

TRANSPORT AND THE ENVIRONMENT COMMITTEE

Tuesday 4 April 2000
(*Afternoon*)

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2000.

Applications for reproduction should be made in writing to the Copyright Unit,
Her Majesty's Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ
Fax 01603 723000, which is administering the copyright on behalf of the Scottish Parliamentary Corporate
Body.

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by The
Stationery Office Ltd.

Her Majesty's Stationery Office is independent of and separate from the company now
trading as The Stationery Office Ltd, which is responsible for printing and publishing
Scottish Parliamentary Corporate Body publications.

CONTENTS

Tuesday 4 April 2000

	Col.
NATIONAL PARKS (SCOTLAND) BILL	499
PETITION	513
SUBORDINATE LEGISLATION.....	515

TRANSPORT AND THE ENVIRONMENT COMMITTEE 7th Meeting 2000, Session 1

CONVENER

*Mr Andy Kerr (East Kilbride) (Lab)

DEPUTY CONVENER

*Nora Radcliffe (Gordon) LD)

COMMITTEE MEMBERS

Helen Eadie (Dunfermline East) (Lab)
*Linda Fabiani (Central Scotland) (SNP)
*Robin Harper (Lothians) (Green)
*Janis Hughes (Glasgow Rutherglen) (Lab)
Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab)
*Mr Kenny MacAskill (Lothians) (SNP)
Des McNulty (Clydebank and Milngavie) (Lab)
Tavish Scott (Shetland) (LD)
*Mr Murray Tosh (South of Scotland) (Con)

*attended

THE FOLLOWING MEMBER ALSO ATTENDED:

Christine Grahame (South of Scotland) (SNP)

WITNESSES

Sarah Boyack (Minister for Transport and the Environment)
Andrew Dickson (Scottish Executive Rural Affairs Department)
Jane Hope (Scottish Executive Rural Affairs Department)

CLERK TEAM LEADER

Lynn Tullis

SENIOR ASSISTANT CLERK

Richard Walsh

LOCATION

Committee Room 4

Scottish Parliament

Transport and the Environment Committee

Tuesday 4 April 2000

(Afternoon)

[THE CONVENER *opened the meeting in private at 14:21*]

14:48

Meeting continued in public.

The Deputy Convener (Nora Radcliffe): Good afternoon, ladies and gentlemen. I welcome members of the public and the press to the seventh meeting this year of the Transport and the Environment Committee. I am in the chair briefly because the convener has to attend another meeting, although we expect him to join us fairly shortly, when I will gracefully relinquish the chair to him.

National Parks (Scotland) Bill

The Deputy Convener: I welcome the Minister for Transport and the Environment and her colleagues Jane Hope and Andrew Dickson, who are here to discuss the National Parks (Scotland) Bill as introduced. We have received apologies from Cathy Jamieson and Tavish Scott. With that formality out of the way, I ask the minister whether she wishes to make introductory remarks.

The Minister for Transport and the Environment (Sarah Boyack): That would be helpful, convener, as I want to take a few minutes to bring members up to date.

Since my previous appearance before the Transport and the Environment Committee, we have amended the draft national parks bill in the light of the consultation that we carried out. I will identify the key issues that emerged and how we responded to those issues in the bill that has now been introduced.

We received 343 responses in total to the consultation. Generally, they were very supportive and constructive. We are extremely grateful to people for the amount of time that they put into the responses. It is important that people continue to feel that they are involved in the process. I am anxious to ensure that everyone who has contributed to the consultation process receives feedback.

As is the normal practice following a public

consultation, the responses are available for public inspection in the Scottish Executive library and the Scottish Parliament information centre. We are also making a set of responses available to people in the Cairngorms and in Loch Lomond and the Trossachs. Both the Cairngorms partnership and the Loch Lomond and Trossachs interim committee will have a set of responses that will be open to inspection by the public.

We have also put together a summary of the responses to the consultation and the Executive's response to the points raised in those. The committee will have received a copy of the summary and response. We are sending the report to all those who have responded to the consultation process and it will also be available on the Scottish Executive website.

Members will see from the charts in the summary of the responses that the main issues that were raised were the national parks aims and their application using the Sandford principle, appointments and community involvement in running the parks.

