of improved understanding of the environmental effects. The bill covers plans in a wide range of areas, from transport and industry through forestry and land use to tourism and telecommunications. Therefore, SEA has the potential to improve public decision making across all sectors, wherever the environment might be affected. Crucially, that means that, in the Executive's current legislative programme, strategic environmental assessment

will underpin the proposed reform of our planning legislation.

The bill is strategic, sustainable and supportable.

I move,

That the Parliament agrees that the Environmental Assessment (Scotland) Bill be passed.

16:07

**Rob Gibson (Highlands and Islands) (SNP):**

The debate about environmental assessment represents a step change: we are not at sea on the matter, but SEA will guide us in a direction that will allow this Parliament and our Government to be ahead.

We agree that we want the bill to be carried out to the letter. The reporting process will allow us to review the situation regularly to see how well we are doing. In the debates in the Environment and Rural Development Committee, in which I took considerable part, we gave the bill detailed scrutiny. I thank the minister for his remarks about the committee's scrutiny of the bill.

One of the points that I made early in the debate in the committee was that we need to ensure that what we do in Scotland about things that may damage the environment does not damage the environment in other countries. I am glad to say that one of the criteria for determining the likely significance of the effects on the environment will be their transboundary nature. That provision puts Scotland in a position to consider how our activities affect other people as well as how they affect our lives here.

The bill should deliver consistent and quality assessment. We look forward to seeing how that comes about. The Executive has responded favourably to the debates that we have had about reporting, but to meet the aims of the sustainable development directorate and the imperatives of climate change we will have to be on our guard in ensuring that the framework established by the bill does all that it has been lauded by the minister for doing.

Annual reporting will be of great benefit to us, but it is important that the public are involved in the process. Only a few members will speak in the debate, but I hope that people out there can thank us for creating a framework in which their lives and their environment will be looked after. The Scottish National Party has tried to stiffen the bill in certain areas, although we recognise that the majority of members have not gone along with us on some aspects. We are particularly concerned that the activities of the Ministry of Defence in Scotland could have an adverse effect. We will see whether

the provisions of the bill as passed will deal with the issues that we have raised in that respect.

On behalf of the Scottish National Party, I have pleasure in supporting the passage of the bill. We welcome the powers in it in the interests of the people of Scotland and of our environment.

16:10

**Alex Johnstone (North East Scotland) (Con):**

The Environmental Assessment (Scotland) Bill will revoke and replace the Environmental Assessment of Plans and Programmes (Scotland) Regulations 2004 (SSI 2004/258), which came into effect on 20 July 2004 and which implemented the European directive that has been mentioned many times this afternoon. As well as replacing the regulations, the bill will extend the assessment regime to cover a wider range of plans and programmes than the European directive requires.

The Environment and Rural Development Committee approved the bill at stage 1, but it also highlighted a number of reservations. There is significant concern about the likely resource implications of extending the scope of strategic environmental assessment. The bill's explanatory notes refer to research that the Babbie Group carried out that estimates that the annual cost of SEA to the responsible authorities is likely to be between £7 million and £12.5 million per annum.

In written evidence to the committee, the Confederation of British Industry Scotland stated that it was "very disappointed" that the Executive would extend the European directive; it considered that that was

"at odds with public statements that the economy is its number one priority,"

and

"counter to the commitments made to the business community by the UK Government that there would be no further 'goldplating' of EU legislation."

Even Scottish Enterprise stated in its written evidence that the bill should not undermine economic growth; it stated in oral evidence that its concern was based on the need to

"avoid adding to the process delays or excess bureaucracy that might slow down decision making."—[*Official Report, Environment and Rural Development Committee Committee*, 27 April 2005; c 1833.]

In addition, there are serious concerns about the availability in the public sector of the skills that will be needed to implement the bill and about the likelihood of increased costs as external consultants are employed to take up the slack. COSLA, no less, suggested that, before proceeding with the bill, there should be a series of pilot projects to assess all the implications.

In considering the financial memorandum, the Finance Committee raised concerns about the high burden of costs that local authorities will carry as a result of the bill. In written evidence to the committee, Highland Council stated:

“budget constraints will force Local Authorities to choose between delivering frontline services and meeting their statutory duty to SEA.”

The Finance Committee also raised the likelihood of a knock-on effect on forthcoming planning regulation changes and the planning system as a whole.

The Conservatives accept the need for a reasonable and unobtrusive amount of environmental assessment, but we believe that the provision under the existing 2004 regulations is adequate. We have grave reservations about the implications of the bill. We believe that the Executive is following the now familiar route of gold plating European Union regulation. The bill's provisions will impose another layer of unnecessary bureaucracy and will have enormous resource implications for costs and skills. Also, local authorities will be presented with another raft of regulation for which they will be expected to find up to £12 million a year.

The bill's supporters argue that money will be saved and, in the long run, the prevention of damage to the environment will have a cash value. However, Scotland is not experiencing widespread environmental damage from our public bodies—the bill is the wrong approach. By all means, we should put in a safety net to address problems when they arise, but we should not inflict the bill on public bodies that are carrying out their work efficiently and responsibly.

I said in the stage 1 debate that I would attempt at stage 2 to amend out any provision in the bill that was not present in the 2004 regulations. Unfortunately, most of my amendments to that end were rejected on the ground that they would reduce the scope of the bill by 50 per cent or more and so were wrecking amendments and inadmissible. I accept that ruling, but it was an extraordinary admission of the extent to which the scope of the bill has been increased.

We on the Conservative benches will be voting against the bill at decision time.

16:15

**Sarah Boyack (Edinburgh Central) (Lab):** All of us on the Labour benches are keen to support the bill. It will help us to deliver joined-up thinking and will put our aspirations for sustainable development into practice. The legislation is important. It will mean that all decisions made by Government in Scotland will have to include a more robust consideration of the potential

environmental impacts. Such consideration will have to be integrated; it will not be an add-on at the end. Labour members are especially keen that cumulative impact and environmental justice should be considered properly. Decisions have to be shaped and mitigation has to be planned in right at the start.

The bill is about good practice. We have the techniques, but we must ensure that they are applied thoroughly and throughout the decision-making process. The process must be carried out with transparency and openness—key principles of this Parliament.

Large parts of the debates in the Environment and Rural Development Committee at stage 1 and stage 2 were about how we could develop an open and transparent system. I welcome the minister's amendments on pre-screening and on ensuring that the bill does not create loopholes. Labour members agree that the measures in the bill have to be proportionate. The responsible authorities will have to have a degree of flexibility, but they will have to be accountable for their judgments.

The Scottish Parliament should be in no doubt that the bill will require a major culture shift from all our public authorities. Regulations have been in place since July 2004, and experience is being gained from the analysis of pilots that are under way. That experience will have to be built on and developed.

The bill goes beyond the European directive that Alex Johnstone mentioned. The bill deals with plans, programmes and strategies. It would not be appropriate to exclude those from consideration. The bill requires explicit analysis and new expertise; we think that it will lead to a higher quality of decisions. That does not mean that environmental considerations will override our objectives for economic development or social justice, but those considerations will become part of the process of decision making. That will lead to better understanding. We already have such a process in the land-use planning system. Again, we have better-quality decision making.

The Tories have said consistently that they do not want us to go beyond the regulations, and Alex Johnstone has made the arguments again today. At stage 1, John Scott argued that the bill would lead to double the work and double the expense. I believe that that was an exaggeration. There has been no such doubling in the land-use planning system. Mid-career professional training for land-use planners has been required, and that is the kind of training that we will need for people throughout the public sector. However, that will not mean double the effort or double the cost; it will mean a culture shift and it will mean improving on what is happening.

The gateway will be vital in spreading best practice and helping to provide an efficient way of delivering training throughout the responsible authorities. It is important that the consultation authorities have been part of the pilots. That has helped to ensure that the system will work in practice. I am confident that it will.