Many people commented on the aims set out in section 1 of the bill and the associated provisions in section 8, where the Sandford principle is articulated. The comments were not consistent and there were many opposing views. Some people felt that conservation should be the primary aim and other aims should be subsidiary. Those people were often concerned that the aims of social and economic development might pose a threat to the natural and cultural heritage. Other people commented that the drafting of the bill meant that the conservation aim would always take precedence, overwriting the social and economic issues and resulting in the fossilisation of the park. There were many gradations between those views.

I concluded that our underlying policy must be made clear in the bill and I hope that we have done that. The policy is founded on the recognition that people live and work in national parks—people whose lives are inextricably linked to the natural and cultural heritage of the park. National park authorities must consider issues in the round; they must balance economic, social and environmental issues. It is not just about minimising the conflict between those aims, but about recognising that they can be mutually supportive.

We changed the bill to make it clear that the national parks are required to take a co-ordinated and collective approach to their aims. Section 1, which sets out the conditions for designating the parks, has been amended accordingly, as has the wording in section 10, which relates to the preparation of the national park plan. The aims have not changed, but we have clarified the

position. Only if there is a conflict should the first aim, the conservation of the natural and cultural heritage, be given greater weight.

Appointments and community involvement was another issue on which we received many diverse comments. Although it is impossible to satisfy all those concerns, the weight of the comments made us think hard about the initial draft of the bill. The overpowering view was that local communities should be involved in running the parks. We fully agree with that. One of the key lessons to be learned from the establishment of national parks elsewhere in the world—we received a response from someone in Norway who commented on the experience in that country—is that local communities have an essential role to play in the management of national parks.

We have reconsidered the bill and have made it more explicit in those sections in the bill that provide for consultation on the national parks proposal, the national park plans and the direct appointments made by Scottish ministers to the authorities. They must include every community council and people who are representative of the interests of those who live, work or carry out business in the national park area. We previously took the view that those people were swept up by the catch-all provision for

“any other person they think fit.”

However, given the weight and nature of the comments, we thought that that had to be made explicit in the bill, so we have amended the bill.

We expect people who live and work in national parks to be appointed to park authorities, but I am conscious of the need to ensure that there is an element of flexibility, which will be essential in examining the arrangements for each park's particular needs. We will need to ensure that each park authority has a balanced membership, which will reflect the need for a balanced approach to the aims in its area.

I have considered the consultation responses and think that we should retain a degree of flexibility in enabling legislation that allows us to specify a designation order that addresses the detail of the membership. We have amended schedule 1 to emphasise that. Paragraph 5 of schedule 1 now makes it clear that ministers must ensure that direct appointments include people with particular knowledge and experience, or who are representative of particular interests as specified in the designation order.

At the designation order stage we will specify more detail about the sort of knowledge, experience or interests that should be reflected in the particular national park authority. That is how I envisage local people being brought on to authorities. I think that that measure, coupled with

the requirement in the bill for ministers to consult widely before making appointments, creates the right framework. It will allow the decision on each national park authority to be made in a way that is appropriate for Loch Lomond and the Trossachs, or for the Cairngorms.

I have considered the issue of direct elections, which was also raised. Given the relatively small number of members on the national park authorities, the breadth of experience that will be required and the need for balanced membership, I think that there are downsides to direct elections compared to appointments, which have been strengthened in the revised bill after the full consultation.

We talked about planning on the last occasion on which I met the committee. We received a number of responses about the arrangements for town and country planning powers. The question is whether national park authorities should be planning authorities. If not, what role should they have? There was a strong view from some respondents that each national park authority should be the planning authority for its area, whereas others felt equally strongly that they should not, and that the planning function should remain with local authorities.

I have examined the responses and we have considered the matter carefully. It is an important debate, but a difficult one on which to get consensus. There were mixed views in response to Scottish Natural Heritage's consultation in 1998. In the light of that, I remain convinced that the issue should be addressed separately for each national park, rather than including it in the bill. I know that we will debate this at the secondary stage, but I think that it is important that the enabling legislation remains flexible.

Those are the issues that attracted most comment. In the summary of the responses, members will see a raft of other issues that were raised and the responses to them. I have focused on the key issues, but if members wish to raise any other matters, I will be happy to go through them in depth.

The bill addresses some points in key areas that we discussed last time. For example, we have made it clear that national parks can consist wholly or partly of water. We have made the point—it is a minor, technical one but it is important—that national park authorities must set up at least one advisory group, although they are not restricted to one. We have tidied up section 10, on the national park plan preparation. If Scottish ministers are minded to approve a national park plan with modification, they must seek comments from the national park authority before they do so. There were a number of other drafting amendments. I am trying to pick up the

issues that members were interested in previously.

I hope that that has given members a sense of what was contained in the feedback and what we have done with it. A number of responses asked for clarification on whether their interpretation of the bill was correct. Some responses made useful comments about how each park might operate but did not require changes to the bill. One example is the issue of zoning, which is not required on the face of the bill but which we fully expect to be in the guidance when the national park plans are being prepared. So there are issues for the later stages as well.

It demonstrates the extent to which people are becoming interested in how the parks will work, the balance between legislation and guidance and how the advisory groups might work. I will stop at that point and let members ask questions and make points. I hope that that was useful.

The Deputy Convener: That has helped us to focus on the main areas about which people have concern. Who would like to open up the questioning?

15:00

Mr Kenny MacAskill (Lothians) (SNP): Section 8(6) mentions greater weight, the definition of which is problematic. To some extent, it may be open to a court to interpret. What is your definition of greater weight?

Sarah Boyack: That is something that each national park authority has to deliberate on when it is considering a proposal. The aims of a national park might not necessarily conflict and might in fact reinforce each other. It is of fundamental importance, given the purpose of our having national parks, that we have a provision that provides for attaching weight in that way, in the event of a conflict.

Mr MacAskill: But if there were to be a conflict between one of the aims in section 1(3), is your position with regard to greater weight that slightly more weight has to be given to section 1(3)(a) or that substantially more weight must be given to section 1(3)(a)?

Sarah Boyack: That issue would have to be addressed by each national park authority when it was making those judgments. At this stage, it is not for me, as minister, to prejudge every situation that might occur in each national park. The bill has to set a clear framework so that the authorities can have that discussion as and when it is required.

Mr MacAskill: I accept that. However, when there has to be a review by the authority, an appeal through a judicial review mechanism, or whatever, the words that are contained within the act are fundamental. The question that anybody—

a member of an authority or of a court—would ask is what is meant by greater weight.

Sarah Boyack: Unless you have an alternative form of words, the priority of the aims is relatively clear. I would not perceive the definition as a major issue.

Mr MacAskill: I do not like to labour the point, but I am still not sure what you mean by greater weight. Is it substantially more or a little bit more?

The Deputy Convener: Probably enough to tip the balance.

Sarah Boyack: I come back to the point I made earlier—the national park authority has to weigh up those aims, to consider the extent to which they are mutually reinforcing and to make a judgment. However, it is impossible for us to predict the nature of those issues and therefore what the judgment of the national park authority at the time would be. The legal framework has to give the authorities a structure in which they can come to those decisions. The term greater weight is relatively clear.

Mr MacAskill: I am afraid that it is not clear to me. Without going over the same ground, perhaps you could tell me what your definition of greater weight is.

The Deputy Convener: I think that the minister has explained as much as she can.

Mr MacAskill: With all respect, I do not think that she has.

The Deputy Convener: Do you have anything you wish to add?

Sarah Boyack: No.

Janis Hughes (Glasgow Rutherglen) (Lab): Section 13(1) of the bill talks about a national parks authority entering into an agreement

“with any person having an interest in land to do, or secure the doing of, whatever the parties to the agreement consider necessary to achieve in relation to the National Park the aims set out in section 1(3).”

Given that the bill does not clearly define who they are, can you indicate who

“any person having an interest in land”

is likely to be?

Sarah Boyack: It would be people who own land in a national park authority area.

Janis Hughes: Only people who own land?

Sarah Boyack: It could be an organisation that manages land on behalf of someone else.

Janis Hughes: So, strictly speaking, someone with an interest in the land is not covered by that provision, even though the bill refers to

“any person having an interest in land”?

Does that mean only people with a vested interest, in the sense that they either own or manage the land?

Jane Hope (Scottish Executive Rural Affairs Department): As I understand it, it is up to the national park authority to take a view on who the best person is with whom to enter into an agreement. That has to be somebody who exercises an influence over the land in question. It might be the owner, but it might also be a tenant.

Andrew Dickson (Scottish Executive Rural Affairs Department): These are called management agreements. That implies that the person who is signing up to the agreement has the power to manage the land or to influence the management of the land in some way.

Janis Hughes: Given the concerns that were expressed during the consultation process regarding the powers of authorities over speed boats and navigation—jet skis, water skis and so on—can the minister explain why no substantial changes have been made in that respect?