A key issue will be the level at which SEA takes place. Monitoring of decisions will be important. I very much welcome the minister's commitment in the amendment that responded to the committee's opinion that, in order that we could learn lessons, some form of annual review of the process would be required in the first few years.

The bill strikes the right balance. The important thing is that—through parliamentary scrutiny, through support from ministers, and through the gateway—it is implemented successfully. Annual reporting will help the Scottish Parliament to take ownership of the issue and not see it as being owned by somebody else. Post-legislative scrutiny of bills passed by the Parliament is a vital part of the process.

Alex Johnstone talked about gold plating. I refute what he said. The bill is not about gold plating; it is about best practice, and I warmly welcome the minister's decision to go beyond the regulations. The regulations have been in place for a year and a half and soon the bill will be enacted. We should be absolutely clear that if we do not go for the bill, a number of Government strategies will not be covered by SEA. It would be a great pity if that were to happen. If a member is against the bill, they must be able to argue successfully that environmental assessment should not be built into the national waste strategy, the architecture policy, the harbour plans on the management of recreation and the use of boats in our harbours, the strategy for Scottish tourism and the transport delivery report. It would be ludicrous if such Government policies did not have proper strategic environmental assessment built into them right from the start.

If policies and strategies such as the social justice strategy and Scotland's health strategy are reviewed, they will now be subject to strategic environmental assessment. That can only be good for government in Scotland. If we agree to pass the bill, the prospect is one of joined-up thinking, better decision making and, at the end of the day, better government for Scotland. If a member is against the bill, they will have to be able to justify why such strategies and policies should not be subject to strategic environmental assessment. The argument is a difficult one to make.

The Executive has got it right. The bill is a good example of committee discussion being used to improve the bill. We have had lots of discussion on the detail of the bill and lots of amendments, and

the bill is all the better for that. A debate on the regulations would not have let us flag up the issues. Crucially, it would not have let us flag up the concerns of businesses. I hope that we have been able to reassure them on their concerns. If a business or a company is carrying out work on behalf of the Executive, it should be subject to strategic environmental assessment through the policy process—that is the right thing to do. At the end of the day, the bill is not about creating greater costs for business but about getting better value for money.

That is why we on the Labour benches strongly support the bill. We are delighted to see it reach stage 3 today. We will all be voting for it.

**The Deputy Presiding Officer (Trish Godman):** We move to the open debate. I call Rosie Kane.

16:21

**Rosie Kane (Glasgow) (SSP):** First, if I may, I take the opportunity to mention Colin MacLeod, who died suddenly last week at the age of 37. Colin was a close friend and a champion of the community and the environment. I met him on the M77 motorway protest; Mr Gordon and other members may be aware of him.

Colin MacLeod understood that human beings are not separate from the environment but are part of it. He worked hard all his life to keep alive that belief. Had he not left us last week, Colin would have been in the public gallery today, watching us as we steer the bill to its destination. As I said, Colin rightly said that people are not separate from the environment. During our lifetime, we have a duty to protect the planet. We should do so not only for our sake but for the sake of future generations. In our lifetime, we are mere custodians of the planet.

Members of the Scottish Socialist Party will vote for the bill at decision time today. That said, we feel that the bill has not gone far enough. The Executive is always saying that things should be made more transparent and accountable, so why has it made exemptions for financial plans and private companies? The Executive has also told us that it supports fairness, so why has it allowed a system in which it will act as the arbiter in disputes in which it is involved?

The Executive says that it cares about the environment but has failed to include in the bill targets on emissions and recycling, thereby condemning future generations of communities to even more misery. It talks about environmental gold plating, but it does not want to seek the advice of NHS Health Scotland on the environmental effects on children who have to breathe the fumes from developments such as the

M74 northern extension. That issue needs to be seen alongside the lack of a third-party right of appeal in the forthcoming planning reforms.

What could have been an excellent bill to provide environmental protection for communities has turned into a business-as-usual-for-developers bill—a big business charter. Members are in the chamber today to debate, amend and vote on the Environmental Assessment (Scotland) Bill, but if we do not get it right, in the future we will be debating the bill on flooding, the bill on poison and the bill on ill effects on health, all of which will be hefty.

The critical issue will be the interpretation of the drafting in the bill. Today, we attempted—unsuccessfully—to make the wording clearer. I hope that people will be careful about how they interpret the bill. I also hope that we get a cleaner, greener Scotland.

16:24

**Mr Mark Ruskell (Mid Scotland and Fife) (Green):** My colleagues and I are looking forward to voting for the Environmental Assessment (Scotland) Bill, which goes further than the progressive European directive. I hope that the bill will lead Europe as a good example of how the concept of SEA can be extended.

I thank the official report, the committee clerks and the Scottish Parliament information centre for their help and analysis of the issues and their tolerance of some of the to-ings and fro-ings of amendment drafting at stages 2 and 3.

SEA is a new tool in the box to help us to fashion a sustainable Scotland and ensure that the environment, as well as economic growth and social justice, is understood in decision making. Those three elements of sustainability need to be understood together if we are to deliver real progress in Scotland. I hope that the focus on the environmental component will help us to fight the war against climate change, which threatens the economy as well as social justice throughout the world.

The next session of the Scottish Parliament will be the testing ground for the legislation. There is still considerable uncertainty about many aspects; that uncertainty could have been avoided if the Executive had accepted a number of the amendments that were lodged at stages 2 and 3. There will be a need for detailed scrutiny by the Environment and Rural Development Committee in session 3.

The commitments that have been made at stage 2 and today, as reported in the *Official Report*, will be as important as the words in the bill. I hope that the commitment given by ministers to annual

reporting, and the commitment given to a more open pre-screening process, will allow that robust scrutiny to take place. However, I am slightly disappointed that the groundbreaking potential of the bill was not met by a more secure commitment to a gateway body, which would have acted as a hub for best practice. Two types of flexible but statutory gateway, with no straitjackets attached, were presented but flung out at stage 2. The important functions of co-ordination and support will be vital if the new thinking on SEA is to be mainstreamed across the public and private sectors. I fear that we will have a huge way to go after the bill is enacted to achieve that shift, which is why such gateway functions are vital.

On exemptions and where the bill will not apply, it became clear at stage 2 that the nuclear power policies of Mr Blair at Westminster will never come under the ambit of the legislation. That is not the fault of the Executive, but it is a weakness of the devolution settlement. It seems likely that Ministry of Defence plans to build new Navy, Army and Air Force Institutes—NAAFI—stores in Scotland will come under intense SEA scrutiny, but plans to bomb our coasts will be considered at the discretion of the MOD.

We will wait to see which private companies the minister chooses to bring in under the mischief of the bill. However, I am surprised that the Tories are against a bill that could force private utilities to reveal strategies behind new power lines. People in Perthshire will find that particularly interesting. Perhaps the Tories do not want to face up to the facts behind the need for transmission.

The weasel words “minimal effect” are still in the bill, which no doubt will trouble some legal minds and delight others as a potential loophole. I am sure that that will lead to the creation of legal precedent before long.

In conclusion, the bill might be imperfect, but it is still a useful tool. I hope that ministers and decision makers will use it wisely. However, just as the M74 public inquiry showed clear evidence of environmental impact and was ignored, so an SEA can be ignored if ministers choose to ignore it.

The SEA process can never make the decisions—nor should it. Responsibility still lies with politicians to deliver progress that allows the future aspirations of the people of Scotland to be met in a healthy and sustaining environment.

16:29

**Nora Radcliffe (Gordon) (LD):** People throughout Scotland will be cursing us because of the bill's implications for them. However, I confidently believe that once they have got to grips with them they will see and appreciate, and even



enjoy and take satisfaction from, the benefits of better, more balanced decision making, and the downstream benefits of thorough work done at strategic level.