Sarah Boyack: We see that as an issue for each national park authority to address rather than as something to include in the bill. It is more relevant in some national park areas, such as Loch Lomond, than in others. It is appropriate that it is dealt with in a way that is appropriate for Loch Lomond. That is better than having a catch-all provision to deal with the issue in parts of the country where it is not a problem.

Linda Fabiani (Central Scotland) (SNP): I would like to ask a quick question following on from what Janis Hughes was saying, before I ask my main question. What would happen if a private landowner who owned land within the national park said that they did not want to take part in anything that was being proposed and refused to enter into an agreement?

Sarah Boyack: Agreements are not compulsory. It is up to the national park authority to work with parties where it feels that that would help secure the aims of the national park plan. When the plan for the national park area is being drawn up, it is critical that all those with an interest in the park are involved in that process. The management agreements would flow from the issues that were agreed to be important in the national park area.

Linda Fabiani: What would happen if somebody did not want to be involved in the process? Would you compel them?

Sarah Boyack: I do not think that it would be appropriate to include compulsion in the bill. Management agreements are about the national park authority working with other agencies where

there is a common interest. They might deal with active management of land that would be in the interest of both the landowner and the national park authority. However, it is up to the national park boards to identify key players with whom it would be in everyone's interest for them to strike management agreements.

Linda Fabiani: So there is no way of compelling someone to take note of the fact that they are within a designated national park and that they must work within the national park to promote its aims.

Sarah Boyack: I am not sure that that would be done within the management agreements. There are other ways of doing it.

Andrew Dickson: This is only one of several powers that could be used. There are well-attested precedents for management agreements—for example, between SNH and landowners in relation to particular types of land management. Depending on the nature of the land, a particular kind of management might be enforced by that route. That is for the national park authority to decide. There are other areas of law that could be brought to bear, but the bottom line is that agreements are voluntary.

Mr Murray Tosh (South of Scotland) (Con): Could we quote that and ask for some specifics, to see what that means in practice?

Sarah Boyack: Do you want examples from existing national parks, where agreements have been struck, or were you alluding to existing agreements with SNH? There are a number of them in the Cairngorms area, which the Cairngorms Partnership has promoted with local land-owning interests, SNH and other organisations. There are active management agreements which seek to protect the area and ensure access.

There is some good practice at the moment. The difference would come with whether somewhere is within a national park. A national park authority being involved in the process would mean a different status.

Linda Fabiani: My main question will be simpler. On parts 2 and 3, I have a worry about the fact that what we are doing enables legislation to go through, but that we will then require subordinate legislation for each national park.

I am worried about the consultation element for the designation of each national park. The National Parks (Scotland) Bill says that either the reporter or the Scottish ministers have to copy everything out and have to

“determine the period for which the copy proposal and requirement are to be made available for public inspection”.

It worries me that there is no time limit for that. If it is phrased like that, you, minister, would literally have the power to say that a project is up for public consultation for one week.

Sarah Boyack: We are clearly committed to ensuring that the consultation is genuine. At every stage of the process so far, there have been reasonable consultation periods. I am conscious of the fact that not every community council meets every month. We have to work with the grain of the organisations in the area, many of which are geared up to the process. I would not accept any interpretation that a week would be reasonable.

Linda Fabiani: I do not think that it would be reasonable either, but the legislation would allow the decision on the period of consultation to be made by those who are promoting the national park. I am not saying that the Executive would behave that way, but we will end up with legislation that would enable people to behave that way in the future.

Sarah Boyack: That is certainly something that we could examine. Because we have been engaged in the consultation process on this issue for the past two to three years, it would be possible to have lengthy consultation periods if it is identified that people would like the comfort of a specified minimum time on the face of the bill.

As we move towards establishing the Loch Lomond and the Trossachs national park, we would want to engage in extensive consultation. We would then expect to do the same for the Cairngorms. I do not think that we would have any objection in principle to identifying a reasonable time.

Robin Harper (Lothians) (Green): Is the Executive considering reviewing the planning and consultation procedures in the near future?

Sarah Boyack: Throughout the national planning policy guideline, we are considering how the planning system might be improved. One of the key issues that we intend to consider is sustainable development. There is a parallel process on that, which we will conduct during the summer.

Robin Harper: My second question has almost been made redundant by your answer to Linda Fabiani's question, minister. Were there seen to be any problems with the insistence under the Abolition of Feudal Tenure etc (Scotland) Bill of outright ownership being the way to change the system? Outright ownership would give landowners such great powers that it might be very difficult for national park plans to proceed, if landowners are intransigent.

Sarah Boyack: This is where agreements and incentives come into play. The opportunity of

trying to get agreements that incentivise landowners to manage their land in a particular way will be open to the national park authority. That comes back to the fact that it is up to the national park authority to decide its priorities—who it wants to work with and who it needs to persuade to implement key parts of the national park plan. Thanks to the work that has been done in the Cairngorms area and in the Loch Lomond and the Trossachs area there is quite a degree of experience and expertise of landowners working together with other bodies, for example, the Cairngorms Partnership, in a way that is mutually beneficial. We need to build on that expertise and develop it for the future.

Robin Harper: My third question is, given the make-up of the authority, with an absolute balance between Executive appointees and locally, possibly directly elected people, what kind of lobbying access will non-governmental organisations have? Is that still to be worked out?

Sarah Boyack: No, but it will depend on the members of the national park authority. There are two categories of member: those nominated by local authorities—our expectation is that councils will want to nominate councillors, but it will certainly be open to them to nominate local people as well—and those nominated through the Scottish Executive nomination process.

The bill specifies that there should be consultation on who should be represented on the national park authority. It will come down to what is appropriate for the particular authority. A range of people with different expertise might come from a variety of organisations, such as the farming community or conservation groups. There is an opportunity for the authority boards to include wide representation.

15:15

We expect widespread consultation on the process, and on the national park plan in particular, so that groups can have meaningful access to the way in which the national park operates in practice. There are therefore several ways in which we would expect groups to be engaged in discussions.

Mr Tosh: Supposing the committee was to have a reunion in a dozen years' time —

Linda Fabiani: Will you come, minister?

Sarah Boyack: Is that an invite?

Mr Tosh: You would be welcome to join us, minister.

If we visited the Mar Lodge estate in the Cairngorms, for example, in a dozen years' time, what differences would you expect to be able to point out to us? Which changes would you be able

to say were down to the national park and not to the partnership or the fact that much of the land was owned by the National Trust? I do not mean the documentation—

Linda Fabiani: There would be a plaque.

Mr Tosh: Or the plaque saying that the minister consecrated the park. What differences in land management or structures—anything at all—would there be? What would make us look back and say, “Hey, that was really worth it.”

Sarah Boyack: The identity of the area as a national park will be fundamental. That is what I have learned from visits to other national park areas and from the responses that we have received. What is important is the area's identity and the sense that there is cohesion and co-ordination of the activities that take place in the national park. The marketing of goods in the area also fits into that identity. There will be a sense of self-confidence. Local people living there will feel a sense of identification with the park area.

Those are some of the fundamental things that I would hope to see if we revisited the issue in a decade. Such practical differences would be one of the key achievements of the park. However, changes on the ground will depend on what comes out of the first national park plan. In both areas, work is going on—with Cairngorms Partnership and with the Loch Lomond and the Trossachs interim committee—to consider how the area can be managed more effectively, for example, through the use of ranger services.

It is possible to interpret the areas more effectively. We need to ensure that we make the most of people visiting the area. Over a decade or so, the areas where I would hope to see a lasting change would be in more effective co-ordination and management and an identity that is not only physical, but to which people who live in the area have a strong affiliation.

Mr Tosh: What would be the impact in measurable terms? What would have been achieved that could not have been achieved by giving specific grants and functions to the relevant local authorities? What comes out of the collective approach?

Sarah Boyack: We must look at good examples of other national parks, where the catalyst for establishing a national park has brought people together in a much more focused way and enabled them to think on a different level. I mentioned marketing, and the French national parks have been strong in that area, encouraging the farming community to identify with the fact that they are in a national park. Environmental quality, identity issues and tourism are also important. People must decide how to maximise the opportunities that a national park opens up and which do not

exist at the moment because there is no cohesive identity.

Going back to what Linda Fabiani said, people have been party to discussions and consultations on boundaries. The consultation exercise to date has been an important part of the process, and we must build on that as we go on so that people feel that their comments have been noted.

Mr MacAskill: Section 29, which concerns marine areas, seems to make available a fairly draconian power to designate marine areas as national parks. Have any modifications been anticipated? Can their ambits be incorporated in the outlining principal legislation rather than leaving the prerogative to you or to whoever may follow you?