A great many people who are employed in the public sector will have to take on board the bill's requirements and develop new skills and expertise—and they will do so. If the legislation works as it should, the practices must become embedded in-house; they cannot be delivered by routinely bringing in consultants. That is why I welcome the Executive's work in the past few months to develop templates, advice and guidance to encourage and support in-house delivery. I also welcome the commitment to continue the SEA gateway as a source of advice and guidance and as a clearing house for sharing best practice. The gateway will also enable better sharing of basic data so that bodies do not duplicate effort in collecting and collating relevant and useful facts and figures.

The register of plans and programmes that have been screened out of the necessity to undergo an SEA will allow scrutiny that will promote consistency and eliminate cheating. On whether budgets should be included, I agree with the conclusion that plans drive budgets, not the other way round, and that any budget will be captured within the assessment of the plan, programme or strategy with which it is associated. I am comfortable with the Executive's view on where the MOD fits into the bill. I am pleased that there will be annual reporting for at least the first five years after the legislation is implemented, which will be a safeguard to ensure on-going parliamentary scrutiny of how the legislation is working and which will throw up any difficulties or issues that need to be dealt with along the way.

The bill will have a significant impact on public policy and public services. To be effective, the bill must effect a huge culture change. While local authorities and other public bodies are nervous about the financial and staffing implications, the bill is not about increasing the cost of strategic-level decision making, but about changing mindsets. It is seen as completely normal and necessary to evaluate the financial and social impacts of different options in the preparation of any plan, programme or strategy. The bill will merely add to those aspects the thorough evaluation of environmental options, which will lead to more balanced decisions that are likely to ensure more sustainable action.

If the strategic environmental assessment of plans, programmes and strategies works properly, it will deliver wider consideration of environmental impacts and of the impacts of alternative courses of action; proactive assessment of environmental impacts; the strengthening of environmental

impact assessments of individual projects; systematic and effective consideration of the environment at higher tiers of decision making; public consultation and participation on environmental issues; and a high degree of transparency. If we pass the bill, Scotland will lead the way on strategic environmental assessment in the United Kingdom and the European Union. We are going further than the European legislation requires, but that is good environmental practice, not gold plating.

The bill will weave a green thread through government at all levels. I am proud to be a member of the Liberal Democrats—the realistic green party of Scottish politics—and of the Parliament, which is about to pass a bill that will result in Scotland putting the environment at the core of the delivery of public services. The bill will be good for Scotland, the environment, sustainable development and everyone who lives and works here. I commend it to the Parliament.

16:33

**Alex Johnstone:** In my opening remarks, I made clear the Conservative party's view on the bill. In closing, I will make one or two remarks about the way in which the Executive has handled the bill. Given the Executive's stated policy objectives, the bill serves the purpose that the Executive set out. I commend the work of the Environment and Rural Development Committee. In the stage 1 inquiry—my experience of which was unfortunately cut short, as I moved to another committee—an awful lot of issues arose, but the Executive gave strong responses to them.

In members' speeches, we have heard the repeated theme that the bill exceeds the demands that were placed on us by the European directive. Regulations can be interpreted in different ways by different people, but I have seen too many examples of Governments in this country, especially in recent years, seeking to endorse European regulations, going further than was demanded of them and, as a result, imposing expenses on various industries and private companies. The danger with the bill is that we will exert further financial pressure on public organisations that are trying to carry out serious and important public works.

I made it clear that I did not think that there was a crisis that we need to address through the bill. If it is passed, which I strongly suspect it will be, I will be one of the ones sitting back, watching its progress and trying to ensure that it does not have the ill effects that I fear it might deliver.

16:35

**Richard Lochhead (North East Scotland) (SNP):** I sat on the Environment and Rural

Development Committee through stage 1, I spoke in the stage 1 debate, I sat through stage 2 and I am now the second-last speaker in this debate, so I am not sure that I can add a whole lot to what has been said.

I was going to say that the bill is full of a lot of technical issues and is non-controversial but, in their usual open and constructive manner, the ministers rejected every single amendment that was lodged by Opposition members during the process. However, ministers lodged amendments of their own, which I welcome—perhaps that shows that the committee exercised power in persuading them to do so.

The SNP welcomes the bill and will vote for it, unlike the Tories. I am always taken aback—although perhaps I should not be too surprised—by how the Tories always try to block progress in the Scottish Parliament, which they opposed in the first place. Only last week, their leadership contender David Cameron said that the environment was going to be one of his big priorities. He said that he was going to pay visits, that he was going to change the Tory party and that the party was in the future going to win votes by caring for the environment. No wonder he has cancelled his visit to Scotland—he must have second-guessed the position that the Tory party in Scotland would take on this progressive bill, which will work in favour of Scotland's environment. Once again, the Scottish Tories have let down the environment. It is clear that they are stuck in the past.

I add the SNP's thanks to everyone who has helped the committee—researchers in the Parliament, the clerks to the committee and the outside organisations who passed to members their advice and information. It is encouraging to see the environment back on the agenda, with more legislation that is going to help Scotland's environment before us today. The bill is significant, for the reasons that many people have given already. It makes perfect sense to incorporate environmental considerations in the decision-making process as early as possible to avoid problems occurring at a later stage.

It is also encouraging that we will pass the bill today. The public sector will have to carry out environmental assessments of its strategies, plans and policies. Let us not forget that the public sector in Scotland accounts for 50 per cent of gross domestic product. In a couple of years the Government's budget will be up to £30 billion. Considerable expenditure will take place in Scotland, and, of course, that expenditure will impact on the environment. That is why it is encouraging that all the decisions and strategies behind that huge expenditure will have to take into account the impact on the environment.

**Mr Ruskell:** Does the member agree that one of the things that drive up public sector spending is continual public inquiries for developments such as power lines, because no SEA was conducted early on? Is that not a clear example of how SEA can save public sector spending?

**Richard Lochhead:** Yes. I have a lot of sympathy with the point that the member makes. We have to have more joined-up policy in the Scottish Parliament. Tomorrow morning the SNP will be bringing a debate on energy, one of the themes of which will be the need for joined-up thinking on such big strategic issues.

Many members made the good point that the bill will mean that there has to be a culture change in public organisations. We have to ensure that we do not walk away from the people who have to implement the bill after today's debate. We have had encouraging words from the ministers. There is going to be support and training for staff in the public sector; work will be done to identify the data that are required so that staff can carry out the assessments properly, particularly in relation to health; and guidance on a range of subjects will be provided. It is important to provide such support.

It is a pity that we did not secure the gateway in the bill. Members tried to do so, but failed without the support of the Government. The theme that has run through the debate is the need for transparency and openness, particularly in the pre-screening procedure. We all welcome the fact that the Government has accepted the need to publish an annual report.

Finally, to help Scotland's environment, it is one thing to have the public authorities on board but we also have to give attention to ensuring that the public get on board as well in the next few years. The public, not just public authorities, have to play a part. We have to encourage a change of behaviour on the part of the public to ensure that, when people make decisions in their everyday lives, they also think about the environmental consequences. When we reach that point, there will be a sea change in the way in which the people of Scotland treat our environment.

The Scottish Parliament has been good for the environment, and this is another bill that is worthy of support. It again vindicates those parties—all parties bar the Tories—that campaigned for the advent of this institution. The Parliament needs more powers but at least it is making progress in some areas in which it has some powers. That is a good thing for Scotland. I urge Parliament to support this legislation.

16:41

**The Deputy Minister for Environment and Rural Development (Rhona Brankin):** It is a pleasure to close this debate on a bill that we

consider to be an important one that will be of real benefit to the environment and the democratic process in Scotland.

Scotland must continue to develop and grow and, as it does, we have an ever greater need to understand the impact of that development on the environment. Wherever possible, we must reduce or, better still, avoid negative environmental impacts. SEA will play a significant part in that.

Under SEA, every public sector plan across every aspect of government should have its environmental impacts clearly assessed. That applies not only to plans with an environmental or land-use focus but to all plans that could have a significant impact on the environment. SEA provides for greater public involvement in decision making. It demands that ways to avoid or mitigate environmental impact are set out and that the on-going impact of plans be monitored.

With any new measure, it is important that the implementation is well planned and that support is in place. Comprehensive guidance for the bill will be produced and SEA templates to support practitioners are already available. Experience is being gained by public officials working under the current regulations and I believe that we are well prepared for successful implementation.

The SEA gateway has been established to act as the focal point for administration and policy advice. The gateway is, along with the consultation authorities, part of a light administrative model to support SEA. I believe that we have got the balance right between keeping bureaucracy to a minimum and offering support to public authorities that must carry out SEAs. In that regard, I am particularly disappointed that the Conservatives are going to oppose the bill.

I, too, want to offer my thanks to the scrutinising committees, especially the Environment and Rural Development Committee, for their valuable input to the bill. By adding reporting and pre-screening registration, even greater transparency in public policy making will be achieved.

The bill places the environment at the heart of the decision-making process, further supporting sustainable development and environmental justice. I commend it to Parliament.

**The Deputy Presiding Officer:** Since we are ahead of schedule, I suspend the meeting until 4.59.

16:43

*Meeting suspended.*

16:59

*On resuming—*

## Business Motions

**The Deputy Presiding Officer (Trish Godman):** The next item of business is consideration of three business motions, in the name of Margaret Curran, on behalf of the Parliamentary Bureau: S2M-3545, setting out a business programme; S2M-3540, setting out a timetable for legislation; and S2M-3541, setting out a timetable for legislation.

*Motions moved,*

That the Parliament agrees (a) the following programme of business—

Wednesday 16 November 2005

2.00 pm Time for Reflection

*followed by* Parliamentary Bureau Motions

*followed by* Stage 3 Proceedings: Licensing (Scotland) Bill

*followed by* Business Motion

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Thursday 17 November 2005

9.15 am Parliamentary Bureau Motions

*followed by* Executive Debate: Dentistry

11.40 am General Question Time

12 noon First Minister's Question Time

2.15 pm Themed Question Time—  
Environment and Rural  
Development;  
Health and Community Care

2.55 pm Executive Debate: Waste Strategy

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Wednesday 23 November 2005

2.30 pm Time for Reflection

*followed by* Parliamentary Bureau Motions

*followed by* Procedures Committee Debate: 7th Report 2005, The Sewel Convention

*followed by* Procedures Committee Debate: 6th Report 2005, Admissibility and Closure of Public Petitions

*followed by* Business Motion

*followed by* Parliamentary Bureau Motions

5.00 pm Decision Time

*followed by* Members' Business

Thursday 24 November 2005

9.15 am Parliamentary Bureau Motions  
*followed by* Stage 3 Proceedings: Housing (Scotland) Bill  
 11.40 am General Question Time  
 12 noon First Minister's Question Time  
 2.15 pm Themed Question Time—  
 Justice and Law Officers;  
 Enterprise, Transport and Lifelong Learning  
 2.55 pm Conclusion of Stage 3 Proceedings:  
 Housing (Scotland) Bill  
*followed by* Parliamentary Bureau Motions  
 5.00 pm Decision Time  
*followed by* Members' Business

and (b) that the period for members to submit their names for selection for Question Times on 12 January 2006 should end at 12 noon on Wednesday 21 December 2005.

That the Parliament agrees that consideration of the Interests of Members of the Scottish Parliament Bill at Stage 1 be completed by 16 December 2005.

That the Parliament agrees that consideration of the Animal Health and Welfare (Scotland) Bill at Stage 1 be completed by 24 February 2006.—[*Ms Margaret Curran.*]

*Motions agreed to.*

## Parliamentary Bureau Motions

17:00

**The Deputy Presiding Officer (Trish Godman):** The next item of business is consideration of four Parliamentary Bureau motions. I ask Margaret Curran to move motion S2M-3532, on the office of the clerk, and motions S2M-3533 to S2M-3535 inclusive, on approval of Scottish statutory instruments.

*Motions moved,*

That the Parliament agrees that the Office of the Clerk will be closed on 28, 29 and 30 December 2005.

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No. 12) (Scotland) Order 2005 (SSI 2005/497) be approved.

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Paralytic Shellfish Poisoning) (Orkney) (Scotland) Order 2005 (SSI 2005/506) be approved.

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (East Coast) (Scotland) Order 2005 (SSI 2005/498) be approved.—[*Ms Margaret Curran.*]

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

## Decision Time

17:01

**The Deputy Presiding Officer (Trish Godman):** There are three questions to be put as a result of today's business. The first question is, that motion S2M-3435, in the name of Ross Finnie, that the Parliament agrees that the Environmental Assessment (Scotland) Bill be passed, 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)  
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 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)  
 Brown, Robert (Glasgow) (LD)  
 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, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (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, Marlyn (North East Scotland) (Lab)  
 Gordon, Mr Charlie (Glasgow Cathcart) (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, John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Kane, Rosie (Glasgow) (SSP)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Leckie, Carolyn (Central Scotland) (SSP)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)

Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Campbell (West of Scotland) (Ind)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central 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)  
 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)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 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)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North East Fife) (LD)  
 Smith, Margaret (Edinburgh West) (LD)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Wallace, Mr Jim (Orkney) (LD)  
 Welsh, Mr Andrew (Angus) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

Against

Aitken, Bill (Glasgow) (Con)  
 Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)  
 Brownlee, Derek (South of Scotland) (Con)  
 Davidson, Mr David (North East Scotland) (Con)  
 Douglas-Hamilton, Lord James (Lothians) (Con)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (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)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)

**The Deputy Presiding Officer:** The result of the division is: For 98, Against 12, Abstentions 0.

*Motion agreed to.*

That the Parliament agrees that the Environmental Assessment (Scotland) Bill be passed.

**The Deputy Presiding Officer:** The second question is, that motion S2M-3532, in the name of Margaret Curran, on the office of the clerk, be agreed to.

*Motion agreed to.*

That the Parliament agrees that the Office of the Clerk will be closed on 28, 29 and 30 December 2005.

**The Deputy Presiding Officer:** I propose to put a single question on motions S2M-3533 to S2M-3535 inclusive, on the approval of Scottish statutory instruments. The third question is, that motions S2M-3533 to S2M-3535 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)  
 Alexander, Ms Wendy (Paisley North) (Lab)  
 Arbuckle, Mr Andrew (Mid Scotland and Fife) (LD)  
 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)  
 Brownlee, Derek (South of Scotland) (Con)  
 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, 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, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Fergusson, Alex (Galloway and Upper Nithsdale) (Con)  
 Finnie, Ross (West of Scotland) (LD)  
 Gibson, Rob (Highlands and Islands) (SNP)  
 Gillon, Karen (Clydesdale) (Lab)  
 Glen, Marlyn (North East Scotland) (Lab)  
 Gordon, Mr Charlie (Glasgow Cathcart) (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, John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Johnstone, Alex (North East Scotland) (Con)

Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lochhead, Richard (North East Scotland) (SNP)  
 Lyon, George (Argyll and Bute) (LD)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Campbell (West of Scotland) (Ind)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Mather, Jim (Highlands and Islands) (SNP)  
 Matheson, Michael (Central 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)  
 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)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Pringle, Mike (Edinburgh South) (LD)  
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)  
 Radcliffe, Nora (Gordon) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 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)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinburne, John (Central Scotland) (SSCUP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Tosh, Murray (West of Scotland) (Con)  
 Turner, Dr Jean (Strathkelvin and Bearsden) (Ind)  
 Wallace, Mr Jim (Orkney) (LD)  
 Welsh, Mr Andrew (Angus) (SNP)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

Against

Curran, Frances (West of Scotland) (SSP)  
 Fox, Colin (Lothians) (SSP)  
 Kane, Rosie (Glasgow) (SSP)  
 Leckie, Carolyn (Central Scotland) (SSP)

**The Deputy Presiding Officer:** The result of the division is: For 108, Against 4, Abstentions 0.

*Motions agreed to.*

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (West Coast) (No. 12) (Scotland) Order 2005 (SSI 2005/497) be approved.