Sarah Boyack: I do not accept that section 29 is draconian in any sense. Marine areas may be different to land areas and we must take that on board in the bill. For example, the local representation that would be appropriate in a land-based national park would be relatively straightforward, as local authorities could provide input. A wholly or partially marine national park, however, would require different representation.

Mr MacAskill: Why does the bill not say that? If that is what is anticipated, why could section 29 not say that, in a wholly marine national park, certain sections and subsections would apply? The bill currently gives carte blanche to Scottish ministers, saying that

“this Act applies with such modifications as the Scottish Ministers may by order prescribe.”

Sarah Boyack: I do not accept that at all. In response to a number of questions and a petition, we have been keen to clarify that the legislation would enable the establishment of a marine national park. However, any marine park would have to go through the same sort of procedures for the designation order as would be the case for Loch Lomond and the Trossachs or for the Cairngorms.

When the designation order is made, we would address the issues that might be different for a marine area as opposed to a landward area. We would use an affirmative procedure, which is what we will use for the two national park areas that we have identified. I do not accept that that is draconian. It is open and transparent, and enables any proposals to be specific and appropriate to the area that is being identified.

A catch-all would not be appropriate, but we have tried to make it clear that it is possible to designate a marine national park under the terms of the bill. Some people had said that it would not be possible, and we wanted to clarify that rather than saying, “Trust us. It's in there if you want to

interpret the bill in a certain way.” We felt that it was important to include marine parks in the bill. Having said that, appropriate arrangements would have to be identified for a marine area, as is the case with the land-based parks. The Parliament would have to come back to that through the affirmative order procedure.

Mr MacAskill: Is it not the case that, when it came to subordinate legislation, you could choose to leave out section 24, which relates to information and annual reports, if you so wished? That would be within the powers that you propose to give yourself under section 29.

Sarah Boyack: Parliament would have to approve that departure. I do not accept that the bill as currently drafted would enable anything of that sort to be done without Parliament actively making a decision.

Mr MacAskill: Would you accept that it could be done not by primary but by subordinate legislation?

Sarah Boyack: A democratic decision by the Parliament would still be needed; it could not be done just by the minister.

Robin Harper: The bill does not mention the phrase “carrying capacity”. Because the biggest economic development in the national parks will almost certainly be tourism—designation is likely to attract more people to the parks—does the minister expect the national parks authorities to present her at an early stage with an assessment of the total future carrying capacity of the area, so that other plans are worked out in relation to it?

Sarah Boyack: Managing development pressures is a critical issue for national parks. The national park plan and the possibility of zoning for different types of activity in different parts of the park area offer the authority the opportunity to engage in that discussion, as it sees fit. There are some areas that will be more sensitive than other areas and some will have a greater capacity to absorb visitors in a way that does not damage the character of the park. I see the park plan as the vehicle for that debate.

Mr Tosh: Is one of the aims of the Cairngorms national park to enhance the wilderness experience? Robin’s question was about encouraging more visitors. Now that the National Trust owns most of the approaches on the south side of the Cairngorms, it is closing tracks and erecting signs to prevent people from cycling in. That means that most ordinary people will not be able to get very far into the national park. Is limiting access to the mountains to preserve the wilderness part of the strategy?

Sarah Boyack: That is an issue that the national park authority in the Cairngorms will want

to address. The question of the park boundaries will be very important, as will consultation on it—looking at what areas should be included in the park and how visitor pressure can be absorbed in appropriate areas. I do not want to comment on which areas most need protection; the national parks authorities will have to take the lead on that.

The Deputy Convener: I see a defined minimum consultation period as important; as Linda said, if it is not defined, it can be as short as anyone wants to make it.

This is a daft lassie question, but section 30—“Crown application”—says that the act binds the Crown but not Her Majesty in a private capacity. Is that a routine disclaimer?

Linda Fabiani: It means that she will be allowed to hunt wherever she chooses.

Sarah Boyack: I will ask Andrew Dickson to answer.

Andrew Dickson: The provision is fairly standard. Her Majesty has to give consent to the bill’s introduction in Parliament and has done so. The question of how acts of the Scottish or the Westminster Parliament affect the Queen personally is always put separately.

The Deputy Convener: I thank the minister and her colleagues for their time and patience in answering our questions.

Sarah Boyack: Thank you for the detailed nature of some of the questions—it is useful to explore the text of the bill.

Petition

The Convener (Mr Andy Kerr): I apologise for my short absence, and I thank Nora Radcliffe for taking the chair. Christine Grahame is with us to talk briefly on the petition that we have received from the Campaign for Borders Rail. With the committee's permission, I would like to move that item up the agenda and to take it now.