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Paralytic Shellfish Poisoning) (Orkney) (Scotland) Order 2005 (SSI 2005/506) be approved.

That the Parliament agrees that the Food Protection (Emergency Prohibitions) (Amnesic Shellfish Poisoning) (East Coast) (Scotland) Order 2005 (SSI 2005/498) be approved.

**Ottakar's (Takeover)****The Deputy Presiding Officer (Murray Tosh):**

The final item of business today is a members' business debate on motion S2M-3325, in the name of Kenny MacAskill, on the HMV Group/Waterstone's takeover of Ottakar's plc book stores. The debate will be concluded without any question being put.

*Motion debated,*

That the Parliament voices its grave concern over, and opposition to, the proposed takeover of Ottakar's book stores by HMV/Waterstones; notes that, if the takeover goes ahead, there will be effectively a monopoly on bookselling in many towns and cities in Scotland; regrets that, despite Edinburgh being the World City of Literature, in recent times it has witnessed the demise of independent Scottish-owned book stores such as Bauermeister and James Thin, meaning that there is now no Scottish-owned book chain in Edinburgh or indeed Scotland; recognises that the internal structure of Ottakar's genuinely reflects the distinctive Scottish book market, with a Scottish range and marketing manager and two Scottish operating managers; contrasts this with the highly centralised structure and purchasing policy of HMV/Waterstones, which has led to a decrease in in-store diversity and availability of Scottish books through Waterstones; thus recognises that this takeover is potentially very damaging for the Scottish publishing industry, the Scottish printing industry and Scottish writers and will have the effect of limiting choice for the Scottish book-buying public and harming our national culture and identity, and considers that the Competition Commission should investigate this takeover on the grounds of market dominance in Scotland.

17:05

**Mr Kenny MacAskill (Lothians) (SNP):** At the outset, I draw the chamber's attention to my declaration in the register of members' interests. Luath Press is publishing a book that I am writing in conjunction with Henry McLeish.

Etched on the wall of the Parliament of the Scottish people are words and prose from Scots throughout the centuries. Why? They are there because they testify to who we are and to what we stand for. It was therefore appropriate that this chamber, restored after 300 years, should embody those words as a salutary reminder, not just of who we are, but of what those who have been elected are to represent.

Why? Literature is a nation's soul. Giving the Nobel lecture in 1970, Alexander Solzhenitsyn stated that literature

"becomes the living memory of the nation. Thus it preserves and kindles within itself the flame of her spent history, in a form which is safe from deformation and slander. In this way literature, together with language, protects the soul of the nation."

A translation might be a masterpiece, but there are often ideas that can never be properly translated or explained except in the language in

which they were written. That is why, in learning a language, the study of literature and prose in the native tongue is essential to provide a clear insight into and understanding of language and people.

Writers and poets are revered in nations and by peoples across the globe for reflecting who they are and the events that forged them and values that formed them. Literature and poetry run deep in the psyches as well as the souls of many nations, and help to pen a portrait of them and their people. Zola, Balzac and Voltaire in France; Goethe, Hesse and Grass in Germany, and Tolstoy, Chekhov and Pushkin in Russia all reflect the land of their birth.

Closer to home, while Wordsworth, Shakespeare and Dickens are quintessentially English, Burns, Scott and Stevenson are irredeemably Scottish. Their words and prose define who we are and are reflected in the values that we uphold. It is for those reasons that we celebrate the words of our national bard on Burns night and on many other occasions. Similarly, Scott, Stevenson and others provide a backdrop for the Scottish people. They pen a picture of Scotland, not of "Braveheart".

There was an age when it seemed that literature in Scotland was frozen in time by those greats and one or two others, such as the recently passed away and fondly remembered Robin Jenkins. That has changed recently, with a veritable explosion of works by new and not so new authors. Bookshelves in Scotland are now awash with the young and old, the experienced and inexperienced, trying their hand at writing their prose and reflecting their people. For that, some credit must be given to the Executive for actions and initiatives, but it is all threatened by the potential takeover of Ottakar's by Waterstone's. That is why this is not just a commercial debate that should rest with Westminster, but a cultural matter that goes to Scotland's very soul.

It is not simply the encouragement of Scottish authors and poets in their work, but the ability of those writers to access the Scottish public and the availability of the fruits of their labour in our high street bookshops that matters. Writers require not just support to write their works, but the opportunity for the rest of us to read those works if the history that defines who we are is to be available in future years. That is why this takeover is not just bad news for the staff at Ottakar's but for Scottish writers, publishers, printers and ultimately readers.

Ottakar's has a good name in promoting and supporting not just Scottish writers but local writers in what is, after all, a small land with distinctive communities. Alan Bissett's musings about Falkirk trigger memories for those of us who are from central Scotland, but not necessarily for people

who come from elsewhere in Scotland. What reflects Glasgow does not necessarily reflect the northern isles. That ethos is not shared by Waterstone's.

Waterstone's is perceived as being highly centralised in the context not just of Scotland, but of the United Kingdom. For Waterstone's, sales matter more than taste and a book's value to the company's profit margin matters more than the intangible values that are deeply embedded in a nation's soul or psyche.

If the takeover goes through without cast-iron guarantees being obtained, the consequences are potentially catastrophic. If our literature is not available to be read, writing will not flourish but wither and what remains of our publishing sector will follow. Ultimately, our people will be denied what Solzhenitsyn called

"the flame of...spent history".

It will be the ultimate irony if such an event occurs when Edinburgh has just received the accolade of world city of literature. For sure, the award is merited, but if the city's literature is to have a future as well as a past, it needs a publishing, printing and bookselling sector that is vibrant, not historic.

If our writers are not to join the litany of past greats such as Bartholomew or Collins, they need to be protected and nurtured. The Executive must make it clear that Scotland is unique, as displayed by its literature. We are not a region, but a nation with a soul. That means that we need to be treated distinctly by the Office of Fair Trading. Our needs and wants are unique, as they reflect our past and our desire for a future.

In the event that a takeover proceeds, assurances must be obtained that works of Scottish authors and prints from Scottish publishers will continue to be stocked. Such stocks should not be limited to the greats, such as Ian Rankin and J K Rowling, whose works sell on a global scale, but should include those authors who cater to a Scottish market or to a specific area within our small nation.

This is not a narrow commercial matter but a cultural necessity and potential economic catastrophe, so the Executive must become involved. A takeover by HMV would be bad for writers as well as readers; it would affect our culture as well as our commerce. At worst, it would deprive our writers and publishers of the oxygen that they need to live and breathe; at best, it would denude our high streets of the diversity of outlets that book lovers desire.

Ottakar's might not be Scottish Power, but it is arguably just as vital. Anglophone—never mind Francophone—Canada protects its literature and



prose as well as its indigenous publishing and artistic sector. Ireland, too, offers protections and so must Scotland. To say that the issue is a commercial matter that is reserved to Westminster is to abdicate responsibility not just for supporting our country's writers and poets but for protecting our nation's very soul.

I ask the minister to ensure that Scotland's voice on such matters is heard, that the points that I have made are put and that our nation's soul is protected.

17:13

**Mike Pringle (Edinburgh South) (LD):** At the heart of the culture of any country are writing and literature, and nowhere is that more true than in Scotland. As Kenny MacAskill mentioned, the monuments to Scott and Burns provide visible reminders of that on the skylines around the Parliament. Indeed, the latter's verse was read at the opening of this institution.