Members indicated agreement.

The Convener: Petition PE113 is accompanied by a covering note, TE/00/7/10. As I am sure all members will know, there is great public interest in this petition, which has been signed by more than 17,000 people. It was discussed at a well-attended meeting of the Public Petitions Committee at Galashiels on 27 March. At this stage, I suggest that we discuss the information that we require to allow us to consider the petition fully. The Public Petitions Committee has asked us to take into account and co-ordinate the views of the Enterprise and Lifelong Learning Committee, the Finance Committee, the Rural Affairs Committee and the Social Inclusion, Housing and Voluntary Sector Committee, as appropriate. It may also be helpful to other committees if we find out whether they want additional information. We also need to get information from those committees.

Before asking the members of the Transport and the Environment Committee for their comments, I invite Christine to speak to us.

15:30

Christine Grahame (South of Scotland) (SNP): Thank you, convener—both for moving the item up the agenda and for allowing me a few moments to speak. I see that two very capable proponents of the Campaign for Borders Rail are here. I am convener of the cross-party group on Borders rail, and Murray Tosh and Robin Harper are vice-conveners. I am also on the Public Petitions Committee, which saw the Transport and the Environment Committee as the lead committee. I am sure that the convener of the Public Petitions Committee, John McAllion, would not mind my saying that this issue is not simply a transport issue, which is why the petition has been referred to all the other committees that Andy Kerr mentioned. We are talking about the regeneration of the Borders.

My two colleagues in the cross-party group will be able to speak in great detail about what is happening in the Borders. This is not simply a petition from the heart; it is a petition from the head. The Borders rail forum comprises MPs, MSPs, MEPs, councillors and other groups. Those people are working in a very pragmatic way. I am

sure that Murray will expand on that—unfortunately, Robin has not been able to come down as often—and give members useful background information.

Like, I am sure, other members of the cross-party group, I hope that we will in due course hold a debate on the Borders railway line. Because the debate would concern the regeneration of a whole area, I hope that it would give the Parliament an opportunity to prove itself. That is my pitch.

The Convener: I would be all in favour of having a debate.

Mr Tosh: It has been recommended that we identify additional information or briefing requirements. I assume that the Executive will be responding to the Scott Wilson report at some stage, but it would be useful if we could ask the Executive to identify potential funding mechanisms and the range of powers that are open to it, local authorities and other agencies. We need to know what UK funding could be available to allow this project to succeed. Because the Transport Bill is still going through the House of Commons, and because the strategic rail authority is not wholly in place yet and its relationship with the Executive is not entirely clear, there is a lot of imprecision.

Nora Radcliffe (Gordon) (LD): I know that we will be getting written information back from the other committees, but would it be an idea to take evidence directly, even if only briefly, from local interest groups? Would they appreciate the opportunity to speak directly to the committee?

The Convener: The difficulty is that that would delay the report. However, Lynn Tullis and I will discuss our work programme and decide how we can usefully take evidence.

Nora Radcliffe: It would be useful to let people speak for themselves.

Robin Harper: A simplified summary of the report is being produced for us to consider. When that is ready, we can bring people in for questioning.

The Convener: So, we will seek the views of parliamentary committees on the petition, before further consideration, and we will have an additional briefing on funding issues. We also take on board the possibility of building into our programme at least one session of oral evidence from local interest groups. Okey dokey. Thank you.

Subordinate Legislation

The Convener: We will now take a step back in time and address agenda item 3, which is on subordinate legislation. We have two negative instruments to deal with.

I refer members to the Disabled Persons (Badges for Motor Vehicles) (Scotland) Regulations 2000. I refer members also to the Executive and committee covering notes on the regulations. The regulations came into force on 1 April 2000. Under the negative procedure, Parliament has the power to annul the order by resolution within 40 days, excluding the recess. The deadline for parliamentary action on this order is 27 April.

Any MSP may lodge a motion to propose to the lead committee that the order be annulled. We are required to report on the instrument by 24 April. Should annulment be required, under rule 10.4 of standing orders, the Transport and the Environment Committee will have to debate the issue and then report to Parliament with its decision. Before we discuss this document, I draw members' attention to the report of the Subordinate Legislation Committee, which indicates that that committee found some problems with the instrument. Those have been acknowledged by the Executive, and the Executive proposes to lay an amending instrument shortly. We need to bear that in mind during our discussions.