It is ironic, therefore, that the period since the Parliament's establishment has seen the systematic destruction of the primary means by which Scotland's writers and readers interact. Bookshops are at the heart of writers' ability to reach their audience, but the Scottish sector has suffered. Companies such as John Smith and Son and James Thin Booksellers are no longer Scottish-owned. Furthermore, no library supply is now done from Scotland. Hundreds of jobs have been lost, yet the Executive has failed to respond to this massive loss of control in a sector that is crucial to ensuring the continued vitality of Scottish literature.

Although it was unfortunate that James Thin's was bought by Ottakar's, the latter has fortunately continued Thin's traditions of autonomy and of commitment to Scottish books and culture. Ottakar's has a Scottish range marketing manager and Scottish operating managers. By contrast, the outcome of a takeover by HMV/Waterstone's will likely be that a small team in Brentford, somewhere south of the border, will decide what the people of Scotland should read.

Kenny MacAskill refers to Scottish writers. I remember about two years ago attending the Saltire Society awards, where I was seriously impressed by the books that people had written. All of them were Scots. Afterwards I asked one of the book publishers how much money the writers made out of their books. He said that they write for the love of writing and make very little—with the exception of those who win a Saltire Society award. Even they do not make much. Will we say to all those writers that they will no longer get the opportunity to publish their books and to have them stocked in Scottish shops?

The takeover would mean massive centralisation of purchasing. Twenty-six of Scotland's 31 reasonably sized bookshops would be in the hands of one group and there would be a loss of competition, resulting in a monopoly. The New Economics Foundation recently warned of Britain's worsening "clone town" condition. If the takeover goes ahead, it will ensure that the towns of Scotland take a further major step in that direction.

The Executive argues that this is a reserved matter, because it is a competition issue. However, the fact that the motion was chosen for debate indicates that it is aware that this is also a major cultural issue. Whether or not the Executive has power in the matter, it must surely be able to exert influence. Who will speak up for the protection of Scottish culture and literary diversity, if not the Executive?

The Executive may support Scottish writing and publishers, but that is to no avail if their access to the market is stifled by the imposition of large-scale centralised uniformity on the overwhelming majority of major bookshops. Perhaps the Executive's real attitude is shown by the problems that we are seeing in other areas within its competence. Only a few years ago, the percentage of library budgets spent on books was 20 per cent; now it is 9 per cent. Even returning to the previous inadequate figure would inject £10 million pounds of book purchasing into the Scottish economy. Why is only 2 per cent of the current £8 million book spend—30p per head of the population—spent on Scottish cultural material? Why is the Executive not more active, at a time when Northern Ireland and England are beginning to act on the recommendations and searing critique of Westminster's Culture, Media and Sport Committee? Why is there no clear commercial policy of support for Scottish culture in many of the state-controlled quangos in Scotland that sell books? All of those things are in the Executive's power.

For the reasons that I have outlined, I ask what view the Executive takes of the proposed takeover and whether it will make its views known to the OFT. The Scottish Publishers Association and the writing community in Scotland are utterly opposed to the takeover. The staff of Ottakar's have their own views, but we can imagine what those are. We need the Executive to take a lead on the issue.

17:17

**Mr Jamie McGrigor (Highlands and Islands) (Con):** I congratulate Kenny MacAskill on securing this important debate. My local branch of Ottakar's is in Oban. I often visit the shop both to buy books and to attend the launches of authors and their

new works. I must declare an interest; my mother, Mary McGrigor, is an author whose books are regularly and effectively sold through the company. I will not give members a list of titles now.

Ottakar's has consistently been bookseller of the year. It allows its branches enough autonomy prominently to display the books that are important to their locality and region. It is famous for specialising in Scotland and in children's books. For example, many of the books that are displayed in the front window of the Oban shop feature natural history, water sports, sailing and fishing. Ottakar's has the biggest fishing and craft book sales in Scotland and has expanded its section on natural history, birds and marine life. In so doing, it has made itself an extremely profitable concern. It not only gives local residents and visitors what they want to buy, but gives tourists valuable information about the area and an incentive to go exploring. Ottakar's has sponsored a fresh talent tour of new Scottish authors, holding workshops to encourage people to buy and read books and to encourage would-be writers to create.

The Oban branch also has an outreach service called out and about. It is run by the now famous Mr Neil Horn, who takes Ottakar's books in a mobile van to places such as Lochmaddy in Uist, Tarbert in Harris, Barra, Tiree and the Ardnamurchan peninsula. That is why it was possible for the most recent Harry Potter book to be launched in Lochmaddy at midnight—the same time as it was launched throughout the United Kingdom. Ottakar's and Neil Horn's mobile van made that act of inclusion possible.

Ottakar's branches in Aviemore, Elgin and Inverness do the same for their areas. The Inverness branch has been particularly supportive of books that interest the Gaelic-speaking community. Ottakar's has provided and continues to provide a service to Scotland that would be sorely missed if local specialisation were to disappear under new management. Furthermore, through its book of the month promotion it has focused on new authors and promoted new books that would not usually be promoted in other bookshops. Ottakar's therefore also provides a valuable service to Scotland's new authors. What will they do if that policy changes? Where will they find similar opportunities? It is hard for writers to get going and Ottakar's has been a great help to them.

My arguments for the independence of Ottakar's are all cultural arguments, which unfortunately may not affect the thinking of the OFT as it will doubtless be interested only in competition arguments. However, I put it to the OFT that the takeover will create a monopoly far greater than

Tesco's. One would think that that should be enough.

I have nothing against HMV/Waterstone's. Unfortunately, the situation has come about because of a shift in the tectonic plates of the industry, mainly due to publishers giving too generous operating terms to supermarkets and to the internet booksellers. That development is forcing the specialist sector to consolidate and that could be harmful to Scottish culture, Scottish publishers and Scottish writers.

Should the takeover go ahead, it will be up to this Parliament to persuade HMV/Waterstone's that the good practice employed by Ottakar's should be continued, not only for the cultural reasons that I have outlined, but because that practice has been a financial success.

17:22

**Jim Mather (Highlands and Islands) (SNP):** I commend MSP and author Kenny MacAskill for securing the debate. I applaud the three members who have spoken; they have all added weight to a very powerful argument.

I speak against a takeover that I believe is against the public interest; it is another takeover that should trigger the UK Competition Commission's involvement. I subscribe to the view that when we have too limited a choice of suppliers we have, in effect, a monopoly. In this case the monopoly would have not only an economic impact on Scotland but a cultural impact. The monopoly would have an impact on staff's terms and conditions and on their job opportunities. It would affect customers because there would be limited choice and perhaps less well-informed sales staff in the future. It would affect writers in particular because it would be much more difficult for them to get published and to get shelf space. I believe that publishers would suffer brutal deals. Publishers in Scotland would find that particularly hard, given their relatively small volumes of sales. Therefore, as Kenny MacAskill says, there is a cultural threat to Scotland.

It is unlikely that the savings will trickle through to customers and the takeover is even unlikely to deliver additional shareholder value. That is not only my opinion: many other business commentators' experience that has been gleaned over many years supports that belief. Tom Peters, the business consultant, says that

"most studies suggest that, in general, mergers don't pan out"

for shareholders, employees or customers.

Frederic Scherer, the noted structural economist, has observed after years of meticulous study that

"on average, mergers decrease efficiency."

In this case, efficiency also has a cultural dimension.

Don Young, the former director of Redland Aggregates, has written a book on the subject—I suspect that Ottakar's stocks it—called "Having Their Cake". He states:

"Strictly speaking large acquisitions ought to be regarded with suspicion by institutional investors ... because of their value destructive history".

We must ask who benefits in such situations. Don Young tells us that the people who benefit from such moves are usually only the current senior management of both companies, market makers, stockbrokers, corporate bankers, corporate accountants and corporate lawyers.

Even W Edwards Deming, the man who transformed the Japanese economy in the 1950s and 1960s, said that invariably

"the conqueror demands dividends with the vicious consequences on the vanquished".

The vanquished in this case would be not just Ottakar's and its staff, but Scottish writers and publishers.

Just last week, Professor John Kay said at the cross-party group on the Scottish economy that it was necessary to have national champions. He said that that was "not ludicrous" and that it was necessary for countries to nurture the competitive advantage in having major domestic companies. I contend that that is true for Scotland. However, in the context of the debate, it is also true for the United Kingdom.

I believe that the Executive has a duty of cultural custodianship that it must recognise. It must also recognise the proposed takeover for the threat that it is. I urge the Executive to act to retain the competitive and cultural momentum in publishing and book retailing in Scotland. After all, this is about the knowledge economy. A vigorous and competitive cultural momentum in publishing and book retailing in Scotland is vital in providing a platform for Scottish writers and publishers to access international readers, and in strengthening the knowledge economy in Scotland year in, year out. I support Kenny MacAskill's motion.

17:26

**Chris Ballance (South of Scotland) (Green):** For the avoidance of doubt, I should probably first express an interest in that I am a sleeping partner in a second-hand bookshop.

I congratulate Kenny MacAskill on raising this issue in a members' business debate. It is an issue that is of real concern to the literature sector in Scotland, which is an important sector for Scottish employment. Four hundred and eighty professional writers are registered for the live literature Scotland scheme and there are television, radio and drama writers here, too. We have 80 publishers in Scotland, along with printers, distributors and booksellers. Literature in Scotland is a large industry, despite the fact that only 4 per cent of Scottish Arts Council funding goes to the literature sector. It is a large and largely self-financing sector and there is great concern within it.

Local writers depend on having their work promoted locally to maximise sales. For example, writers in my region need the Ottakar's outlets in Dumfries, Ayr and Carlisle, partly because Ottakar's owns the remains of the big Scottish bookselling chain of James Thin, but also because Ottakar's prides itself on having local autonomy. Its website states that Ottakar's

"is a collection of intensely individual bookshops, run with great autonomy by staff whose commitment to books"

is supreme.

Waterstone's prides itself on its large, centralised style. It centralises all its buying in Brentford and, more important, it decides nationally on promotion of that stock. Therefore, a local writer who is trying to sell a book in his or her local bookshop will have difficulty not just in getting the book on to the shelves but in getting it promoted where it is likely to achieve maximum sales.

The proposed takeover is particularly bad news for people who write for young people and children, because that audience constitutes a relatively small percentage of the population. Not every children's writer marks up sales like those for the Harry Potter books, but those are the only sales in which Waterstone's has a keen interest. Writers whose interests are more local or who have a Scottish audience are bound to lose out against big-buying mass procurement.

The potential narrowing of choice also alarms people who write specifically Scottish books. Waterstone's is a pan-British company that is unlikely to recognise that a national Scottish interest is important to people who live north of the border when its purchases are entirely controlled from Brentford. The proposed takeover is an example of clone Britain; it is another example of a big multinational taking charge and ensuring that our high streets look the same the length and breadth of the country.

My colleague Robin Harper asked me to mention that there is an inaccuracy in Kenny

MacAskill's motion, because it omits reference to the honourable chain of David Flatman Ltd, which is a small, Scottish-owned chain: we are not quite down yet.

This is a Scottish issue and one on which the Scottish Parliament must have a voice. If this takeover goes through, Waterstone's will have a 30 per cent market share. That is significantly different from the 23.6 per cent share that it says it will have in England. Its having such a share in England and Wales would be enough to trigger automatic call-in by the Department of Trade and Industry. The potential takeover would mean that 26 of Scotland's biggest 31 bookshops were owned by one company—a decision made in London would affect Scotland. The Scottish Parliament must have a voice. Across the parties, we ask the minister to ensure, please, that our concerns are relayed to the DTI.

17:30

**Donald Gorrie (Central Scotland) (LD):** I congratulate Kenny MacAskill on securing this debate and on his excellent speech, which has been followed by other good speeches.

Yesterday in the Procedures Committee we had a round-table discussion with six leading citizens of Scotland from different spheres. One of the interesting comments that were made was how much better on the whole members' business debates are than ordinary debates. In ordinary debates, parties rule, boredom rules and abuse rules, but this members' business debate has been excellent. I will not regurgitate the excellent points that have been made by colleagues on all sides.

I have little admiration for people who try to control monopolies. My only experience of them from my days of representing part of Edinburgh at Westminster was when I tried to help a local newsagent who felt that he was getting a raw deal from the firm that then had a monopoly in wholesale distribution of magazines, newspapers and so on. The fair trading people said, "No, no. It isn't a monopoly. It covers only Scotland." The proposition was that this gentleman should get in his car in Corstorphine early in the morning and drive down to Berwick to load up with magazines and newspapers from WH Smith before driving back to Corstorphine to sell them. The whole thing was absurd and the fair trading people did not realise quite how absurd it was. We will have to work very hard to persuade them to accept that a monopoly in Scotland, or a quasi-monopoly, is still a monopoly.

It is important that we pursue the issue and, more generally, that we pursue publishing issues. One of my views on the way in which Government

works is this: if a thing fits comfortably into a niche, it is often dealt with quite well, but if it falls between two stools it is dead. Publishing is to do with economics and enterprise, but it is also to do with culture and creativity at the heart of Scotland. The art and creativity side and the enterprise side have each left things to the other.

The Executive should be in contact with publishers and writers—it should not simply be dishing out money to unsuccessful ones but should be talking to successful ones to find out how they can be more successful. I am told that there are obstacles in the way of efficient and successful publishing in Scotland that could be swept away. People are not looking for handouts, but for fairness, which they do not get at the moment.

At the risk of trespassing on dangerous territory, my understanding of devolved government is that we can deal with the problem and put pressure on people in London. We can say that the matter is vital for Scotland and that they really must do something about it. If we fail to do that, we will undermine the legitimacy of devolution. Another option is available and we really have to deliver.

I say to the minister that the issue is important for many Scots. He must show that the Executive is taking the issue seriously and that it is putting maximum pressure on the people in London.

17:34

**Fiona Hyslop (Lothians) (SNP):** The city of Dundee was known for jam, jute and journalism and, of course, the city of Edinburgh is known for print, publishing and pints. Those traditions have continued, although not on the scale of the past. In particular, Scottish book publishing has been a success story that has perhaps not been celebrated as much as it should have been.

In addition to previous generations of writers, we also have the current generation of writers, including A L Kennedy and J K Rowling. I am pleased that Kenny MacAskill mentioned one of my favourite authors, Robin Jenkins.

We should also recognise the publisher Canongate Books, which is the publisher of the award-winning novel "Buddha Da" by Anne Donovan. Members have received in their in-trays the publication that I have with me today, which is Anne Donovan's short story "But". It explains a carer's life in fictional terms and will touch everyone who reads it. Literature does not sit only in a historical context or outside this chamber; it can reflect our current state of affairs and our soul as a nation. I implore the minister to consider the motion; the issue is not one from which the Executive can stand back.

One of the Executive's targets is to achieve a 3 per cent increase in cultural successes. I am not sure how it will measure cultural success in terms of its quantity; surely the issue is more about quality. If a 3 per cent increase in cultural success is Government's target—I understand that there are measures by which to judge the increase—the takeover that we are debating could have a detrimental effect on the target because of its effect on Scottish publishing. If the minister is looking for a reason to get involved, I suggest to him that one reason is that publishing is part and parcel of Scottish life and so the Executive should take a lead role.

I agree that the argument can be made that the subject of the motion is a commercial venture and that Government should therefore not intervene. People will say that takeovers will happen because we live in a global marketplace. I am sorry—I would say to those people that protection of a national interest is an issue on which, even in this day and age, Government can have an impact. I congratulate Kenny MacAskill on the motion and for his suggestion that we involve the Competition Commission. That avenue is real and we should pursue it. As I said, it is not possible to judge culture by the quantity of its production but by its quality. It is also not possible to measure the soul of a nation in terms of pounds, shillings and pence. One can ensure only that there is the political leadership to do something about it.

Members may have heard of the publisher Itchy Coo, which is not a Friesian with skin problems but a Scottish book imprint. It was established in January 2002 to specialise in books in Scots for children. The books are also very entertaining for adults, however. I need only mention titles such as "Blethertoun Braes: Manky Mingin Rhymes fae a Scottish Toun" and the "The Hoose o' Haivers". Itchy Coo's publications bring a cultural resonance to young families. I am reading its counting book with my 16-month-old baby at the moment. The books' Scots perspective makes an important and viable contribution to publishing. The Itchy Coo website says that its books are available online and also at "all good bookshops". I hope that the success of its publications mean that bookshops continue to stock its titles and those of other Scottish publishers. However, if the main book-buying centre of the start-up company or a future new start-up company is located in the south-east of England, will it give that guarantee? I have my doubts.

If we are to ensure that we can have a culture to encourage and protect in future, Scottish book producers need suitable outlets for their titles. I have looked at its management structure and I commend Ottakar's for embracing and taking on board the need to include local markets. Ottakar's

has seen its market share increase by 3.5 per cent over the past year as a result of that policy.

Scottish culture can be a success. It is not something that stands outside the chamber in a commercial world; rather, it is a living, breathing part of the political life of Scotland. On that basis, I urge the minister to take whatever action he can.

17:38

**The Deputy Minister for Enterprise and Lifelong Learning (Allan Wilson):** I associate myself with the remarks of Jamie McGrigor and other members in congratulating Kenny MacAskill on securing the debate. I also congratulate him on his opening gambit.

Literature has always played a part in shaping the culture and identity of Scotland. I think that it was Edwin Morgan who said:

"Forget your literature? — forget your soul."

Whether he was referring to a national soul is open to interpretation, but who could argue with the sentiment? Certainly not I.

From correspondence that I and other ministerial colleagues have received, I fully appreciate that the views that have been expressed this evening, albeit by a few members in the chamber, reflect the concerns of many in the publishing and literary community on the issue. As members have said, literature is undoubtedly one of our principal national assets. For centuries, Scotland has enjoyed a rich literary tradition. I believe that we have a new writing future, moving from Burns, Scott, Stevenson et al to the new era of McCall Smith, Rankin and Welsh, who were all mentioned earlier. Last year saw the opening of offices for the publishers Penguin and Hodder Headline in Edinburgh and Glasgow, purely for the acquisition of new work from Scotland.

Literature is central to our nation. Writers have always played a key role in helping to articulate and shape Scotland's sense of itself. Today, literature undoubtedly helps every Scot to live and work and to achieve our ambition of a smart, successful Scotland. The Executive wants to place literature at the heart of every community. We want it to be accessible to every citizen.

The Executive supports Scotland's literature community through the Scottish Arts Council. On the Executive's behalf, the SAC sustains and promotes literature in various ways. Indeed, as minister with responsibility for culture some time ago, I played no small part in establishing the writers factory with its then chairman James Boyle. The SAC supports scriptwriters, playwrights, poets, novelists, publishers, readers and literary festivals. It raises Scotland's international profile. It encourages publishing in Gaelic and Scots, as has

been mentioned. It supports Edinburgh as world city of literature. It provides new resources for children's literature. Most recently, it funded the new e-commerce portal for Scottish publishing.

**Mr McGrigor:** Would the Executive accept all the things that the minister mentioned—which I support—being damaged because the OFT does not take notice of regional monopolies?

**Allan Wilson:** The OFT will take into consideration market definition, the nature and extent of competition in the market, entry barriers, buyer power and, critically, customer benefit. Many members have argued that customer benefit would be curtailed following a merger. I believe that the OFT could and should take that into account.

Gavin Wallace, head of literature at the SAC, commented that the council

"has serious concerns that the proposed takeover ... will have far-reaching implications for the stocking of culturally-relevant books in Scotland. This deal may not be in the long-term interests of Scottish publishers, Scottish writers and the Scottish book-buying public".

We have some sympathy with that sentiment, which members, too, have expressed tonight. In that context, I must also note that Dr Wallace went on to say:

"it could also be argued that more outlets for Scottish books may emerge as a result if this takeover goes ahead."

Our commitment to the promotion of a vibrant literary culture in Scotland should not be misunderstood. As I said, an exciting array of new Scottish writing talent is emerging. If the merger goes ahead, it would be foolish in the extreme for Waterstone's to turn its back on that talent and deny it a commercial outlet. Indeed, Alan Giles, chief executive of the HMV Group, in response to the concerns of a group of 40 Scottish writers, wrote that it was in the commercial interests of Waterstone's to provide

"genuine interest, choice and diversity"

and to

"continue to play a central role in the promotion of Scotland's literary culture, not to mention the works of Scottish authors north and south of the border."

I hope that, when the OFT considers the proposed merger, it will ensure that it is satisfied that Waterstone's has taken the appropriate steps to keep those promises.

**Chris Ballance:** For clarification, is the minister telling us that, following the debate, he intends to make no representation whatever to his colleagues in the Department of Trade and Industry?

**Allan Wilson:** For clarification, strict guidelines apply to ministerial statements at the time of

takeovers. The key point of the guidelines is that ministers may comment on wider public policy issues that arise during a case—which members would concede I have done this evening—but they should not comment publicly on the specifics of a live competition case, such as its effects on competition.

That leads me neatly to my next point. Competition policy, including that on mergers and takeovers, is of course a reserved issue. Not only is it reserved, but the United Kingdom Government, much in the same way as it ceded the conduct of monetary policy to the independent monetary policy committee of the Bank of England, has ceded mergers and takeover policy to the equally independent competition authorities: the Office of Fair Trading and the Competition Commission, which operate free from Government interference. The Enterprise Act 2002 means that ministers, both in Westminster and in Holyrood, are removed from competition decisions. We have no power to intervene in any takeover or merger, even if we were minded to do so. Mergers and takeovers are matters for the competition authorities to consider and make recommendations on—it is for them and them alone to decide. The authorities have wide-ranging powers to investigate and deal with mergers or takeovers that they decide could result in a substantial lessening of competition. I gave earlier a brief résumé of the issues that the OFT takes into account.

On a point that Jim Mather made in his interesting speech, decisions in takeover bids should of course, in the first instance, be a matter for the management and shareholders of the companies that are involved. On 1 November, the HMV Group, which owns Waterstone's, announced on the London Stock Exchange that it had extended its offer of 440p per share for a further 18 days until 1 pm on 18 November. It announced at the same time that, as of 3 pm on 31 October, it had received valid acceptances in respect of almost 14.5 million Ottakar's shares, which is two thirds of the issued share capital. So while we discuss and debate our views on the best interests of Scottish authors and publishers and the book-buying public, Ottakar's shareholders have clearly expressed their view.

I turn to the current state of play. Since the OFT began its investigations in early September, when it invited comments from interested parties by means of an invitation-to-comment notice, our officials have kept in touch with the developing situation. The opportunity to comment closed on 23 September. Normally, the OFT works to an administrative timetable of 40 working days, which means that it was expected to announce on 3 November whether it would refer the takeover to the Competition Commission or whether it would

impose undertakings on HMV/Waterstone's to remedy any adverse competition effect in lieu of a reference to the Competition Commission.

*Meeting closed at 17:50.*

However, that is an administrative timetable only and is not binding on the OFT. In certain complex cases, the OFT may decide to take longer to examine issues in greater detail. I understand from my officials that, because of the wide and varied representations that have been made—many of which have been raised tonight and which have been the subject of discussion between the parties—the OFT has decided to do just that. It has not reached a decision on whether to refer the takeover to the Competition Commission and that is where the matter rests at the moment. As has been said, the views that have been expressed this evening will undoubtedly be a matter that the OFT will wish to consider as part of the process.





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