Robin Harper: The question is how shortly the amending instrument will be laid. Will that happen within the 40 days?

Lynn Tullis (Clerk Team Leader): I do not know, but I expect that it will be laid after that period.

Robin Harper: After that period? We are in a hopeless position.

The Convener: Did you discuss the detail of the matter with the clerk to the Subordinate Legislation Committee?

Lynn Tullis: No. Is Kenny MacAskill coming back? He would be able to advise us.

Linda Fabiani: No, he is away to another meeting.

The Convener: That is a pity. I trust that, if the Subordinate Legislation Committee had had grave concerns over the time scale, it would have knocked it back in the system.

Linda Fabiani: Can we postpone making a decision on this until next week's meeting? Would a week make much difference?

The Convener: We will not have a meeting next week, as it is the recess. Lynn advises me that the Subordinate Legislation Committee accepted the advice that was given by the Executive. If it had had any doubts about the matter, it would have advised us of them.

Robin Harper: Are you recommending that we accept the instrument on the condition that it is subsequently amended by the Executive, although that might happen outside the 40 days?

The Convener: Yes. We can qualify our report on that basis.

Robin Harper: I hope that it is made clear that that is our understanding of the situation, so that we can call the Executive to account if an amending instrument is not laid.

The Convener: Yes. Is the committee agreed?

Members indicated agreement.

The Convener: The second negative instrument is the Local Authorities' Traffic Orders (Exemptions for Disabled Persons) (Scotland) Regulations 2000. It is accompanied by Executive and committee covering notes. The same procedure applies as for the preceding document. I draw committee members' attention to the advice of the Subordinate Legislation Committee, which indicates similar problems and a similar potential resolution to those problems. Are there any comments?

Members: No.

Nora Radcliffe: If there are problems with the instrument, why is it not withdrawn and redrafted? There is enough bumf flying about without more bumf to amend the bumf. Why could we not get the correct bumf in the first place?

The Convener: I assume that there is some difficulty in doing that.

Nora Radcliffe: The process seems messy.

The Convener: We now move to agenda item 5, the budget process, which will be taken in private. I thank the public and the official reporters for their attendance at the meeting.

15:39

Meeting continued in private until 16:08.

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

Members who would like a copy of the bound volume should also give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the bound volume should mark them clearly in the daily edition, and send it to the Official Report, Parliamentary Headquarters, George IV Bridge, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Friday 14 April 2000

Members who want reprints of their speeches (within one month of the date of publication) may obtain request forms and further details from the Central Distribution Office, the Document Supply Centre or the Official Report.

PRICES AND SUBSCRIPTION RATES

DAILY EDITIONS

Single copies: £5

Annual subscriptions: £640

BOUND VOLUMES OF DEBATES are issued periodically during the session.

Single copies: £70

Standing orders will be accepted at the Document Supply Centre.

WHAT'S HAPPENING IN THE SCOTTISH PARLIAMENT, compiled by the Scottish Parliament Information Centre, contains details of past and forthcoming business and of the work of committees and gives general information on legislation and other parliamentary activity.

Single copies: £2.50

Special issue price: £5

Annual subscriptions: £82.50

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £2.50

Annual subscriptions: £80

Published in Edinburgh by The Stationery Office Limited and available from:

The Stationery Office Bookshop
71 Lothian Road
Edinburgh EH3 9AZ
0131 228 4181 Fax 0131 622 7017

The Stationery Office Bookshops at:
123 Kingsway, London WC2B 6PQ
Tel 0171 242 6393 Fax 0171 242 6394
68-69 Bull Street, Birmingham B4 6AD
Tel 0121 236 9696 Fax 0121 236 9699
33 Wine Street, Bristol BS1 2BQ
Tel 01179 264306 Fax 01179 294515
9-21 Princess Street, Manchester M60 8AS
Tel 0161 834 7201 Fax 0161 833 0634
16 Arthur Street, Belfast BT1 4GD
Tel 01232 238451 Fax 01232 235401
The Stationery Office Oriol Bookshop,
18-19 High Street, Cardiff CF1 2BZ
Tel 01222 395548 Fax 01222 384347

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

Telephone orders and inquiries
0870 606 5566

Fax orders
0870 606 5588

The Scottish Parliament Shop
George IV Bridge
EH99 1SP
Telephone orders 0131 348 5412

sp.info@scottish.parliament.uk

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers