

# MEETING OF THE PARLIAMENT

Wednesday 29 January 2003  
(*Afternoon*)

Session 1

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## Scottish Parliament

*Wednesday 29 January 2003*

*(Afternoon)*

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

### Time for Reflection

**The Presiding Officer (Sir David Steel):** To lead our time for reflection today, we welcome Rev Patricia Johnston, who is the field officer of the Scottish Churches China Group.

**Rev Patricia Johnston (Field Officer, Scottish Churches China Group):** Good afternoon.

**Members:** Good afternoon.

**Rev Patricia Johnston:** You are allowed to answer back. That is fine. As you have heard, my name is Patricia Johnston and I am the China field officer for the Scottish Churches China Group. That is my day job, but I am also a minister of the United Free Church of Scotland. The Scottish Churches China Group is an ecumenical group that has representatives from all the main Christian churches in Scotland. We work in partnership with theological and secular institutions in China as well as with the Amity Foundation, which is one of China's leading non-governmental organisations.

It is appropriate for me to be speaking to you this afternoon, because we are coming towards the end of the year of the horse and going into the year of the ram, which begins this Saturday, 1 February.

Preparations for spring festival, which is Chinese new year, are well under way in all Chinese households. The house has to be thoroughly cleaned; people get haircuts and, if they can afford it, new clothes are bought. Ideally, debts are repaid so that the new year is started with a clean slate. Copious amounts of food are bought in and arrangements for visits to family and friends are made. Decorations are also an important part of it. Rhyming couplets, which are written in gold or black characters on red paper, adorn door frames and the red packets into which gifts of money will be put also have to be seen to. It is a busy time, to ensure that the year ends with all the clutter of the past 12 months cleared away so that the new year is a fresh start.

We see some traditions as old practices that have little relevance to our busy, modern lives and in some cases that is true. However, some traditions stem from a profound wisdom that it

would be silly for us to ignore. We all need to take time to clear out the clutter and baggage that weighs us down physically, emotionally, spiritually and mentally. But without a catalyst to make us stop and take stock, we often just struggle on until we feel so drained and exhausted that our sense of purpose or vision disappears.

The Gospel of Jesus Christ is all about a clean slate. The invitation from God, through Christ, is to hand over what we have been and done in the past in exchange for a new slate and the opportunity to develop into the people God knows we can be through his love, forgiveness and strength.

On behalf of all of us involved in working with China I wish you Xin Nian Kuai Le—Happy New Year.

## Business Motions

14:34

**The Presiding Officer (Sir David Steel):** I remind members that a revised business bulletin has been placed on their desks, drawing to their attention the fact that I have agreed to accept an urgent statement on the firefighters' dispute at a convenient moment around 5 o'clock.

The next item of business is consideration of business motion S1M-3825, in the name of Patricia Ferguson, on behalf of the Parliamentary Bureau, setting out the timetable for stage 3 consideration of the Water Environment and Water Services (Scotland) Bill. Members might wish to note that the times that are set out in that motion will not begin running until the stage 3 proceedings have begun.

*Motion moved,*

That the Parliament agrees that, during Stage 3 of the Water Environment and Water Services (Scotland) Bill, debate on each part of the Stage 3 proceedings shall be brought to a conclusion by the time-limits indicated (each time-limit being calculated from when the Stage begins and excluding any periods when other business is under consideration or when proceedings are suspended)—

Group 1 – no later than 1 hour  
Groups 2 and 3 – no later than 1 hour 40 minutes  
Groups 4 to 6 – no later than 2 hours 10 minutes  
Group 7 – no later than 2 hours 25 minutes  
Group 8 – no later than 2 hours 35 minutes  
Group 9 – no later than 2 hours 50 minutes  
Groups 10 and 11 – no later than 3 hours 10 minutes

Motion to pass the Bill – 3 hours 40 minutes.—[*Euan Robson.*]

*Motion agreed to.*

**The Presiding Officer:** The next item of business is consideration of business motion S1M-3814, which sets out the revised business programme for next week.

*Motion moved,*

That the Parliament agrees—

(a) as a revision to the programme of business agreed on 23 January 2003—

Wednesday 29 January 2003

after first Parliamentary Bureau Motions, insert—

*“followed by* Ministerial Statement on Educating for Excellence – Choice and Opportunity”

Thursday 30 January 2003

delete,

*“followed by* Business Motion”

(b) the following programme of business—

Wednesday 5 February 2003

2:30 pm Time for Reflection

*followed by*

Parliamentary Bureau Motions

*followed by*

Stage 3 of Public Appointments and Public Bodies etc. (Scotland) Bill

*followed by*

Parliamentary Bureau Motions

6:00 pm

Decision Time

*followed by*

Members' Business – debate on the subject of S1M-3612 Trish Godman: Tackling Under Age Drinking

Thursday 6 February 2003

9:30 am

Debate on Local Government Bill – UK Legislation

*followed by*

Stage 1 Debate on Proportional Representation (Local Government Elections) (Scotland) Bill

*followed by*

Stage 1 Debate on Organic Farming Targets (Scotland) Bill

*followed by*

Business Motion

2:30 pm

Question Time

3:10 pm

First Minister's Question Time

3:30 pm

Debate on Local Government Finance (Scotland) Order 2003

*followed by*

Parliamentary Bureau Motions

5:00 pm

Decision Time

*followed by*

Members' Business – debate on the subject of S1M-3765 Nicola Sturgeon: Removal of Thimerosal in Vaccines

Wednesday 12 February 2003

9:30 am

Time for Reflection

*followed by*

Parliamentary Bureau Motions

*followed by*

Scottish National Party Business

2:30 pm

Parliamentary Bureau Motions

*followed by*

Stage 3 of Protection of Children (Scotland) Bill

*followed by*

Executive Debate on Fisheries

*followed by*

Parliamentary Bureau Motions

7:00 pm

Decision Time

Thursday 13 February 2003

9:30 am

Justice 2 Committee Debate on its 4<sup>th</sup> Report 2003: Report on the Crown Office and Procurator Fiscal Service Inquiry

*followed by*

Enterprise and Lifelong Learning Committee Debate on its 1<sup>st</sup> Report 2003: Report on the Future of Tourism in Scotland

*followed by*

Business Motion

*followed by*

Members' Business

2:30 pm

Question Time

3:10 pm

First Minister's Question Time

3:30 pm

Stage 3 of the Budget (Scotland) (No.4) Bill

*followed by* Stage 1 on Salmon and Freshwater Fisheries (Consolidation) (Scotland) Bill

*followed by* Parliamentary Bureau Motions

5:00 pm Decision Time

*followed by* Members' Business

and (c) that the Justice 1 Committee reports to the Justice 2 Committee by 4 February 2003 on the draft Child Support Appeals (Jurisdiction of Courts) (Scotland) Order 2003, the Regulation of Investigatory Powers (Prescription of Offices, Ranks and Positions) (Scotland) Amendment Order 2003 and the Police and Police (Special Constables) (Scotland) Amendment Regulations 2003.—[*Euan Robson.*]

*Motion agreed to.*

## “Educating for Excellence”

**The Presiding Officer (Sir David Steel):** The next item of business is a statement by Cathy Jamieson on “Educating for Excellence: Choice and Opportunity”. Questions will follow the statement and I would be grateful if members who wish to ask questions would indicate that during the statement.

14:35

**The Minister for Education and Young People (Cathy Jamieson):** The national debate on education, in which more than 20,000 people took part, has given us the best opportunity in years to look at the future of schools in Scotland. We worked in a unique partnership with the Education, Culture and Sport Committee to share views with its parallel inquiry. Today, I am publishing the Executive’s response to the national debate, which consists of plans for excellence in education in Scotland—plans that have been designed to deliver a world-class education for all Scotland’s children.

Our vision is for every school to be a centre of excellence. I want young people to leave school with the skills, the attitudes and the expectations that they need to succeed in Scotland and in the world. Comprehensive education is no longer about one size that is supposed to fit all.

I want a comprehensive system that has excellent schools at the heart of local communities, and excellent teaching that prepares young people to go out into the world literate and numerate, confident, creative, responsible, ambitious, enterprising, considerate and motivated to learn throughout their lives. We can achieve that vision if we work in partnership to deliver three things: choice, opportunity and the highest standards in every school.

During the national debate, we heard repeatedly that the system must fit the child; the child must not be forced to fit the system. There must be choice for pupils if we are to meet their individual needs and ensure that every child reaches their full potential. We need choice in what children learn and in how they learn.

I have listened to the genuine concerns of parents, pupils and teachers about overload in the curriculum, especially at five-to-14 level. We will review and reform the school curriculum to make it more relevant, exciting and inspiring for pupils. We will decide which subjects and skills are needed to create a focused core of learning. Pupils need more choice in what they study around that core of learning. Pupils must have greater access to a wide range of choices, which should include vocational training, opportunities for music and arts, science, sports and languages.

The national debate also revealed concern about the amount of time that is spent on tests and exams. Assessment must be relevant to pupils, teachers and parents; it must inform learning, check progress and be credible. Although work on simplifying and reducing the amount of assessment at school is already well under way, I want to move on and look at more radical options. I am not convinced that all our young people need to sit exams every year from secondary 4 to secondary 6. We must have a simpler system, which does not have age and stage restrictions. We will reduce the number of tests and exams at primary and secondary schools and the amount of time that is spent on them.

Choice for pupils also means giving more control and flexibility to schools. We will give head teachers more control over budgets, so that they can decide how to use their resources to benefit their pupils.

In the classroom, schools need to be able to give their pupils the right attention from the right people. We will introduce new proposals to reduce class sizes and to improve pupil-teacher ratios. We will concentrate on critical stages, such as primary 7, secondary 1 and secondary 2, particularly in maths and English. We will increase the amount of small-group learning and will ensure that teachers work across primary and secondary schools to make the transition from primary to secondary school easier for pupils. Smaller classes at crucial stages and more flexible working will raise the standard of Scottish education.

Our plan is also about creating opportunity. To raise standards in Scottish education, we must also close the unacceptable opportunity gap for our children. The overwhelming response from the national debate was that we should keep our comprehensive schools. However, we must ensure that comprehensive education gives the best life chance to every single child and that it meets the needs of the 21<sup>st</sup> century rather than those of the 1970s.

Our starting point is to improve literacy and numeracy. Those skills are the basis of all learning and are essential throughout life. I know that progress has been made, but I am concerned that we must do more, especially for our most vulnerable and disadvantaged young people.

The current situation is simply not good enough. It is our most pressing problem, which we must tackle on all fronts. We will reduce class sizes at crucial stages, so that literacy and numeracy can get the attention that they deserve. We will review initial teacher education, so that new teachers have the training that they need to raise standards of literacy and numeracy. Let me be clear that literacy and numeracy will be at the heart of the revised curriculum. Above all, we will not tolerate

underperformance in literacy and numeracy. Schools that do not deliver in those key areas will not be allowed to continue to fail their pupils year on year.

I believe that opportunity must be for all children. Many parents of pupils with special educational needs are critical of our current arrangements. The additional support for learning bill, which is now out for consultation, will address those concerns. We will put children first. We will cut bureaucracy and bring together all services to support every pupil's learning needs.

Opportunity for children also means that there must be excellent discipline in schools. That is a major concern for parents, pupils and teachers, but it is also a major concern for me. We are implementing the recommendations of the discipline action plan and we will monitor progress rigorously to ensure that a real difference is made in the classroom. If further action is needed, I will not hesitate to take it.

Children must also be taught in school buildings that support excellent standards of teaching and learning. We will bring forward a new school estate strategy to provide school buildings with the right facilities, which must be well designed, well built, and flexible to meet future needs. Excellent school buildings, with the most modern equipment, are the most visible sign of the high standards of education that we want for Scotland.

We also want opportunity for parents. We will improve the information that parents receive. We will issue new national guidelines to ensure that parents get the really important and relevant information that they want about their children's progress at school, so that they can be fully involved in their children's education. We will review and reform the role of school boards and parent-teacher associations. We want every parent to be involved and to be able to help guide their children to make the most of the choices that we are creating.

Delivering real choice and opportunity means giving schools flexibility, but ensuring that they meet the highest possible standards. We will examine the outcomes that schools and education authorities deliver for their pupils in each of our national priorities in education. That will include looking at attainment, but it will not only be about creating league tables of exam results. It will be about looking at all of the work that schools do so as to ensure that they are working to all the national priorities. We need to make certain that pupils are getting the highest standard of education.

We will strengthen the role of inspection to give clearer and more frequent reports to parents. We will direct Her Majesty's Inspectorate of Education



to work with those schools that most need to improve.

We will consider what other powers might be needed to tackle consistent underperformance. We will offer local agreements for excellence by giving the most flexibility in funding to authorities and schools that deliver excellent outcomes for their pupils. I will not allow, and Scotland cannot afford, to have some schools lag behind, failing their pupils and failing Scotland.

In conclusion, I believe that Scottish schools can and must deliver a world-class education. I believe that every school can be a centre of excellence. I believe that every school must be a centre of excellence at the heart of its local community.

Today, I am publishing our plan for excellence in education in Scotland. We have had the debate and we have reported back the independent analysis of the views. Now is the time for action. The document is the Scottish Executive's work plan for schools and education authorities. Ultimately, the debate is about the people who contributed to the debate—parents, pupils, teachers and members of local communities across Scotland. Let me be clear. I will come back to the Parliament to seek wider powers if necessary. I believe that we can and will work together to deliver a world-class education for all Scotland's children.

**The Presiding Officer:** A large number of members want to ask questions. I do not think that we will get them all in; the number depends on brevity in both questions and answers.

**Michael Russell (South of Scotland) (SNP):** I thank the minister for providing a copy of the statement and document. I know that the minister is one of the best known vegans in Scotland, but I am tempted to open the questioning by asking, "Where's the beef?"

The document is vague and insubstantial. The minister's statement was vaguer and more insubstantial. It mixed the rhetoric of the past with opaque generalisations about the future. More cruelly, it is riddled with inconsistencies. In her statement, the minister said of literacy:

"The current situation is simply not good enough."

That is a statement with which everyone would agree. However, the document, which is meant to be the guidelines for education in Scotland, simply says that the Executive will

"Continue to implement current strategies for literacy and numeracy".

The current strategies have failed. The minister admits that, but the document does nothing about it. Such inconsistencies run throughout the document, on inspection and on other issues.

The most damaging thing in the Executive's response to the national debate is the complete refusal to accept the evidence from parents, all academics and all experiments world-wide that a reduction in class sizes in primary 1, 2 and 3 is the most significant investment. The refusal to acknowledge that, no matter how ideological the reason, is entirely wrong.

The minister said that she "will not tolerate underperformance". In the past four years her Administration has consistently underperformed on education. She goes on to state:

"schools which do not deliver ... will not be allowed to continue to fail their pupils".

Is it not about time that the minister and the Administration who have failed Scotland's pupils are not allowed to continue? Fortunately, the opportunity to stop them comes on 1 May.

**Cathy Jamieson:** I am disappointed that Mike Russell has attempted to make this a party-political issue.

The national debate involved people from right across Scotland. It involved young people, parents and teachers and we shared all the information that was collected in the debate with the Education, Culture and Sport Committee. We did that in a spirit of partnership and of trying to reach consensus about a way forward for Scottish education.

I do not agree with Mike Russell that there is nothing in the Executive's response that will advance the issue. It lays out a clear work plan and the priorities. It also allows us to continue the work that we have started with the education community, the young people in our schools, teachers, teachers' unions and associations and with parents and others.

I say to Mike Russell that if I had stood here today and had not addressed the problems of primary 7, secondary 1 and secondary 2—which people have known about for years—that would have been a disappointment. I have addressed those issues and I will continue to address them.

**Mr Brian Monteith (Mid Scotland and Fife) (Con):** I also thank the minister for providing an advance copy of her statement and the document "Educating for Excellence".

I too found the minister's statement profoundly disappointing. It tells us very little that we have not heard before and confirms that the debate was all about masking the coalition Government's lack of ideas about how to help our schools, teachers and pupils. The document is not a plan; it is a wish list with few ideas that could not be found in the Educational Institute of Scotland's guidebook for Labour politicians.

I have worries about one area. The minister's statement says:

"We will reduce the number of tests and exams at primary and secondary schools".

I have some information from answers to parliamentary questions. Let us consider the number of children who, by their second year in secondary school, are two years behind in attainment level. We find huge disparities between local authorities. In Clackmannanshire we find that in maths, 29 per cent of pupils in S2 are two years behind the necessary attainment levels, whereas in Perth and Kinross the level is 12 per cent. What will the minister do to remove that disparity? Do not the figures suggest to the minister, as they do to me, that some authorities are the problem, not the solution? How can the reduction in exams and tests help to improve pupils' performance, if it is those exams that expose the poor performance and allow teachers to take the necessary action?

**Cathy Jamieson:** I would be disappointed if Brian Monteith felt that it is not important to work with the EIS and all the other organisations that made a significant contribution to the national debate. I would also be disappointed if Brian Monteith thought that we should not involve teachers in the process of taking forward the actions that will follow on from the debate.

I wish to say something about attainment levels. Yes, Brian Monteith selectively quoted from a couple of local authorities, but the reality is that attainment levels have moved in the right direction. I have made it clear on numerous occasions that we still have a long way to go before I will be satisfied. On assessment, testing and exams, if Brian Monteith had listened to what parents, pupils, teachers and other educationists said during the national debate, he would know that it was agreed that it is important to streamline the assessment process and to make it fit for purpose, so that it genuinely informs pupils' learning and does not become an end in itself.

We have laid out a clear plan in "Educating for Excellence". We will continue to work with all the stakeholders who contributed to the debate to take excellence forward for every one of Scotland's children.

**Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD):** I welcome the minister's statement as a first step in taking forward the issues that were raised in the education debate. I am glad that the debate endorsed a comprehensive system that is not monolithic, but flexible and responsive to pupils' needs within an inclusive framework. I welcome the first steps for action. I am pleased by the promise to simplify the assessment process and exam system and to reduce the amount of time that is spent on tests

and exams. I welcome the commitment to devolve more financial control to head teachers and I am especially pleased that the curriculum will be reviewed.

Will the minister assure me that, although literacy and numeracy are rightly emphasised, the wider purposes of education will not be forgotten in the review? Will she indicate how and by whom the review will be carried out and how and when it will be implemented?

**Cathy Jamieson:** I am glad that Ian Jenkins feels that the responses that we have made today fit with the comments that were made during the national debate. The review of the curriculum is important. I hope that I have made it clear in my statement that we want to provide an opportunity to create a focused curriculum that will allow young people to get the best possible education in their early years and that will increasingly give young people choices to build on, perhaps in different ways. If people take the time to read "Educating for Excellence", they will see that we mention arts, culture and sport, as well as a whole range of other issues that we want to build in. They will also see the importance that is placed on the whole range of national priorities—education for life, vocational education and all the other issues that we want to continue to work on.

I envisage a clear role for Learning and Teaching Scotland and educationists, including many of the teachers who spoke to me. Those teachers clearly conveyed the need to review the five-to-14 curriculum; they were concerned that the curriculum is overloaded and is getting in the way of giving children the best possible educational experience. I do not want that situation to continue, which is why I have made a clear commitment on the matter today.

**Trish Godman (West Renfrewshire) (Lab):** I am sure that the minister agrees that parental involvement in education is extremely important, particularly today. How does she propose to enhance and encourage parental involvement in the education system?

**Cathy Jamieson:** Parents made it clear to us that there are a number of areas in which they want accurate information. They want the opportunity not necessarily to take over the running of schools—they want education authorities to do that well and they want educationists to their job—but to have correct information. They want to be able to help their children and young people to achieve as much as they can and to be involved in guiding them through choices in education.

The document outlines several measures. For example, we intend to introduce new national guidelines to ensure that parents know of the

information from and involvement in schools that they should expect. We will provide further information through a website and we will continue to ensure that Her Majesty's Inspectorate of Education provides information in a way that is of use to parents.

**Dennis Canavan (Falkirk West):** Whatever happened to the Labour party's commitment to replace or supplement league tables of raw examination results with additional information about schools' performance that would include a measure of added educational value, so that parents, teachers and the public would have a more informed and fairer assessment of the relative merits of schools?

**Cathy Jamieson:** I hope that I made it clear in my statement that, if we are to measure how good schools are, we must do so across the range of national priorities. People should know how schools and young people perform in examinations, but that is not the only measure of success. Schools should set their own improvement plans and we should take account of disadvantage and social circumstances in some areas. However, what is important is that schools should work to improve year on year and should be measured against similar schools.

**Karen Gillon (Clydesdale) (Lab):** I need more time to examine the details, as I have only just seen the document, but will the minister assure me that the review of the five-to-14 curriculum and the movement of specialist teachers will allow some of the key targets of the physical activity task force to be met? Those initiatives could bring problems to rural areas, where moving teachers between schools is not as easy as it is in urban areas. Will consideration be given to how that can be done?

**Cathy Jamieson:** I am happy to assure Karen Gillon that the framework that has been set out today acknowledges that several pieces of work are under way. If people take the time to read through the document, they will see that. The opportunity will exist to continue those pieces of work and to incorporate appropriate recommendations.

I am clear that we need to be more flexible in how we use specialist resources in teaching. Physical education is a good example of a relevant subject. We can provide the opportunity for PE or sports specialists to work across the primary and secondary sectors innovatively. I hope that people will consider that positive progress.

**Alex Neil (Central Scotland) (SNP):** I draw the minister's attention to the evidence from the University of Strathclyde's department of modern

languages for the Enterprise and Lifelong Learning Committee's recent lifelong learning inquiry that the levels of literacy among some students who went to the university were so poor that the university had to run remedial courses. Will the minister work with her colleague the Minister for Enterprise, Transport and Lifelong Learning to deal with that problem and the general problems of transition from school to post-school situations?

**Cathy Jamieson:** Alex Neil makes a good point about the need to ensure that literacy and numeracy strategies are in place. That is important for the transition not only into the world of further and higher education, but into the world of work. All transitions are important, including the move from nursery education to the primary sector, from the primary sector to the secondary sector and from the secondary sector to higher and further education. I have co-operated with my colleague Iain Gray on several of those areas and will continue to do so. I hope that we will see a much better fit between what goes on in school and what goes on in colleges and universities.

**Janis Hughes (Glasgow Rutherglen) (Lab):** I thank the minister for her statement. Unlike some members, I welcome the statement's positive tone. Will she outline how schools will assist children who would prefer to take the vocational education route?

**Cathy Jamieson:** Janis Hughes will be aware of the group that undertook the review of enterprise education, which my colleague Nicol Stephen chaired. That review group has reported and made several recommendations. We will consider how to develop them.

Young people, teachers and others who participated in the national debate on education made it clear that we need to increase the range of opportunities for young people to experience the world of work not only through a couple of days' work experience, but through a genuine crossover between colleges, workplaces and schools. I want to develop that as part of the review of the curriculum.

**Murdo Fraser (Mid Scotland and Fife) (Con):** I hope that the minister shares my concerns about a recent HMIE report, which showed that, in one Scottish secondary school in 2001 alone, one in five of the pupils were excluded at one point in the academic year. Does not that sort of failure point to the need for much more fundamental change in the system than the proposals that the minister announced in her statement? For example, should not the management of the school be taken away from a local authority that is manifestly failing pupils, parents and teachers?

**Cathy Jamieson:** Murdo Fraser raises a question about the number of young people who

are excluded from school. It is important to state that I do not believe that there is any place for violence or aggression in the classroom or school setting. Any discipline problems must be addressed quickly and effectively. However, we also have a duty and a responsibility to ensure that we educate all children and young people. That is why the discipline task group made recommendations about pupil support bases, which we continue to fund. I have to say that the Tory party did not welcome that funding, which it did not think appropriate.

**Mr Monteith** *indicated disagreement.*

**Cathy Jamieson:** Brian Monteith may shake his head, but his colleague said on the record that we were throwing money at the problem.

We have put in the money to ensure that there are additional support staff for pupil support bases. I have made it clear today that I expect local authorities to challenge schools that are not delivering. If those schools continue to be a problem, I will challenge the local authorities.

**Maureen Macmillan (Highlands and Islands) (Lab):** I was pleased to hear the minister's announcement about the first and second years of secondary school. Mathematics and English teachers in particular will be pleased about her announcement on smaller class sizes, which they have wanted for a long time.

The minister knows of my interest in Gaelic-medium education. As she did not mention the issue in her statement, will she say what plans she has for the future of Gaelic-medium education and how she sees it sitting in the strategy?

**Cathy Jamieson:** Obviously, it was not possible to mention everything in my statement, but I reassure Maureen Macmillan that she will find a reference to Gaelic in the document, where we make a commitment to

"Continue to support the training of Gaelic speaking student teachers."

We also make a commitment to continue to work on providing

"New national assessments in Gaelic",

including for Gaelic-medium education.

**Robin Harper (Lothians) (Green):** I want to return to a point that was made by Ian Jenkins. Will the Executive be making a commitment in the near future to outdoor education and education in the outdoors?

**Cathy Jamieson:** I am very aware of Robin Harper's interest in that area and in the wider area of environmental education. Those are exactly the kind of opportunities that we want to give young people. We will look at that as part of our review of

the curriculum. As I said in the statement, it is important that we give young people choices. We can give young people greater choices for outdoor education as part of the general work that schools are able to undertake.

**Karen Whitefield (Airdrie and Shotts) (Lab):** I am grateful to the minister for her comments about reducing the amount of assessments—that issue comes up time and again. Will she give the chamber more detail on how she intends to reduce the amount of assessments, which bog down teaching and school learning?

**Cathy Jamieson:** I suppose that I ought to declare an interest: I am the parent of a young person who is currently studying for higher. Although we have done a considerable amount of work to reduce the amount of assessment within the higher still exam system, I believe that we need to do further work. We will work closely with the teaching profession and the Scottish Qualifications Authority to ensure that we reduce the burden for young people and teachers.

**Irene McGugan (North-East Scotland) (SNP):** The emphasis in the statement was on choice and opportunity. Surely the flexibility that the minister seeks will not become a reality unless the system is relieved of the burden of certain initiatives, guidelines and targets. I am not clear about how that is to be achieved. Indeed, if I am not mistaken, the document creates additional initiatives. Will the minister expand on how the system will be simplified and freed up to allow for greater choice?

**Cathy Jamieson:** I do not agree that the document creates additional initiatives. It brings together a whole range of work that is already under way to ensure that we have a consistent plan for the next three to five to 10 years. As people will see when they look at the document, we have laid out how we propose to take things forward. We have given a commitment to cut bureaucracy. I went to schools to see teachers teaching in the classroom—that is what they should be doing. We will continue to provide support staff, as they have made a difference, particularly in the early years of primary school. There is nothing in the document that is inconsistent with the notion of cutting bureaucracy.

**Marilyn Livingstone (Kirkcaldy) (Lab):** Given the minister's recognition that smaller classes provide better support for students, does she have any proposals to reduce class sizes?

**Cathy Jamieson:** I made it clear in my statement that I believe that we can reduce class sizes in the areas in which we have found that young people need additional support. I also made it clear that a priority area on which I shall be making proposals is the transition between

primary and secondary schools. We must ensure that that transition is made as smooth as possible for pupils and that it includes the process of teachers working across both primary and secondary sectors.

**Elaine Smith (Coatbridge and Chryston) (Lab):** Given the changes to the comprehensive ethos elsewhere in the UK, does the minister believe that comprehensive education is the best way forward in Scotland? Will she give more details about the vocational training, as opposed to academic learning, that she mentioned?

**Cathy Jamieson:** Again, I made a commitment during my statement—it is also in the “Educating for Excellence” document—that I want to see excellent, comprehensive education that provides a wide range of opportunities to children and young people. Many schools and colleges already work to offer vocational choices for young people and I expect that to continue.

I make it clear that we are not talking about dividing up young people at an early stage by deciding who is fit to go into a particular area, such as vocational education. We are talking about providing choices for young people. Many young people who want to follow an academic career will also benefit from vocational opportunities during their school careers.

**The Presiding Officer:** I apologise to the eight members whom I have not been able to call, but I must protect the heavy business ahead, which includes the extra ministerial statement.

## Water Environment and Water Services (Scotland) Bill: Stage 3

15:07

**The Deputy Presiding Officer (Mr George Reid):** The next item of business is stage 3 consideration of the Water Environment and Water Services (Scotland) Bill. For the first part of the stage 3 proceedings, members should have copies of the bill as amended at stage 2; the marshalled list, which contains all the amendments selected for debate; and the groupings. The Presiding Officer has decided to allow an extended voting period of two minutes for the first division that occurs after the debate only at the end of group 1. Thereafter, following the practice that we adopted during stage 3 consideration of the Land Reform (Scotland) Bill, we shall allow one minute for the first division in each group. That will enable the chamber to make speed.

### Section 2—The general duties

**The Deputy Presiding Officer:** I call Allan Wilson to speak to and move amendment 1, which is grouped with amendments 2, 3, 29 and 84.

**The Deputy Minister for Environment and Rural Development (Allan Wilson):** Perhaps, for ease of reference, I should inform the chamber that Ross Finnie and I will speak alternately to sections. I will take the odd sections and Mr Finnie will take the even sections, with one exception.

I am grateful for the opportunity to speak in support of amendments 1, 2 and 3, which all bear on section 2 of the bill. Section 2 is important, as it sets out the general duties on Scottish ministers, the Scottish Environment Protection Agency and other responsible authorities under part 1. Where those public bodies exercise functions under part 1 or any other function that is specified under section 2(8), they must do so in such a way as to secure compliance with the requirements of the water framework directive. That is a very high-level duty, and the amendments that are before us are concerned with the three other duties that the bodies must take on board in its context. Amendments 1, 2 and 3 bring together those duties in one subsection to aid transparency and understanding. I will deal with the duties one by one.

First, we have the promotion of sustainable flood management. Members will recall that, at stage 2, we lodged an amendment to that effect, which is now included in the bill as section 2(4A). The amendment gained the unanimous support of the Transport and the Environment Committee.

Our amendments today place that duty beside the other duties that I will discuss presently, but they do not change its effect in any way. For that reason, I do not propose to rehearse at this stage the debate that we had on the issue at stage 2. The duty is an important and useful addition to the bill and I am confident that it will gain universal support once more. I will refer to that aspect of the amendment when I discuss amendments 29 and 84, in the names of Bruce Crawford and Nora Radcliffe respectively.

Secondly, amendment 1 deals with the duty to

“act in the way best calculated to contribute to the achievement of sustainable development”.

Scottish ministers, SEPA and the responsible authorities must do so as far as is consistent with the purposes of the relevant enactment or designated function in question.

Again, that fulfils our stage 2 commitment, which was sought by Des McNulty among others, to incorporate sustainable development in section 2 of the bill. Members of the Transport and the Environment Committee felt, rightly, that section 2 would be better balanced if an express reference to sustainable development were included beside the requirement to take account of the social and economic impact of the functions concerned. I am happy to fulfil that promise to the committee.

The final leg of amendment 1 deals with the promotion of an integrated approach; it replaces and amplifies the provision in section 2(5A) that was introduced at stage 2 by Robin Harper. I said at stage 2 that we would retain the spirit of Robin Harper's amendment, but that we would need to consider carefully its drafting. We have done so; an integrated approach remains and we have sought to provide clarity about what that means. As amendment 1 makes clear, such an approach is about ensuring that the various public authorities concerned work towards the common goal of protection of the water environment. I hope that Robin Harper and other members will agree that I have fulfilled my promise to the committee and the chamber with amendment 1.

Bruce Crawford's amendment 29 would require Scottish ministers to prepare a national strategy for flood management. Members of the Transport and the Environment Committee will be familiar with the argument, having rejected similar amendments at stage 2. I believe that the committee took the right decision in doing so. The Water Environment and Water Services (Scotland) Bill represents a significant step forward in the co-ordination of sustainable flood prevention measures in Scotland. The river basin management planning process will provide a forum for the discussion of flood-related issues at the catchment level—the most appropriate level at

which to consider those issues. That process will bring together local authorities, SEPA and Scottish Water, bodies that are integral to the success of any sustainable flood management strategy.

We introduced an amendment at stage 2 that made the link between flood management and the river basin management planning process much more explicit on the face of the bill. That amendment, to which I referred earlier, placed a duty on ministers, SEPA and responsible authorities to promote sustainable flood management where their functions under section 2 are relevant. For example, Scottish ministers will be required to promote sustainable flood management when considering grant applications for flood defence schemes. That requirement builds on the approach that has been adopted by the Executive in relation to sustainable flood management.

Local authorities will also be required to promote sustainable flood management when exercising their function under the town and country planning legislation, and they are already doing that. The Scottish Executive's planning policy, as set out in national planning policy guideline 7—on planning and flooding—says that development of an area that is exposed to frequent or extensive flooding, for example, the functional flood plain, is likely to be unsustainable and should be avoided. If development is essential, the threat of flooding should be managed in an environmentally sensitive way that recognises the role of soft engineering techniques—such as natural flood meadows and washlands—in attenuating flooding; where practical, the use of existing flood plains should be maximised. Those guidelines are clear.

The Water Environment and Water Services (Scotland) Bill inserts another important additional safeguard. In due course, the construction of flood defence schemes will require consent in terms of the new control regime on engineering works in and around bodies of water that is introduced under section 20. That is yet another means by which a sustainable approach to flood management is assured.

We need only examine recent schemes for evidence of that approach being put into practice. The Moredun flood prevention scheme in Paisley adds no new hard defences and relies entirely on attenuation measures. The Mains Burn flood prevention scheme in Linlithgow, which I visited comparatively recently, has no walls or embankments and relies on attenuation and channel improvements, including the restoration of an open watercourse. The Fraser Road flood prevention scheme in Aberdeen, which will open shortly, relies mainly on the provision of wetlands storage within Westburn Park. I could go on. Future schemes such as those at Portpatrick, at

the Water of Leith and on the White Car, will all include provision of storage reservoirs to reduce the scale of hard defences. I hope that it is clear to all members that significant steps have been taken, are being taken and will be taken towards addressing flood risk in Scotland in a more sustainable manner.

15:15

**Brian Fitzpatrick (Strathkelvin and Bearsden) (Lab):** The minister will be aware of the circumstances of parts of my constituency of Strathkelvin and Bearsden, which have been inundated twice in as many years. The problems there, which were numerous and diverse, included combination drainage, a problem with emergency responses and considerable confusion in relation to responsibilities and roles. There are also increasing problems in respect of securing and retaining insurance cover, not only for those who have been directly affected by flooding but for those who live in flood-affected areas. Will the minister give some better information on how those specific problems will be tackled?

**Allan Wilson:** We will discuss in some detail an important series of Executive amendments on sustainable urban drainage systems. Those amendments seek to integrate the work of Scottish Water, local authorities and the Scottish Executive in addressing urban flooding problems related to the sewerage infrastructure. That series of amendments will provide us with the opportunity to debate in detail the points raised by Mr Fitzpatrick and the Executive's response to those points.

The fault with amendment 29, in the name of Bruce Crawford, is that it seeks to deal with the myriad interests and issues—including sustainable urban drainage systems—that surround flooding in Scotland today in a bill that is, properly, focused on protecting and conserving our water environment. Of course, the interaction of river basin planning or catchment management and sustainable flood management is key, but it is something that we have got right in the bill because of our amendment to section 2.

However, that is not the only interaction. To solve Scotland's flooding problems, we need to consider a much wider range of issues than the bill is concerned with. For example, we must consider emergency response, which institutions are responsible for what, who should take the lead in the clean-up and what role the police and fire service will play. We must look at insurance cover—particularly low-cost insurance cover for poorer families—and emergency assistance to householders and businesses affected by flooding.

We must consider how information on flood risk is best constructed and how it is then

disseminated. As we made clear in the memorandum on flooding issues that we made available through the convener of the Transport and the Environment Committee last week, we are working towards the production of second-generation flood risk assessment maps. We must consider how those maps should best be made available and whether there is more that needs to be done. In addition, we must examine the existing legislation on flood prevention—the Flood Prevention (Scotland) Act 1961—and whether it needs to be improved.

**Dennis Canavan (Falkirk West):** Will the minister comment on the concerns of the Scottish Rugby Union and others about the repeated flooding problem in the Murrayfield area?

**Allan Wilson:** The problems in Murrayfield, or in any other parts of Scotland that are afflicted by flooding, should be approached in three ways under the Scottish Executive's existing strategy. We must raise awareness of the likelihood of flooding, take measures to address the flood prevention process and alleviate pressures on flooding through a catchment-based approach that involves local authorities across the catchment area, rather than where specific flooding occurs. Very often, the cause of flooding may be downstream or upstream of the site where flooding actually occurs. Taking a catchment-area approach is an integral part of the bill.

In that regard, I have argued consistently throughout the process that all those issues fit in with the work of the ad hoc group of ministers that was established towards the end of last year and which will report to Cabinet by the end of February. The existence of that group, which is chaired by Jim Wallace and on which I serve with a number of other ministers, is well known.

Bruce Crawford and others have argued that there is a need for better co-ordination across Scotland of the different flood interests that I have described, including, among others, the emergency services, local authorities, SEPA and Scottish Water. That is one of the issues that the ad hoc group is considering and on which it will produce recommendations.

Bruce Crawford and his colleagues have sniped from the sidelines and chattered about missed opportunities.

**Mrs Margaret Ewing (Moray) (SNP):** The minister referred to the ad hoc group of ministers. This week, Jim Wallace indicated to me in a reply to a parliamentary question that that group had met twice, that it is not taking evidence from witnesses and that a paper will go to the Cabinet in February. When will that paper come into the public domain?

**Allan Wilson:** I expect that the paper will be made public shortly after the Cabinet has considered and approved its contents. Everybody will then have the opportunity to approve its contents. I believe that the paper will be warmly welcomed, not least in the member's constituency, where the Executive has moved swiftly and effectively to address flooding problems. I witnessed those problems when I visited Moray.

The Executive has acted and not engaged in the kind of semantic debate that Bruce Crawford would like to have. We do not pretend, as Bruce Crawford does, that we can solve all our flooding problems through the bill—that is patently ridiculous. In contrast with what Bruce Crawford has proposed, we have a structure in place that will deliver effective change where it is needed. For all those reasons and many others besides, I ask members not to support amendment 29.

Amendment 84 is identical to amendment 95, which the Transport and the Environment Committee rejected at stage 2. I can only repeat the case that we made at stage 2 in the hope that the Parliament will similarly reject amendment 84.

Amendment 84 seeks to amend schedule 1. The amendment would require a summary of the programme of measures to be applied to achieve sustainable flood management to be included in the river basin management plan, but that is unnecessary. Paragraph 6 of schedule 1 already provides that a summary of the programme of measures designed to achieve the environmental objectives that are set under the bill will be included in the river basin management plan. Measures relating to sustainable flood management, which I have discussed, will be included where relevant. It would be inconsistent to list only the measures that are aimed at the sustainable management of flooding while omitting all the other measures—for example, the measures that are aimed at tackling pollution, which are absolutely central to protecting and conserving our water environment for future generations.

We are discussing an environmental bill. It is important that sustainable flood management is given its place within that bill, but it is only one aspect of a broadly based and important piece of environmental legislation that will protect and conserve our water bodies for future generations. I ask Nora Radcliffe not to move amendment 84.

I move amendment 1.

**Bruce Crawford (Mid Scotland and Fife) (SNP):** I acknowledge that the Executive has come a long way in improving the bill with respect to flood management. It is good that the Executive's amendments recognise the Transport and the Environment Committee's desire to

ensure that sustainable flood management and an integrated approach will be delivered.

In particular, amendment 1, in the name of Ross Finnie, is a positive contribution to the bill. However, while that amendment improves the bill, members will not be surprised to discover that I think that it does not go far enough in outlining ministers' specific responsibilities with regard to the preparation of a national flood strategy for Scotland. I hope that the minister accepts that I have been consistent in prosecuting the case for such a strategy.

Why do I continue to press that case? As I stated, the Executive's amendment 1 will improve matters. It will place in the bill words that should rightly appear in it, such as "sustainable" and "integrated". However, on their own, those words do not put in place a framework that will ensure that a strategic, focused and cohesive approach will be taken with regard to national policy and decision taking. Only if we place a duty on ministers to prepare and lay before the Parliament a national strategy for sustainable flood management will a strategic, focused and cohesive approach be achievable.

On 30 October 2002, Sarah Boyack stated in the chamber:

"The bill should set the framework for a coherent overview on flood prevention and management."

Des McNulty stated:

"I agree with some of Bruce Crawford's comments about flooding; for example, that we must have co-ordinated flood management systems. Indeed, we might well have to come up with a national flooding strategy"—[*Official Report*, 30 October 2002; c 14740, 14736-14737.]

Why did they support the concept of a national approach? They are concerned about the national overview and the fact that flood management will continue to be over-reliant on concrete flood defences and flood warnings.

The River Kelvin, for example, has its own flood protection system, but East Dunbartonshire Council has not consulted Glasgow City Council on areas where the river runs through Glasgow. That proves that there must be much more strategic thinking.

The minister used examples that involve grant schemes being run by local authorities. He misses the point that we should manage the process from the top, as well as use the bottom-up approach that is taken in the bill. If we are to avoid misery for householders and businesses, a much more proactive approach is needed. As WWF Scotland stated in its report "Turning the Tide on Flooding" in November 2002:

"With no national overview in Scotland, flood management is reduced to over-reliance on concrete defences and flood warnings."



WWF Scotland supports a national strategy because it recognises that only ministers have their hands on the levers of change that can make a substantial improvement to how Scotland deals with flooding. Only ministers can provide the policy overview that is required in agriculture, forestry, planning and industrial activity. Only ministers can effect real policy changes on land use through the issue of national planning guidelines. Only ministers can make the required changes to national policy in an integrated and cohesive manner and provide financial incentives to encourage the change from a hard, concrete approach to a softer, flood alleviation approach that works with flood plains and does not straitjacket them.

If ever there were an example of why that strategy is required, it can be seen in today's Executive press release in the name of Ross Finnie. The second last paragraph states:

"By incorporating a provision on sustainable flood management, we are reinforcing the existing approach whereby local authorities consider flood alleviation".

I do not think that the existing approach has worked very successfully.

The bill should be about people as much as about the environment. We must do all that we can to ensure that the miseries and hardships that are experienced by human beings as a result of flooding occurrences are kept to a minimum. New responsibilities are placed on SEPA, local authorities and others—that is proper—but Scottish ministers, as the strategic policy makers, should be required by statute to develop a national flooding strategy, to provide the leadership to drive forward the changes in national policy and to provide the funding mechanisms that are required.

The minister has made it plain that he will not accept amendment 29. I understand from the minister's comments that the ad hoc group on flooding—a group that is so important that it has met only twice in the past year—will report by the end of February. Will the minister, when he sums up, advise us whether the ad hoc group will give serious consideration to setting up a national flood action group?

As Scottish Environment LINK said in a briefing that we received this morning:

"In other areas where action is being taken to determine the best way forward there is a national overview group. In few areas can there be a more urgent need for such an action plan. Yet without a national group with an overview to design a route map for action across Scotland—there will be none."

Will the minister take that point on board today?

**Nora Radcliffe (Gordon) (LD):** Amendment 84 seeks to ensure that information relating to sustainable flood management measures will be

included in the river basin management plan. The amendment does not require direct action on flooding, but would ensure that the information about what is being done by bodies with responsibilities for various aspects of flooding is kept with, and as part of, the river basin plan. If the minister can assure me that that will happen, I will probably not move the amendment.

Amendments 1, 2 and 3 tidy up previous important amendments, which placed flood management and integration in the bill. I would welcome a ministerial assurance that integration will be not only preached but practised throughout Executive departments.

On amendment 29, I see the merit of a national overview of flood management, but a top-down approach is not appropriate. I would like something similar to the national waste strategy plan, which involved local authority waste plans being fed up to build the strategy. We need a similar bottom-up approach to flooding issues that recognises the local authorities' role.

15:30

**Sarah Boyack (Edinburgh Central) (Lab):** I welcome the Executive amendments in the group and the fact that they will strengthen the sustainable flood management approach. I also welcome the fact that an integrated approach to dealing with the issues will be flagged up and put in statute.

I want to flag up the renewable energy industry's concerns about the application of the bill to the development of hydroelectricity schemes. The industry is worried not only about new hydroelectricity schemes, but about the bill's potential impact on existing schemes. That is why I welcome the bill's commitment to sustainable development and to an integrated approach that cuts across Executive departments. We need clarity and an approach that brings together the key players, including the Scottish Environment Protection Agency, Scottish Natural Heritage and the renewables industry to discuss the bill's implications and how those players can work together under the water framework directive. The hydroelectricity industry is concerned that the bill might cut across existing developments by requiring new licences. We need an integrated approach.

The Executive's policies on climate change and renewable energy targets must also be recognised. The issues must be dealt with together and we must achieve the right balance and a consistent approach from SEPA, SNH and the Executive, so that everybody knows where they stand as the bill is implemented. Further evaluations and regulations will come from the bill

and it is important that the key players are involved in that.

I want to speak against amendment 29. Although I support fully Bruce Crawford's suggestion that there be a strategic approach and a national overview on flooding, I am not convinced that the bill is the right, or best, place to make such a commitment. I welcomed Allan Wilson's announcement before Christmas about the Cabinet sub-committee, which would be a far better vehicle for pursuit of that objective. We must broaden our approach to the issue; it is not purely about the water environment or natural flood defences as opposed to built flood defences. The bill is only a starting point and its provisions must be developed further. I welcome the amendments that were agreed to at stage 2, which strengthened the bill, but I want us to go an awful lot further. We must work with the insurance industry to look after the 170,000 people throughout Scotland who are at risk from flooding.

Today we will set a legislative framework, but we must ensure that action happens throughout Executive departments and the private sector. I would like the minister to commit to that. I welcome the minister's commitment—I do not know whether other members noticed it—to review and modernise the existing legislation on flooding, which is very old. We should consider the mechanisms that are in place to deal with coastal flooding.

**Fiona McLeod (West of Scotland) (SNP):** Will the member give way?

**Sarah Boyack:** No, thank you—I am in the final minute of my speech.

I want the sub-committee that Allan Wilson set up to pull together the issues and, after it has reported at the end of February, to supplement the legislative framework that we will put in place today through consideration of the existing legislation.

**Mrs Margaret Ewing:** Amendments 1 to 3 are broadly welcomed by the Parliament: I, too, welcome them. However, it will not surprise anyone if I speak in favour of amendment 29. As members know, Moray has suffered several floods recently, including one last November, which was a disaster. I am sure that the minister agrees that, during his visit there, we saw places that looked like war zones because people's possessions were in skips outside their houses. I have heard many people say that they will never go back to their houses because they have been flooded three or even five times.

Last Monday, I attended a meeting in Elgin town hall at which more than 400 people were present. I know that the Presiding Officer would rule me out of order if I repeated some of the comments that

were made at that meeting so, for the sake of propriety, I will not do so. However, there is great anger in areas where there is regular flooding. People feel that it takes a great deal of time to deal with the issues, which is why a national strategy is important.

During stage 1 consideration of the bill, the minister said that he favoured a national approach. He went on to discuss river basins, but added:

"that does not mean to say that we should not have a national strategy."—[*Official Report*, 30 October 2002; c 14755.]

Reasons for having a national strategy include the cost of examining the options that are available to local authorities in flood risk areas, and the time that it takes to examine those options and to reach appropriate decisions. If we had a national strategy, resources could be pooled to allow councils to help one another. I am sure that the lessons that are being learned in Moray might be of advantage elsewhere.

There is some urgency about the issue. No one has mentioned the European dimension, which I highlighted in a question to the First Minister soon after the floods in Moray. The First Minister promised that he would say in writing whether the Executive was making representations to the European Commission to secure funding to deal with flooding disasters, in addition to resources from the solidarity fund, which the European Union approved last September. There are resources available that could help us to introduce an effective national strategy to deal with flooding and to protect people.

The minister mentioned insurance. I understand that the Executive has not yet made contact directly with the Association of British Insurers, but many of the people who attended the meeting in Elgin on Monday asked what was happening to their premiums. They wonder whether they will get a payout and whether they will ever again be able to reinsure their domestic and business properties.

**John Scott (Ayr) (Con):** I declare my interest as a farmer.

The Conservative party welcomes amendment 1, which makes provision for the promotion of sustainable flood management. The lack of flood management provision in the bill as introduced was a glaring omission and we welcome the minister's acknowledgement of the Transport and the Environment Committee's position on the issue and on matters of integration.

I am attracted by amendment 29, in the name of Bruce Crawford, which calls for a national strategy for sustainable flood management to be developed. None of us knows how much global warming will increase the risk of flooding, but it is sensible to have in place a plan that will enable us

to cope. As I said in the stage 1 debate on the bill, if flood frequency and volumes increase significantly beyond the current normal flooding levels, there will be a need for more Government funding for specific river basin flood prevention schemes to be made available.

There will be competing demands on Government funding for such schemes. An appraisal process that allows us to evaluate the need for one project against another will need to be developed, and that can be achieved only if an overarching national flood plan or strategy is in place to begin with. That strategy should be created by SEPA or the Executive and implemented by local authorities, with financial assistance from the Government.

We must be prepared for the worst-case scenarios that Margaret Ewing described. For that reason, I welcome amendment 29.

**Robin Harper (Lothians) (Green):** I congratulate the Executive on responding to an amendment that I lodged during stage 2 and I thank it for doing so. The water meadow of my expectations has been gently flooded by the sagacity and wisdom of the Executive.

However, one stream runs slightly muddy. I would like the minister to explain exactly what the Executive means by the phrase "so far as practicable" in paragraph (c) of the proposed new subsection that amendment 1 would introduce. Can the Executive conceive of situations in which it would not be practicable for councils and other stakeholders to adopt an integrated approach and to co-operate with one another? Proposed subsection (c) is still a bit flimsy and requires explanation.

On Bruce Crawford's amendment 29, it is up to the Executive to tell us why we should not vote for that amendment, because I am disposed to vote for it. Margaret Ewing, in her remarks on corporation and finance, said that amendment 29 was sensible. I draw the minister's attention to my support for Sarah Boyack's point about building on the excellent work that coastal forums have done, particularly the Forth coastal forum.

**Bristow Muldoon (Livingston) (Lab):** First, it is important that we acknowledge that during the bill's passage the Executive paid considerable attention to measures that were called for by members of the Transport and the Environment Committee, groups outwith the Parliament and members of the Parliament. In particular, the amendments that the Executive lodged at stage 2 and the amendments to those amendments that the minister has lodged for today's debate were born of amendments that were initially lodged by my colleagues Des McNulty and Sarah Boyack. Credit goes to those members for introducing the

issues and to the Executive for responding positively to them. The Transport and the Environment Committee in its stage 1 report said that the bill should be an occasion for us to acknowledge the role of river basin management plans in addressing the problem of flooding.

I call on Bruce Crawford to reflect a bit more on what the minister said in his opening speech. The minister acknowledged that the amendments to which he spoke contained the power to promote sustainable flood management. He also drew attention to recent sustainable flood management measures that have been put in place and acknowledged that section 20 will introduce new powers that will require future schemes to gain consent for engineering works in and around bodies of water. A little acknowledgement of all those measures would be appreciated.

**Bruce Crawford:** I am grateful to Mr Muldoon for drawing my attention to that. Obviously, I heard clearly what the minister said, but I did not necessarily accept entirely his rationale for asking me not to move amendment 29. I draw Mr Muldoon's attention to this question: if it is appropriate for the Department for Environment, Food and Rural Affairs to have a national strategy for England, why is not it appropriate for the Scottish Executive to have a national strategy for Scotland?

**Bristow Muldoon:** It is remarkable that the SNP argues for identical policies to be adopted north and south of the border for every issue.

However, I draw Bruce Crawford's attention to the actions of the ad hoc group of ministers, which is considering arrangements for addressing flood risk, and how advice and support are provided to those who are at risk from, and affected by, flooding. I also draw his attention to the actions that have been taken on a second generation of flood risk maps, and to the fact that the ad hoc ministerial group is considering issues such as the operation of flood alerts, flood warning systems, and local authorities' duties and responsibilities. I do not think that it matters whether all that is called a strategy. It seems to me that a comprehensive set of policies is being put in place to address flood management in the future. The test will come when the ministerial group reports to Parliament; I am sure that we will consider the issue in due course.

Finally, the SNP would have a great deal more credibility on the issue if it were consistent. I draw members' attention to the fact that the Executive's ability to respond to flood emergencies is due largely to its use of resources from the contingency fund. The SNP, of course, would exhaust that fund in order to pursue its flagship policies, because it does not have the guts to propose raising taxes to pay for all of its policies.

**Robert Brown (Glasgow) (LD):** It has been welcome to hear around the chamber the tone of support for more effective flood management measures. No one should underestimate the distress and upset that flooding causes to individual households and families. I have had dealings with several different categories of flooding over the years. When I was a councillor in Rutherglen, we had serious flooding in the west end and Spittal areas of Rutherglen, which flooded many people from their houses. Those people often did not have insurance cover. There has also been flooding of the River Cart and more recent flooding in Shettleston in the east end of Glasgow, where I visited shortly after the flood had happened. The debris from flooding and the damage that is done to individuals' lives must be seen to be believed in such instances.

15:45

It is extremely important that we have effective public policies in place to prevent and alleviate flooding. I welcome the Executive's commitment to that, but success will be judged in due course by the measures' effectiveness—we must be sure that the measures that are proposed will do the trick.

I will lay one or two concerns before the Parliament. It is important that we consider the national and local aspects of the matter. Nora Radcliffe touched on that. The local river basin management plans must be the key; national strategies are all very well, but I am not one of those who has a huge belief in targets and strategies because, ultimately, it is what happens on the ground that counts. The focus must be on local strategies and on delivery in the local areas, specifically the river basins with which we are concerned.

In the case of the Clyde, we have a patchwork of local authorities up and down the river, from the city of Glasgow in the middle, to the various Lanarkshire, Renfrewshire and Dunbartonshire authorities. The Executive's policy has been to regard Glasgow City Council as the lead authority in the matter, to base its strategy around that and to view that as a partnership, but I have some scepticism as to whether that will work in the long term. I ask the minister to accept that, in future, it might be necessary to look for more effective mechanisms if the existing ones do not work. I was never especially a believer in the two-tier structure of local government, but there is no doubt that the abolition of the regional councils has left a strategic gap in many matters—flood control and water control being one.

I echo Robin Harper's comments on proposed paragraph (c) in amendment 1. That paragraph

makes the amendment fairly mealy-mouthed with its references to "so far as practicable", "co-operating with each other" and "co-ordinating". One struggles to find much meaning in that paragraph. I am not so concerned with legislation, because it sets the framework. Money, resources, co-operation and the way that things work are important. If the minister reassures us on some of those matters I, like Nora Radcliffe, envisage considerable movement forward and more effective dealings in matters such as those about which we have been talking.

**The Deputy Presiding Officer:** I call Alan Wilson to respond to the debate. You have 10 minutes, minister, and more if you want.

**Members:** No!

**Allan Wilson:** There are cries of "No!" from the back. I will take considerably less time than that, and, I hope, secure consensus that the approach that we have adopted is the correct one.

As Bruce Crawford, John Scott and Robin Harper know, it is not the case that we do not have a strategy per se, because we do—I referred to it in my opening remarks. It is also not the case that that strategy cannot be improved or better co-ordinated: it can. We set up the ad hoc Cabinet committee on flooding to consider that and, contrary to the suggestion from some quarters, we have taken evidence. Part of that evidence has suggested that we might wish to consider a national forum on flood management of the type that amendment 29 envisages.

**Mrs Margaret Ewing** *rose—*

**Allan Wilson:** If Margaret Ewing does not mind, I will let her intervene later.

My point is simply that the bill is not the appropriate vehicle through which to introduce such a forum. My argument is based on the points that Margaret Ewing made, ostensibly in support of amendment 29, but which actually underpin my argument.

In the bill, which is about protecting and conserving our water environment, we can certainly consider sustainable flood management in a riverine context or an urban context in terms of sustainable urban drainage. The wider impact of flood management includes the provision of low-cost insurance for poorer people and the response of the emergency services in life-threatening circumstances in the aftermath of or during a flood, when they are protecting life and limb and are not simply trying to secure property and possessions. To take in the whole range of responses across the departments, including the Department for Work and Pensions and other responsible Whitehall departments, is an argument for an all-embracing strategy that would

be beyond the bill's scope. That is my simple point, which I believe stands up to scrutiny.

**Mrs Ewing:** I have asked several written questions about the ad hoc committee. I have asked from whom that committee was taking evidence and the reply has always been, "We do not intend to take evidence." I would have thought that evidence should have been taken from local authorities and the relevant organisations in many areas.

On low-cost insurance, following the 1997 floods, the SNP Moray Council introduced low-cost insurance whereby people could pay a small amount alongside their rent to ensure that they had cover. That is a good scheme that could be pooled for the benefit of the country.

**Allan Wilson:** There is no easy way to say this, but Margaret Ewing is wrong on two counts. The sub-committee has taken evidence from the Convention of Scottish Local Authorities which, among others, has made a number of important contributions to the process. It is simply not true that we have not had meetings with the Association of British Insurers. We continue to have meetings with that association, which we met most recently in December last year. It is not true that the Cabinet sub-committee is divorced from everything else that is going on in relation to flood management, the response of emergency services and the important issue of insurance, particularly for poorer families. It is important that I nail that myth.

Similarly, the measures in the bill that promote sustainable flood management will give the very powers that Bruce Crawford seeks in relation to the new national river basin management planning process. They will bring together all the relevant players from Scottish Water, SEPA, COSLA and everybody else who has an interest in sustainable flood management, such as the Forestry Commission and the non-governmental organisations to which Robert Brown referred.

The planning process is in place, not just nationally but at a catchment level, which addresses Robert Brown's question on how we will bring together local authorities on a catchment-area basis. That is precisely what we will do at sub-river basin management planning level. In giving SEPA the lead, we will ensure that the circumstances to which Bruce Crawford referred—whereby there is no dialogue between Glasgow City Council, East Dunbartonshire Council and any other council, for that matter—will no longer exist. The discussions and debates will be able to take place at that level.

**Robert Brown:** I accept the minister's assurances in that regard. However, does he accept that the slightly narrow viewpoint of any

individual council can sometimes be a deterrent in implementing the necessary measures on a bigger scale? I wonder whether the partnership approach is quite enough in that context.

**Allan Wilson:** I accept that. By giving SEPA lead responsibility in the process and—which is important—giving it consent powers under section 20, we have the provision to bang together the necessary heads at local authority level to ensure that the problem is addressed on a catchment basis. That way, problems that are caused upstream or downstream can be taken into account in the engineering process.

I give Nora Radcliffe and Robin Harper the requisite reassurance that they sought on integration. Robin Harper asked about the phrase "so far as practicable". That phrase applies specifically in relation to planning. As he knows, the local authority's role is to decide on initial or individual applications. Scottish ministers, rightly, will have a different role subsequently in relation to laying down regulations and standards for the applications and perhaps considering appeals. It is not always the case that the two roles will coincide.

I turn to the important points that Sarah Boyack made on hydroelectricity. We are aware of concerns that have been raised by Scottish and Southern Energy plc and others that certain aspects of the bill will threaten our renewable energy targets. We have had extensive discussions, which we will continue.

We have a tremendous renewable energy resource, to which hydroelectricity makes a significant contribution. If a particular water body meets the criteria for derogation as a heavily modified water body, objectives that do not compromise the social, environmental and economic benefits of modification can be set. Members should remember that we are talking about an enabling measure. The bill will not threaten our important drive for more renewable energy.

Only this morning, I met the chairman of the Scottish Coastal Forum and discussed the prospect of developing throughout Scotland a more strategic approach to coastal zone management within the European context. I expect great things from that development.

I ask Bruce Crawford not to move amendment 29. If he is unwilling not to move it, I invite members to reject it.

*Amendment 1 agreed to.*

*Amendments 2 and 3 moved—[Allan Wilson]—and agreed to.*

### Section 3—The water environment: definitions

**The Deputy Presiding Officer:** Amendment 4 is grouped with amendments 6, 7 and 17 to 23 inclusive. I ask members who are leaving to keep the noise down.

**The Minister for Environment and Rural Development (Ross Finnie):** At stage 2, the Transport and the Environment Committee agreed to a number of amendments that gave the protection of wetlands a more prominent and explicit place in the bill. Although we fully accept the thrust of those amendments, we believe that, on balance, the definition of “wetlands” that was inserted at stage 2 is too wide. It suggests that almost any piece of wet land in Scotland could constitute a wetland. We highlighted that issue at stage 2 and pledged to return to it at stage 3.

Amendment 4 seeks to refine the definition of “wetland” in the bill to clarify that a wetland is

“directly dependent, with regard to its water needs, on a body of groundwater or a body of surface water”.

That would make it clear that a wetland is not simply any piece of land that spends some time under water.

A number of the other Executive amendments in the group would remove drafting irregularities that were introduced by amendments at stage 2. Amendment 6 would delete a non-Executive amendment to section 4(2) that added surface water and wetlands to the component parts of a river basin district. That amendment was unnecessary, given that the definition of a river basin already comprised all inland surface waters and areas of land from which all surface water run-off flows. Wetlands were included in that definition.

Amendment 7 deals with a non-Executive amendment that amended section 4(3). Section 4(3) clarifies the situation relating to the allocation of groundwater bodies or bodies of coastal waters to the appropriate river basin district. The reference to surface water that was inserted is unnecessary, too. As a result of the definition of “river basin district” that is given in section 4(2) and the definition of “river basin” that is given in section 25, it will be clear in all cases to which river basin district surface water belongs. The reference to wetlands is also unnecessary, as wetlands will naturally fall into the same river basin district as the body of water on which they are directly dependent.

Amendment 17 seeks to reinstate the original wording of section 20(3)(b). It is clear that abstractions from bodies of surface water or groundwater will not be allowed to damage the condition of the wetlands that are dependent on those bodies of water. Therefore, the stage 2 amendment that substituted the reference to

abstraction from the water environment for the original wording was unnecessary and, rather than clarify the bill, served to obscure it.

Amendment 20 is consequential to amendment 17 and would tighten the definition of “abstraction” to bring it into line with the change that is suggested by amendment 17.

16:00

Amendment 18 is another amendment that would reverse changes introduced by amendment at stage 2. Section 20(3)(c) as introduced allowed for regulations to be made concerning the construction, alteration or operation of impounding works in bodies of surface water. The stage 2 amendment attempted to widen that power to allow regulations to control impoundments in groundwaters and wetlands by referring to “the water environment” rather than “bodies of surface water”. We can foresee no circumstances in which impounding groundwater or the water in wetlands is possible. Amendment 18 would therefore reinstate the original wording. Members should be reassured that regulations will take account of the impact of impoundments of surface water bodies on wetlands.

Amendment 21, which is consequential to amendment 18, would clarify that the definition of “impounding works” relates to a body of surface water.

Amendment 19 would similarly tighten up the wording that was introduced by amendment at stage 2. Section 20(3)(d) as amended allows for regulations to control

“building, engineering or other works in, or in the vicinity of, the water environment”.

Again, that is unnecessary. Amendment 19 would reinstate the original wording of section 20(3)(d), so that regulations would apply to

“building, engineering or other works in, or in the vicinity of, any body of inland surface water”.

The bill is about the effective protection of the water environment. We do not want to get into a situation in which we needlessly duplicate powers to control engineering works at sea, for example.

Amendment 22 would make it clear that the definition of “pollution” relates to “the water environment”, and not simply to “surface water or groundwater”. Therefore, pollution of wetlands would also be covered. The amendment responds to a series of related amendments that were agreed to at stage 2.

Amendment 23, which is consequential to amendment 22, would insert further wording to clarify that the definition of “pollution” means the harmful introduction of substances by humans to the water environment, which includes wetlands.

I move amendment 4.

**Fiona McLeod:** I welcome the fact that the Executive has recognised and accepted the importance that the committee placed on wetlands. I also welcome the fact that the Executive has recognised that we were looking for integration of activities across sectors.

I want to question the minister on amendments 17, 19, 20 and 21. I seek not so much direct answers as assurances about those amendments, which would change the bill as amended at stage 2.

On amendments 17, 20 and 21, will the minister assure us that his proposed changes would still protect wetlands? In particular, would amendment 17 protect wetlands from being drained or affected by the activities of others vis-à-vis abstraction and impounding upstream? In mentioning the impact of impoundments on wetlands, the minister said that his amendments would guarantee that wetlands would be protected. I ask the minister to explain that a little bit further, as I was not quite reassured from his opening remarks that impounding and abstraction activities would not affect wetlands. Therefore, I am not sure that we should remove the wording that protects wetlands.

I am much more concerned about amendment 19. I hope that I am not the only person who did not understand the minister's explanation of why we need the amendment. If we were to agree to amendment 19, we would lose the objective of integration, from river all the way through to coastal waters. The definition of "water environment" includes transitional waters, inland waters and coastal waters. Given that definition, why does amendment 19 appear to seek to chop the river away from its coastal connection to the sea? We need a bit more detail on that.

**John Scott:** With the possible exception of amendment 19, on which I may agree with Fiona McLeod, I am inclined to support the minister's position on the amendments in group 2.

I take the view that it is unnecessary to broaden the scope of the bill to include wetlands in every definition. We have heard the minister's explanations that including wetlands would extend the scope of the bill—its provisions would cover not 2 per cent but 9 per cent of Scotland's landmass. Those figures were given at stage 2 when he asserted that SNH supported the Executive's position, and that there is no European legislative requirement to extend to wetlands the protection afforded to rivers, lochs and coastal waters.

The characterisation costs of such an extension of scope would be significant and unnecessary, given the protection already afforded under existing directives, legislation and designations.

Pursuing the inclusion of wetlands significantly beyond the scope of the bill as introduced would gold-plate the bill unnecessarily. That, combined with the huge costs involved, leaves us largely supporting the Executive's position and its amendments in this group.

However, we also have reservations about amendment 19. I seek a reassurance that the effect of that amendment would not be wholly negative and leave coastal protection out of the overall integrated approach that we were hoping to take.

**Nora Radcliffe:** Amendment 4 would tighten up the definition of wetlands. I have no problem with that.

On amendments 6 and 7, I can accept that the references to surface water and wetlands should be removed because they would naturally be included in the characterisation of a river basin, whereas a body of groundwater might underlie more than one river basin, and a body of coastal water is adjacent to and not part of a river basin.

Amendment 17 refers to abstraction and I can accept that it is not likely that people will abstract from wetlands, although I am concerned about collateral damage if abstraction were to occur elsewhere. Amendment 18 refers to impounding and it is fair enough to say that that is likely to apply only to surface water. Amendments 20 and 21 are consequential to amendment 18.

I welcome amendments 22 and 23 because they would give a wider definition. However, I too have a lot of difficulty with amendment 19. It seems to me that building, engineering or other works could impinge on any part of the water environment. It is therefore quite important to keep that wider definition in the bill. I do not understand why we would want to limit powers to regulate the inland surface water environment only.

I reiterate Fiona McLeod's point that coastal waters would be excluded if we agreed to amendment 19. That could mean that coastal flood defences could be built that could lead to erosion further along the coast or without consideration for provision of inland flood management. Agreeing to amendment 19 would not allow us to fulfil the holistic and integrated ethos of the bill.

**Bristow Muldoon:** I welcome amendment 4, which seeks to introduce a new definition of wetlands. I was one of the committee members who was concerned that the amendment that had been lodged—with the best of intentions—at stage 2 broadened the definition of wetlands too far to include areas of ground that were prone to frequent inundation or saturation by water. Many of us felt that that definition could be far too broad. Certainly, it would have covered my local golf

course for most of last year, as well as many other parts of Scotland that I do not think are intended to be brought within the ambit of the bill.

I, too, want to ask the minister about amendment 19. The bill's ambit is intended to include coastal waters up to a 3-mile limit. I acknowledge that the minister said that the intention behind amendment 19 was to avoid duplicating other legislation that controls development in such areas. When he responds to the debate, I ask him to clarify which measure would be thus duplicated. Was consideration given to repealing the relevant parts of those measures to ensure that the entire bill is consistent in protecting coastal waters in the same way as it will protect all other aspects of the water environment?

**Mrs Margaret Ewing:** In speaking to this group of amendments, I will echo some of the points that have been raised about amendment 19, which certainly gives me cause for concern. I want to concentrate on some general questions that have been put to me on the water environment as defined in the bill—I want to obtain the answers from the minister.

The policy memorandum, which I have read carefully, refers to improving environmental aspects, but it does not mention the infrastructure requirements. There is a need to clarify the control mechanism that may be imposed because, on the whole, local authorities will take on responsibility for that. There is also a need to clarify whether improvements may be necessary to existing arrangements to enhance the quality of delivery.

The bill's accompanying documents do not go into great detail, but the reference in paragraph 57 of the policy memorandum to "Water Resources Management Strategies"—which are part and parcel of group 2, because they involve the regulation and control of the abstraction and impoundment of water—should be clarified. Can the minister advise whether those strategies will be additional to existing requirements to promote a scheme using the flood prevention order mechanism that is conferred by the Flood Prevention (Scotland) Act 1961?

It would be helpful if the minister would address those important points. If he does not feel that he can do so immediately, he could write to me about them. However, I would like him to clarify them during this discussion.

**Maureen Macmillan (Highlands and Islands) (Lab):** I welcome the inclusion of wetlands in the definition of "water environment" when those wetlands are directly dependent on a body of groundwater or surface water, such as a river. As Bristow Muldoon said, had it been otherwise, there would have been a danger of the whole country being included in wetlands at some time or other.

Transport and the Environment Committee members were impressed by their visit to Insh marshes in Strathspey, which was hosted by RSPB Scotland. The Insh marshes are part of the flood plain of the River Spey and are an important haven for wildlife. What is more, if the Spey were constrained from flooding at the Insh marshes, flooding would probably occur in Aviemore. Therefore, the marshes play a natural part in flood control.

I urge the Executive to investigate how flood plains can be restored over time to their former natural use where they have been changed by farming practices, and to examine how the environment and rural affairs department can support the farmers and crofters who manage those lands as wetlands, with consequent advantages for flood control and wildlife.

I have previously asked the Minister for Environment and Rural Development if land management contracts could play a part in integrating good environmental stewardship by farmers with water environment requirements. Has he given any further thought to that suggestion?

**Ross Finnie:** A number of interesting points were raised in the course of the debate on this group of amendments.

On amendment 17, about which clarification was sought, we have to be clear that we must not allow abstractions to damage the condition of wetlands that are dependent on bodies of surface water or groundwater. It is also clear that the effect on all bodies of water, including wetlands, will have to be taken into account in granting any licences.

Some members raised concerns as to whether amendment 19 might exclude a number of coastal and transitional waters and estuaries that otherwise form an integral part of the bill. I apologise to members if I did not make sufficiently clear the fact that the Food and Environment Protection Act 1985 already controls engineering works in such excluded waters. In Scotland, controls currently extend in the Tay as far as Perth, so there are already controls to take care of those specific activities. Amendment 19 would cover the area that is not controlled.

**Fiona McLeod:** As Bristow Muldoon said, the minister referred to other pieces of legislation that will cover those waters, but will they be reviewed in light of the bill—which we will pass today—if it is necessary to do so to achieve its objective of integration?

16:15

**Ross Finnie:** Yes. I am grateful for Fiona McLeod's constructive remark. We all understood the enormous scope of the bill—particularly during



stage 2—and therefore the difficulties in being clear. Members are unanimous about that integrated approach and although the controls exist in the 1985 act, I am most anxious to ensure that the degree of integration to which she refers is achieved.

**John Scott:** It has been put to me that the legislation that governs the matters under discussion is almost out of date and does not provide for the consultation that is part of the bill. In that sense, the existing legislation is not as modern as the bill. Will the minister reassure us about that?

**Ross Finnie:** I will respond to both Fiona McLeod and John Scott. We must remember that the bill is enabling legislation, so the Parliament will have the ability to develop the concept over a long time scale. For once, we are way ahead on implementing an essential and important European directive. Therefore, I can give the assurance that was requested.

In response to the questions that were asked by Margaret Bain—[MEMBERS: “Margaret Ewing.”]—my apologies. Dearie me—that is quite alarming. I think that I will write to Margaret Ewing to apologise and to respond to her questions.

That takes me neatly on to Maureen Macmillan’s questions on land management contracts. I am becoming worried that such contracts will be seen as the sort of everything. As I said, the bill is enabling legislation, and it will be important for us to consider all aspects. The thrust of the bill is having an impact on all the Executive’s thinking about taking a more integrated approach to our environmental considerations and to activities that have an impact on the agri-environment. I hope that I have responded to all the points, which I will pursue.

**Fiona McLeod:** I return to amendment 19. Until the minister answered John Scott, I thought that we were getting somewhere. We know that the bill is about integration and achieving through consultation, but to ensure that we can agree to amendment 19, will the minister assure us that the acts to which he referred will be re-examined, in a consultative manner, in the light of the bill as an integratory measure?

**Ross Finnie:** Absolutely. I am in no doubt that if any amendment is required, that will be because of the different approach and requirements in the bill. The drive for any change will come from the bill, so the approach will be appropriate to that.

*Amendment 4 agreed to.*

**The Deputy Presiding Officer:** Amendment 5 is grouped with amendments 8 to 15, and amendment 25.

**Allan Wilson:** I am pleased to speak to amendment 5, which deals with the important

issues of publicity for and participation in river basin planning.

Amendments 11 and 12 will add new subparagraphs to section 11(5) and provide that SEPA must take such steps as it thinks fit to encourage the persons who are listed in subsection (6) to participate appropriately in preparing the river basin management plan.

Amendment 12 is a consequential amendment and specifies that the persons who are to be consulted are those who are referred to in section 11(5)(c), which says that consultees are listed in subsection (6). Amendments 11 and 12 are important in so far as they fulfil another commitment that I made at stage 2 to strengthen the provisions in the bill for actively involving people in the management of our unique and precious water environment.

At stage 2, members of the Transport and the Environment Committee made it clear that traditional reactive consultation was not good enough for river basin management planning. The committee said that the protection of our rivers, lochs, coastal waters and groundwater is too important to leave to a simple consultation process. I agree, which is why the Executive has lodged its amendments in this grouping.

The amendments require SEPA to be proactive in encouraging those with an interest in the water environment to be proactive in the river basin planning process. I am confident that the Executive amendments will secure widespread support in the chamber.

Amendments 10 and 13 to 15 represent our response to the committee’s desire to make greater provision in the bill for measures that will increase public awareness of and participation in the river basin management process. They address issues that were raised and amendments that were lodged by Des McNulty, which I accepted in principle at stage 2, and fulfil a promise that I made at that stage.

Amendment 10 ensures that, when publishing the statement, summary or draft plan that is required under section 11, SEPA must publicise that it has done so. It must also publicise the arrangements for making copies of the document available for public inspection, and the opportunity to make representations to SEPA about the document.

Amendment 13 introduces new duties on SEPA where it is required to publicise any matter relating to river basin management plans under sections 11, 12 or 13. SEPA will be required to do so by means of a notice placed in at least one national newspaper and in such local newspapers circulating in the river basin district as SEPA thinks fit. Amendment 13 also allows for publicity to be

disseminated by electronic means, which I believe is an important addition to Des McNulty's stage 2 amendment, which contained no reference to dissemination by electronic methods.

Amendment 14 ensures that when a river basin management plan is submitted for approval to Scottish ministers, SEPA must publicise its arrangements for making such documents available for public inspection. Amendment 15 is similar, and ensures that when Scottish ministers approve a river basin management plan, SEPA must publicise the fact and the arrangements for making copies of the plan available for public inspection.

At stage 2, Fiona McLeod withdrew amendment 156 in response to my commitment to come back at stage 3 with a suitably worded Executive amendment that would ensure the fullest possible access to the information that will be produced to support river basin planning. I hope that Fiona McLeod agrees that amendment 25 fulfils the commitment that I made. Members may have seen the letter I wrote to her about the amendment, which I copied to the convener of the Transport and the Environment Committee.

Amendment 25 requires that, as a very minimum, documents be made available in print and electronically. The amendment also allows the information to be made available

"by such other means, or in such other formats"

as is thought to be

"fit for the purpose of encouraging the inspection of it by members of the public."

I am sure that Fiona McLeod will agree that that addition is important. It requires SEPA to be creative in ensuring that those who wish to participate in river basin planning are given the information that they need to be involved in the most effective manner and in the format that is most suitable to them.

The provision in amendment 25 for SEPA to make available documents "by such other means" is important in that context. It means that, when maps or diagrams, which—as members can imagine—are very important to the process, are not easily transferable to formats such as audio or Braille whose use is designed to encourage inspection by people whose hearing or sight is impaired, SEPA will be expected to arrange for a member of staff to talk through the plans at SEPA offices or over the telephone. The Equal Opportunities Committee asked us to include that provision in the bill. I am happy to be able to do so through amendment 25.

Amendments 5, 8 and 9 tidy up inconsistencies in the drafting of the bill in relation to whether maps and other documents are kept available or

made available, which is an important distinction. The bill will include references to requirements for documents to be both kept and made available for public inspection. There is no real difference in intention, but we should be consistent, and I propose that "make" is the better term to use. The amendments change the wording in the bill accordingly from "keep" to "make".

I move amendment 5.

**Fiona McLeod:** Again, the SNP and the committee must acknowledge the consideration that the Executive has shown in listening to what we have said.

I shall briefly address amendments 13 and 25. Proposed section 11(10)(a)(ii) states that SEPA should publish a notice in a local newspaper circulating in the river basin district. Perhaps it would have been more appropriate to refer to the sub-basin area, as the river basin district covers the whole of Scotland. However, I appreciate that the minister has taken our thoughts on board.

In relation to amendment 25, I give my personal thanks for the letter, and for the consultation in which we have been involved. However, I have another slight suggestion. Paragraph (b) of the proposed new section states that the information is to be provided in such other formats as the organisation thinks fit. I suggest that that needs more to back it up, perhaps some guidelines.

I welcomed the minister's comments this afternoon that SEPA would have to provide someone to talk through and explain information, but I should like to see guidelines to support that. The reason why I ask for that is that I hope that we will get some imaginative solutions, rather than the standards ones, to providing information in a variety of formats. I have been thinking about information being provided to a specific group of users who may want to consider a particular aspect of the plans. It also strikes me—the minister will not be surprised to hear this—that the guidelines could suggest that when organisations consult and hold informative evenings about the plans, they should think about how they provide audio assistance to members of the audience. As members know, I often have to wear headphones to pick up information. If there were guidelines, that point would be drawn to the attention of all those involved.

I thank the minister for moving the amendment.

**John Scott:** Group 3 amendments provide for better record keeping, mapping and consultation, and for making information that has been gathered or consulted upon available and accessible to the public.

Although I generally welcome this group of amendments, I especially welcome amendment

11, which further encourages consultation in the development of river basin management plans. I refer in particular to rural industries and forestry and mining interests, which will be affected most by the costs of the bill. It is vital that those interests are included in any consultation.

**Nora Radcliffe:** I generally welcome this group of amendments. A distinctive element of the water framework directive is its requirement for active participation, and these sections of the bill and this group of amendments make it clear that we are serious about fulfilling that requirement. I should also say that, in framing the amendments to find a good way of meeting that aim, we have been greatly helped by Fiona McLeod's expertise in information dissemination.

**Sarah Boyack:** Like other members, I welcome these amendments, which deliver greater transparency and allow people to be more involved in river basin management planning. Given the scope of such work, there must be wide consultation of NGOs, individual members of the public, businesses and statutory organisations. The last thing we want is for people to find out about the process once it has finished and they are unable to make any meaningful contribution.

As the creation of river basin management plans will no doubt give rise to some difficult, long-term and even controversial issues, it is important that they are disseminated widely. I welcome the use of electronic means, especially the internet, in that respect and we must advertise where people will be able to access such facilities. People will find the ability to call up documents and colourful maps and to click on their particular area incredibly useful as it will allow them to find out what options are available and make it easier for them to access information.

16:30

I hope that, when SEPA consults as part of the further work to be done after the bill is enacted, it will take imaginative approaches, such as using map designs that will be easy for people to navigate. I hope that that will make it easy for people to see the impact there will be on their area, rather than having to look at a map of the whole of Scotland. It is possible to design such maps.

If there had been a huge controversy in the chamber today, the issue would have got into the newspapers. The fact that we have all felt since stage 2 that the issue needed to be addressed means that there is support throughout the chamber. The challenge is to get people to take part in the discussions and to take part in the long-term changes that must come from the new strategies for river basins.

**Allan Wilson:** I firmly believe that we live in an information age. One of the things that the Parliament has got right—there are other things that people might argue we have got wrong—is our ability to disseminate information electronically to the widest possible audience. I would like that process to extend beyond the Executive to its agencies. SEPA, as our environmental protection agency, is a key player in information dissemination. I accept Fiona McLeod's helpful suggestion that we should consider providing guidelines to SEPA about how that process will operate.

As I said in relation to river basin district planning, we will expect notices to be published in at least one national newspaper, but also in such local newspapers in the river basin district or sub-river basin district as SEPA sees fit. I concede that there is a role for guidelines in elaborating on that. I assure members that we will take on board and incorporate in the SEPA guidelines the points that have been made about the dissemination of maps and we will ensure that the best possible format is used to enable disabled colleagues to access the information in concert with able-bodied colleagues. We want to ensure the transparency of the process and the widest possible dissemination of information.

*Amendment 5 agreed to.*

#### **Section 4—Establishment of river basin districts**

*Amendments 6 to 8 moved—[Ross Finnie]—and agreed to.*

#### **Section 5—Characterisation of river basin districts**

**The Deputy Presiding Officer:** Amendment 82 is in a group on its own.

**John Scott:** Amendment 82 seeks recognition of the impact of river basin characterisation on planning and human activity.

As section 5(2)(b) seeks to assess

“the impact of human activity on the status of the water environment”,

it is reasonable to review the impact that river basin planning and flood management planning might have on human activity. If, for example, the impact of flood defence works on human activity or economic activity is too great on farming or forestry, that must be taken into account in the characterisation process and the planning that flows from that.

It was the view of the Subordinate Legislation Committee that an economic characterisation should be carried out by SEPA as part of the characterisation of a river basin. It was with that in mind that I lodged amendment 82.

I move amendment 82.

**Ross Finnie:** Neither I nor the Executive has particular objections to the thrust of what John Scott says. We share the view that river basin characterisation must take account of more than just the simple issues and must take into account human activity. However, I am slightly puzzled by the need for the amendment. If John Scott turns to section 2(4), he will note the general duty:

"The Scottish Ministers, SEPA and the responsible authorities must have regard to the social and economic impact of such exercise of those functions."

If SEPA is being asked to carry out those functions, it is therefore being asked to have regard to their impact.

More particularly, paragraphs (a), (b) and (c) of section 5(2) define what "characterisation" means. That subsection states:

"In this section 'characterisation', in relation to a river basin district, means—

- (a) an analysis of the characteristics of the water environment,
- (b) a review of the impact of human activity on the status of the water environment, and
- (c) an economic analysis of water use."

It seems to me that taking those two sections together—and I agree that one must take them together to get the broader definition—covers more than adequately the points raised by John Scott. On those grounds, I invite him to withdraw amendment 82.

*Amendment 82, by agreement, withdrawn.*

### **Section 7—Register of protected areas**

*Amendment 9 moved—[Ross Finnie]—and agreed to.*

### **Section 11—River basin management plans: publicity and consultation**

*Amendments 10 to 13 moved—[Ross Finnie]—and agreed to.*

### **Section 12—River basin management plans: submission for approval**

*Amendment 14 moved—[Ross Finnie]—and agreed to.*

### **Section 13—River basin management plans: approval**

*Amendment 15 moved—[Ross Finnie]—and agreed to.*

### **Section 16—Duty to have regard to river basin management plans**

**The Deputy Presiding Officer:** Amendment 16 is in a group on its own.

**Allan Wilson:** Amendment 16 amends section 16 to require Scottish ministers and every public body and office holder to have regard to any sub-basin plans prepared under section 15. That fulfils a commitment that I made at stage 2 to ensure that regard is had to sub-basin plans in the same way as to the overarching river basin management plans for Scotland.

Members will be aware that sub-basin plans will be of two different types. There will be sub-basin plans that cover the entire river basin district on the basis of natural catchments. There will also be sub-basin plans that cover specific issues that are relevant to the water environment, such as how best to tackle diffuse pollution or deal with water resource issues, or sustainable flood management. There are definitions of what one might call sectoral plans. Section 15 provides that sub-basin plans must not be inconsistent with the relevant river basin management plan. Provided that that criterion is met, amendment 16 ensures that all public bodies must then have regard to the sub-basin plan when carrying out functions that impact on it. In that way, we join up the organisations and their activities in the national plan and the sub-basin plans.

I move amendment 16.

**Nora Radcliffe:** Amendment 16 is to be welcomed, as the phrase "have regard to" will apply equally to river basin plans and sub-basin plans. However, it would be useful to clarify that the geographical areas referred to in some sub-basin plans would be expected to be based largely on river catchments. I seek that clarification.

**Allan Wilson:** They may be based on river catchments or they may not. They could be sectoral.

**Nora Radcliffe:** If sub-basin plans refer to geographical areas, that gives a degree of flexibility, but I would expect them to be based largely on river catchments, because that will be the most logical thing for them to be based on in most cases.

**Allan Wilson:** I might best explain the situation by saying that, where they are not sectoral, they will be based on river basin catchments.

**The Deputy Presiding Officer:** If that is clear, the question is, that amendment 16 be agreed to.

*Amendment 16 agreed to.*

### **Before section 18**

*Amendment 29 moved—[Bruce Crawford].*

**The Deputy Presiding Officer:** The question is, that amendment 29 be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

Adam, Brian (North-East Scotland) (SNP)  
 Campbell, Colin (West of Scotland) (SNP)  
 Canavan, Dennis (Falkirk West)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Davidson, Mr David (North-East Scotland) (Con)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gibson, Mr Kenneth (Glasgow) (SNP)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Harding, Mr Keith (Mid Scotland and Fife) (Con)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Johnstone, Alex (North-East Scotland) (Con)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 MacDonald, Margo (Lothians) (Ind)  
 Matheson, Michael (Central Scotland) (SNP)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McGugan, Irene (North-East Scotland) (SNP)  
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)  
 McLeod, Fiona (West of Scotland) (SNP)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)  
 Mundell, David (South of Scotland) (Con)  
 Neil, Alex (Central Scotland) (SNP)  
 Paterson, Mr Gil (Central Scotland) (SNP)  
 Quinan, Mr Lloyd (West of Scotland) (SNP)  
 Robison, Shona (North-East Scotland) (SNP)  
 Russell, Michael (South of Scotland) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Tosh, Mr Murray (South of Scotland) (Con)  
 Ullrich, Kay (West of Scotland) (SNP)  
 Welsh, Mr Andrew (Angus) (SNP)

**AGAINST**

Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)  
 Gillon, Karen (Clydesdale) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (Edinburgh Pentlands) (Lab)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)

Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 MacKay, Angus (Edinburgh South) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McAllion, Mr John (Dundee East) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McLeish, Henry (Central Fife) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Radcliffe, Nora (Gordon) (LD)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)  
 Simpson, Dr Richard (Ochil) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North-East Fife) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Thomson, Elaine (Aberdeen North) (Lab)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

**ABSTENTIONS**

Harper, Robin (Lothians) (Grn)

**The Deputy Presiding Officer:** The result of the division is: For 39, Against 65, Abstentions 1.

*Amendment 29 disagreed to.*

**Section 20—Regulation of controlled activities**

*Amendments 17 and 18 moved—[Ross Finnie]—and agreed to.*

*Amendment 19 moved—[Ross Finnie].*

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

**Members:** No.

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

**FOR**

Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)

Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)  
 Gillon, Karen (Clydesdale) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Gorrie, Donald (Central Scotland) (LD)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (Edinburgh Pentlands) (Lab)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 MacDonald, Margo (Lothians) (Ind)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 MacKay, Angus (Edinburgh South) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)  
 McAllion, Mr John (Dundee East) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McLeish, Henry (Central Fife) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)  
 Simpson, Dr Richard (Ochil) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North-East Fife) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Thomson, Elaine (Aberdeen North) (Lab)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

#### AGAINST

Adam, Brian (North-East Scotland) (SNP)  
 Campbell, Colin (West of Scotland) (SNP)  
 Canavan, Dennis (Falkirk West) ( )  
 Crawford, Bruce JP (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Davidson, Mr David (North-East Scotland) (Con)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gibson, Mr Kenneth (Glasgow) (SNP)

Goldie, Miss Annabel (West of Scotland) (Con)  
 Harding, Mr Keith (Mid Scotland and Fife) (Con)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 Johnstone, Alex (North-East Scotland) (Con)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McGugan, Irene (North-East Scotland) (SNP)  
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)  
 McLeod, Fiona (West of Scotland) (SNP)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)  
 Mundell, David (South of Scotland) (Con)  
 Neil, Alex (Central Scotland) (SNP)  
 Paterson, Mr Gil (Central Scotland) (SNP)  
 Quinan, Mr Lloyd (West of Scotland) (SNP)  
 Radcliffe, Nora (Gordon) (LD)  
 Robison, Shona (North-East Scotland) (SNP)  
 Russell, Michael (South of Scotland) (SNP)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Tosh, Mr Murray (South of Scotland) (Con)  
 Ullrich, Kay (West of Scotland) (SNP)  
 Welsh, Mr Andrew (Angus) (SNP)

**The Deputy Presiding Officer:** The result of the division is: For 63, Against 39, Abstentions 0.

*Amendment 19 agreed to.*

*Amendments 20 to 23 moved—[Ross Finnie]—and agreed to.*

#### Section 23—Fixing of charges for water services

16:45

**The Deputy Presiding Officer:** Amendment 83 is in a group on its own.

**Bruce Crawford:** The purpose of amendment 83 is to ensure that a river basin management plan has been approved before ministers can make regulations for the fixing of charges for the provision of water services. It is only proper that no charges are fixed before the characterisation process for a river basin district has been completed; after all, the characterisation process means that a full analysis of the water environment will be undertaken, and also—crucially—that there will be a review of the impact of human activity and an economic analysis of water use.

It is proper that charges are fixed only after the full consultation process that is envisaged for the river basin management plans. After all, as part of the river basin management planning process, as described in schedule 1 to the bill as introduced, a “summary of significant pressures, and the impact of human activity, on the status of surface water and groundwater within the district”

will require to be included in every plan.

Amendment 83 seeks to ensure a pragmatic, stage-by-stage approach and serious analysis and full consultation before charges are fixed that might impact particularly on sensitive areas of the economy. That is what the bill seeks to achieve in most of the other areas of concern that it seeks to address. Why should the fixing of charges be treated differently?

One of the most sensitive industries in regard to the fixing of charges is the whisky industry. We should not forget that the whisky industry is a significant and strategic manufacturing industry, for Scotland and the United Kingdom. It has sales abroad of more than £2.5 billion—pounds not bottles—and a domestic consumption of £2 billion. The industry has 10,000 direct jobs and supports a further 30,000 in Scotland and 60,000 throughout the UK.

As it is constructed, the bill will allow abstraction charges to be applied at the whim of ministers through regulations. Amendment 83 seeks to ensure that before any charges are applied, an in-depth analysis is carried out and a full consultation process is entered into—as envisaged for all other areas of the bill. I seek to ensure that the whisky industry receives the same treatment as all other sectors that will be affected by the directive's intent.

In effect, my amendment would delay the fixing of charges until 2009. That would be perfectly adequate under the directive, as it is not until 2009 that programmes in relation to river basin districts must be established. I have used by way of evidence the report prepared for the Executive by CJC Consulting, "Evaluating the Economic Impact of Abstraction Controls on High and Medium Volume Water Users in Scotland". The report states:

"Because of limited information on groundwater status it was not possible to draw any general conclusions about the possible impacts of the Directive on sectors abstracting groundwater.

The issue is one of fairness and equity for one of Scotland's most important economic drivers—the whisky industry. It deserves to be treated on the same basis as all other industries. To treat it otherwise would be to do it an injustice and would bring into the bill a process that was not envisaged. There would be no in-depth analysis and there would be no full consultation—we have already agreed that full consultation is a good thing that we should try to achieve.

I move amendment 83.

**Ross Finnie:** It is fair to say that we have some sympathy with the general direction from which Bruce Crawford is coming. However, the amendment raises a number of practical problems in terms of complying with the directive.

Bruce Crawford helpfully talked about the coincidence of what the directive requires between 2009 and 2010. He also helpfully made the point that, in the real world, one would hope that the two matters would be coincident; in other words, that the preparation of the plan would take place before the assessment.

I want to draw a distinction on two points. First, as Bruce Crawford says, the regulations are about how Scottish Water, or other suppliers, charge for services. The matter is not one of new licences or regulations; it is about making charges for water services that are necessary to protect the water environment. Neither the directive nor the bill forces any particular change. The practical difficulty that we have is that the directive does not make the link that Bruce Crawford seeks to make. He might want to do that, but it is not what the directive does. The directive does not make a link between the production of the river basin management plan and the arrangements for charging for water services.

Apart from its overall objective, the bill must transpose into domestic legislation the requirements under the directive. To link the two in the way in which Bruce Crawford suggests would mean that we might not be able to comply with the European directive's requirements. I understand Bruce Crawford's suggestion and I hope that it might become the case, but the bill must transpose the directive into domestic legislation. Given that, the absence of the link in the directive makes it impossible for me to accept amendment 83, which is why I ask Bruce Crawford to withdraw it.

**Bruce Crawford:** I thank the minister for his explanation. I understand the point about the link, but if the production of the management plan and the charging arrangements are not linked as the minister wishes them to be linked, I suggest that there is a conflict in the way in which the directive was drawn up. We must make up our minds about whether that conflict should be resolved by full analysis and consultation. The directive suggests that we should have full analysis and consultation before charges are brought into being. I recognise that the production of the plan and the charging arrangements are not linked, but unless we go through the proper analysis and consultation—which we have agreed is important in other areas—we will bring the system of charges into disrepute. It is our job to resolve the conflict, which we can do by voting for amendment 83.

**The Deputy Presiding Officer:** The question is, that amendment 83 be agreed to. Are we agreed?

**Members:** No.

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

**FOR**

Adam, Brian (North-East Scotland) (SNP)  
 Campbell, Colin (West of Scotland) (SNP)  
 Canavan, Dennis (Falkirk West)  
 Crawford, Bruce (Mid Scotland and Fife) (SNP)  
 Cunningham, Roseanna (Perth) (SNP)  
 Ewing, Mrs Margaret (Moray) (SNP)  
 Fabiani, Linda (Central Scotland) (SNP)  
 Gibson, Mr Kenneth (Glasgow) (SNP)  
 Hyslop, Fiona (Lothians) (SNP)  
 Ingram, Mr Adam (South of Scotland) (SNP)  
 MacAskill, Mr Kenny (Lothians) (SNP)  
 MacDonald, Margo (Lothians) (Ind)  
 Marwick, Tricia (Mid Scotland and Fife) (SNP)  
 Matheson, Michael (Central Scotland) (SNP)  
 McGugan, Irene (North-East Scotland) (SNP)  
 McLeod, Fiona (West of Scotland) (SNP)  
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)  
 Neil, Alex (Central Scotland) (SNP)  
 Paterson, Mr Gil (Central Scotland) (SNP)  
 Russell, Michael (South of Scotland) (SNP)  
 Sheridan, Tommy (Glasgow) (SSP)  
 Stevenson, Stewart (Banff and Buchan) (SNP)  
 Sturgeon, Nicola (Glasgow) (SNP)  
 Swinney, Mr John (North Tayside) (SNP)  
 Ullrich, Kay (West of Scotland) (SNP)  
 Welsh, Mr Andrew (Angus) (SNP)

**AGAINST**

Alexander, Ms Wendy (Paisley North) (Lab)  
 Baillie, Jackie (Dumbarton) (Lab)  
 Barrie, Scott (Dunfermline West) (Lab)  
 Boyack, Sarah (Edinburgh Central) (Lab)  
 Brankin, Rhona (Midlothian) (Lab)  
 Brown, Robert (Glasgow) (LD)  
 Butler, Bill (Glasgow Anniesland) (Lab)  
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)  
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)  
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)  
 Davidson, Mr David (North-East Scotland) (Con)  
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)  
 Eadie, Helen (Dunfermline East) (Lab)  
 Ferguson, Patricia (Glasgow Maryhill) (Lab)  
 Finnie, Ross (West of Scotland) (LD)  
 Fitzpatrick, Brian (Strathkelvin and Bearsden) (Lab)  
 Fraser, Murdo (Mid Scotland and Fife) (Con)  
 Gallie, Phil (South of Scotland) (Con)  
 Gillon, Karen (Clydesdale) (Lab)  
 Godman, Trish (West Renfrewshire) (Lab)  
 Goldie, Miss Annabel (West of Scotland) (Con)  
 Gorrie, Donald (Central Scotland) (LD)  
 Grant, Rhoda (Highlands and Islands) (Lab)  
 Gray, Iain (Edinburgh Pentlands) (Lab)  
 Harding, Mr Keith (Mid Scotland and Fife) (Con)  
 Henry, Hugh (Paisley South) (Lab)  
 Home Robertson, Mr John (East Lothian) (Lab)  
 Hughes, Janis (Glasgow Rutherglen) (Lab)  
 Jackson, Dr Sylvia (Stirling) (Lab)  
 Jackson, Gordon (Glasgow Govan) (Lab)  
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)  
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)  
 Johnstone, Alex (North-East Scotland) (Con)  
 Kerr, Mr Andy (East Kilbride) (Lab)  
 Lamont, Johann (Glasgow Pollok) (Lab)  
 Livingstone, Marilyn (Kirkcaldy) (Lab)  
 Lyon, George (Argyll and Bute) (LD)  
 Macdonald, Lewis (Aberdeen Central) (Lab)  
 Macintosh, Mr Kenneth (Eastwood) (Lab)  
 MacKay, Angus (Edinburgh South) (Lab)  
 Maclean, Kate (Dundee West) (Lab)  
 Macmillan, Maureen (Highlands and Islands) (Lab)  
 Martin, Paul (Glasgow Springburn) (Lab)

McAllion, Mr John (Dundee East) (Lab)  
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)  
 McCabe, Mr Tom (Hamilton South) (Lab)  
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)  
 McGrigor, Mr Jamie (Highlands and Islands) (Con)  
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)  
 McLeish, Henry (Central Fife) (Lab)  
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)  
 McNeill, Pauline (Glasgow Kelvin) (Lab)  
 McNulty, Des (Clydebank and Milngavie) (Lab)  
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)  
 Morrison, Mr Alasdair (Western Isles) (Lab)  
 Muldoon, Bristow (Livingston) (Lab)  
 Mulligan, Mrs Mary (Linlithgow) (Lab)  
 Mundell, David (South of Scotland) (Con)  
 Munro, John Farquhar (Ross, Skye and Inverness West) (LD)  
 Murray, Dr Elaine (Dumfries) (Lab)  
 Oldfather, Irene (Cunninghame South) (Lab)  
 Peacock, Peter (Highlands and Islands) (Lab)  
 Peattie, Cathy (Falkirk East) (Lab)  
 Radcliffe, Nora (Gordon) (LD)  
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)  
 Robson, Euan (Roxburgh and Berwickshire) (LD)  
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)  
 Scanlon, Mary (Highlands and Islands) (Con)  
 Scott, John (Ayr) (Con)  
 Simpson, Dr Richard (Ochil) (Lab)  
 Smith, Elaine (Coatbridge and Chryston) (Lab)  
 Smith, Iain (North-East Fife) (LD)  
 Smith, Mrs Margaret (Edinburgh West) (LD)  
 Stephen, Nicol (Aberdeen South) (LD)  
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)  
 Thomson, Elaine (Aberdeen North) (Lab)  
 Tosh, Mr Murray (South of Scotland) (Con)  
 Watson, Mike (Glasgow Cathcart) (Lab)  
 Whitefield, Karen (Airdrie and Shotts) (Lab)  
 Wilson, Allan (Cunninghame North) (Lab)

**The Deputy Presiding Officer:** The result of the division is: For 26, Against 80, Abstentions 0.

*Amendment 83 disagreed to.*

**The Deputy Presiding Officer:** We are around 25 minutes ahead of time and I intend to proceed by beginning group 7, which is on planning permission for fish farming. We have time for the minister to speak to the amendments in the group, after which we will have the ministerial statement from Jim Wallace.

**After section 23**

**The Deputy Presiding Officer:** Amendment 30 is grouped with amendments 79 and 80.

**Allan Wilson:** Amendment 30 is similar to one that Maureen Macmillan lodged at stage 2, which was subsequently withdrawn. Her amendment reflected the strength of feeling in the Transport and the Environment Committee on the issue of planning controls for fish farming—the committee expressed a desire to introduce planning controls in its aquaculture inquiry and at stage 1 of the bill. I was unable to accept Maureen Macmillan's amendment at stage 2, but as I had sympathy with its desired outcome, I undertook to work with her



to investigate the practicalities of introducing controls in the bill and to return to the matter at stage 3. Since then, officials have met Maureen to discuss the measures that she wished to introduce and to consider whether and to what extent we could achieve the necessary changes in time for stage 3.

Amendment 30 is the product of that process. It will deliver Maureen Macmillan's and the Transport and the Environment Committee's main requirement, which was that fish farming should be brought under statutory planning controls and so subjected to local democratic scrutiny.

It was not possible to deliver on an associated provision that Maureen Macmillan requested. She had pressed us to ensure that statutory instruments made under the new provisions should be presented to Parliament within a fixed time scale. I am sure that members will appreciate that there are a number of, as yet, unresolved and complex issues to be dealt with before we can introduce robust and comprehensive changes to the planning system. We must also allow adequate time for proper consultation and discussions with stakeholders. I am grateful that Maureen Macmillan has recognised the Executive's position on that.

I assure the chamber that progress on the work has been accelerated significantly as a result of Maureen Macmillan's amendment. The Highlands and Islands Aquaculture Forum, an umbrella body that represents a range of aquaculture interests, met last week and received an update on progress on the extension of planning controls. The Executive looks forward to working with the forum and all other stakeholders in progressing that work. My ministerial colleagues and I also undertake to provide members of the Transport and the Environment Committee with regular progress reports as the work is taken forward.

Amendment 30 will extend statutory planning controls to marine fish farming by adding a new section after section 23. Amendments 79 and 80 make two consequential amendments to section 31.

Amendment 30 will extend planning controls by amending the meaning of "development" as it applies to fish farming in section 26(6) of the Town and Country Planning (Scotland) Act 1997 in two main respects. First, section 26(6) of the 1997 act will include within the meaning of "development" fish farms in coastal and transitional waters, as defined in the bill. That means that fish farms within the 3-mile limit of UK territorial waters adjacent to Scotland will require planning permission. Secondly, the definition of "tank" will be repealed and replaced by a new definition of "equipment" for use in fish farming.

The new definition of "equipment" will include tanks, cages and other structures, as well as long-lines that are used in the farming of shellfish. Although the amended meaning of "development" introduced by amendment 30 includes shellfish farming, it is not our intention to extend planning controls in relation to activities authorised by any of several orders made under the Sea Fisheries (Shellfish) Act 1967. In the Executive's view, the limited effect of those activities on the water environment is not such as to make it necessary to bring them within the new planning controls.

Amendment 30 will amend section 40 of the 1997 act, which deals with the assessment of the environmental effects of development. The amendment to section 40 of the 1997 act will require the planning authority, before granting planning permission, to consider the effect of the proposed development on the water environment, as defined in the bill. Importantly, amendment 30 will not provide for a general extension of planning authority boundaries seawards; rather, it will allow Scottish ministers to make orders enabling planning authorities to discharge planning functions in relation to fish farming but not in relation to any other offshore activities in such waters.

As with planning controls more generally, the new controls will sit alongside and not duplicate other control regimes such as are administered by the Scottish Environment Protection Agency, under the Control of Pollution Act 1974, and by the environment and rural affairs department of the Scottish Executive, under the Diseases of Fish Act 1937 and the Diseases of Fish Act 1983. Similarly, the requirements of the Coast Protection Act 1949 are unaffected, as are the rights and interests of the Crown Estate as the owner of the sea bed.

Amendments 79 and 80 make consequential changes to section 31 to enable ministers to make textual amendments and to make orders under the powers in subsection (5) subject to the affirmative procedure.

I move amendment 30.

17:00

**Mr Jamie McGrigor (Highlands and Islands (Con):** One day, we might have an aquaculture bill—I hope so. One day, we might also have a single regulatory body for aquaculture, which would make things very much easier for the aquaculture industry and for the other industries that live alongside it. However, until that day arrives, we will have to rely on secondary legislation in bills such as this. It is encouraging that, through these amendments, aquaculture and fish farming are being put into the planning system. It is a good start in improving reasonable

controls. In the past, there has been considerable concern about the accuracy of SEPA's discharge controls and the incompleteness of the environmental impact assessments in regard to fish farming.

The example at Ardmair stands out. The assessment there took little account of tidal flows in a fish cage site where there was not enough tidal flow to shift the build-up of detritus on the sea bed. Any pollution on such a scale is a potential environmental time bomb. Again, the environmental impact assessment had no information on the levels of sea lice in the cages prior to the use of the new medicine, Slice.

If councils have new planning powers, it will be important that they investigate thoroughly applications for fish farms. In the absence of an aquaculture bill, there must be binding rules and strict statutory national planning policy guidelines that will give councils the guidance that they need when considering applications from different sections of the aquaculture industry. Only in that way will we achieve good biodiversity and sustainable co-existence among different stakeholders within our coastal environment. It would indeed be an achievement to give better control over the aquatic environment of Scotland—and a better management system—out to a 3-mile limit. I hope that the minister will give us an assurance that the amendments will achieve that end.

**The Deputy Presiding Officer:** I call Maureen Macmillan. After her speech, I shall take the ministerial statement from the Deputy First Minister and Minister for Justice, Mr Jim Wallace. Afterwards, we will resume the stage 3 debate on the Water Environment and Water Services (Scotland) Bill. I will be relaxed about allowing the minister to intervene when we restart that debate. For the moment, I hand over the chair to Sir David Steel.

**Maureen Macmillan:** I speak in support of amendment 30. As members may know, the Transport and the Environment Committee has sought this amendment for many months. I thank the Executive for its co-operation in the matter, which involved joint working across the social inclusion department and the rural development department.

All stakeholders in aquaculture want planning powers to be transferred from the Crown Estate to local authorities. The Transport and the Environment Committee has had evidence of that since we first began our investigations into the environmental impact of fish farming. We felt that such environmental concerns could be better addressed by local authorities in the planning process, which would complement changes in the way that SEPA will regulate the marine environment as a result of the bill.

The granting of planning permission will have to take into consideration the effects on the water environment as outlined in the bill. Moreover, the democratisation of the planning process will allow local communities to have input into local authority strategy. I realise that the transfer of powers cannot be effected immediately. My recent discussions with the Executive and representatives of local authorities have shown that a great deal of discussion and consultation needs to take place before the regulations that would result from amendment 30 can be laid. I accept that it would not be appropriate to put in the bill a time scale for implementing the transfer of powers. However, I asked the minister to give an undertaking that the process would not be delayed but would be expedited as quickly as is feasible, and I believe that he gave me that assurance in his opening remarks.

I have one other matter to raise with the minister. Following reports on the BBC that amendment 30 would result in retrospective planning powers for local authorities, I was contacted by Scottish Quality Salmon, which naturally has great reservations about that point. I am at a loss to know where the idea of retrospective controls came from. As far as I am concerned, the bill is enabling legislation, and the details of the regulations will be decided after consultation with all stakeholders. I ask the minister to give me firm assurances that it is also the Executive's intention to consult on the regulations fully.

**The Presiding Officer (Sir David Steel):** The next member to speak on this group of amendments will be John Scott. However, I have now cleared the screens and we will take the statement from Mr Jim Wallace on the firefighters. When that statement is finished, those who wish to take part in the stage 3 debate on the Water Environment and Water Services (Scotland) Bill will have to press the buttons all over again.

## Firefighters' Dispute

**The Presiding Officer (Sir David Steel):** I call the Deputy First Minister to make his statement. Members who would like to ask questions of the minister should indicate that now.

17:04

**The Deputy First Minister and Minister for Justice (Mr Jim Wallace):** It is right that I should report to Parliament about the increasingly unsatisfactory situation that has been brought about by the industrial action called by the Fire Brigades Union in its long-running dispute. The country has had to endure a series of strikes by members of the Fire Brigades Union, the latest of which started yesterday morning, with the next set to begin on Saturday. We should be under no illusion—such action puts public safety at risk. We believe that the action is unjustified, because the dispute can, and should, be resolved in negotiation.

The risk to safety requires Scottish ministers, like our colleagues in the United Kingdom Government, to act to protect the public by ensuring that emergency fire cover is provided. We are grateful to the servicemen and women from the Army, the Royal Navy and the Royal Air Force, to the police and to the retained firefighters, who have continued to provide a service to protect the public. For the armed services, as well as for the police, that is a diversion from other priorities. It is also a drain on Scottish taxpayers day after day. Those who provide emergency cover cannot provide the same level of protection as the full-time service can, no matter how professionally they carry out the task.

It is worth remembering why the public are at risk. The Fire Brigades Union tabled a 40 per cent pay claim and then called strikes in support of it. The FBU has used tactics that put public safety at risk and are designed to cause the most inconvenience. Those tactics include strikes of eight days, one day or two days, with no one knowing until the last minute whether a strike is on or off. They include signals about a willingness to negotiate followed by a withdrawal from negotiation. They include the FBU blaming everyone and taking no responsibility itself.

Most recently, the FBU refused to call off strike action this week and to negotiate at the Advisory, Conciliation and Arbitration Service. That was even after the employers had withdrawn what the FBU saw as unnecessary preconditions. Those talks could have resolved the dispute. They could have offered a fair pay deal for firefighters and control-room staff based on modernisation of the service to improve efficiency and public safety.

The issue is about public safety and that is our aim. As the Bain inquiry showed, modernising the fire service can offer a better pay deal to firefighters and enhance the safety of the public. That needs one thing: the willingness of the FBU to negotiate with its employers—not to walk away, not to threaten, but to engage constructively in a dialogue. Instead, we have strike action and, I regret, scaremongering that modernisation threatens public safety. Let us be absolutely clear: we will not threaten public safety and the modernisation proposals that we support will not threaten public safety. The reality is quite the opposite: a modern, flexible and risk-based system can improve the protection of the public and FBU members' terms and conditions.

Let me tell members what we will base our reforms on and what we will not compromise on. The issue is about making the public safer through better prevention of fires and lowering risk; through allocating resources to respond at the time and place of greatest risk to life and property, using professional judgment based on the best-quality information and equipment; and through having a fire service that is open equally to all, that is well managed and led, that works with others to meet its aims and that uses all its resources as efficiently as the best elsewhere in the public sector. We can do that through better management and allocation of resources and still release finance to allow a substantial pay rise for firefighters. However, I make it perfectly clear again that we will not compromise on public safety.

On the position and responsibilities of government, throughout the dispute we have worked closely with our colleagues in the United Kingdom Government in setting up the Bain inquiry, in planning and implementing the emergency fire cover that is in operation today and in seeking to bring about a negotiated settlement to the long-running dispute. As Scottish ministers, our priority throughout has been the safety of the public. In making our decisions on these matters, we will put Scotland and the Scottish fire service first. That remains our position and that of the UK Government.

The dispute must be solved in negotiation. Scottish ministers share the Deputy Prime Minister's view that it can and should be resolved through national negotiations. Pay and conditions in the fire service have been determined satisfactorily on a UK basis for many years. UK negotiations are what employers and unions have wanted and still want. The dispute was started on a national basis. The strikes were called—and emergency cover was provided—on a national basis. The employers' attempts to make progress in constructive negotiations have been made on a national basis. The solution—and there will be a

solution—will be on a national basis, too.

The Deputy Prime Minister has said that he will seek powers of direction of a kind that the Government once had over the fire authorities. The First Minister and I have spoken to ministerial colleagues in England about that. We sought and got an agreement that there will be consultation with Scottish ministers on the matter. We will engage actively in those consultations. We ourselves will consult with our fire service employers and more widely.

Our objectives are the same as they have always been. They are, first and foremost, to deliver a fire service that protects the public; to encourage a negotiated settlement to the dispute and more generally a negotiated approach to fire service pay on the basis of a UK set of terms and conditions of service, which the fire service has long enjoyed; and to have a fire service that is accountable locally and takes forward a determined and radical programme of modernisation. We wish to examine all available options to meet our objectives.

It is important to understand that a system of negotiation and local accountability can be wholly consistent with appropriate powers for ministers. On pay and conditions in particular, the Bain report not only offers a solution to the immediate dispute, but makes constructive and interesting proposals for pay-determination machinery, based on negotiations between employers and unions. There would be provision for conciliation if need be and a clear role for central Government in agreeing the outcome. I refer members to paragraph 10.28 of the report. Although there are attractions in the Bain recommendations, in that respect, as in others, the proposals need proper consultation and detailed consideration.

Let me expand on our approach. In the first instance, I will want to have discussions with fire service employers in Scotland. Indeed, I, along with some of my ministerial colleagues, met representatives of the Scottish employers this morning to begin that. There are others whose views are relevant. For example, we have already had approaches from the Scottish Trades Union Congress. Those discussions and our clear objectives will inform our approach to the consultations with the UK Government over the coming weeks.

We have to bear in mind two other factors. Members have made it clear that issues of such sensitivity and importance need proper and detailed consideration by this Parliament. Ministers wholly respect that. I also have to bear in mind the fact that, in a period of weeks, the Parliament will be dissolved. No responsible Government can ever rule out the possibility that circumstances might be such that we would find it

necessary to seek urgent legislative change. However, having had regard to the considerations that I mentioned, I do not envisage that in the remaining weeks of this session we will be in a position to come forward with firm legislative proposals for Scotland, whether through a Sewel motion or a bill.

The real issue, however, is that the same period of weeks is the opportunity for the FBU to return to the negotiating table from which it walked away this week, to sit down and talk and to agree a fair pay deal for its members, based on much-needed modernisation, so that the public will be safer and better served. On that, Scottish Ministers are agreed; on that, we are determined.

**Mr John Swinney (North Tayside) (SNP):** I thank the Deputy First Minister for his statement and for the advance copy with which he provided me. The fact that the advance copy arrived about 10 minutes before he got to his feet highlights the chaos in this Government.

In his statement, the Deputy First Minister accuses the Fire Brigades Union of “blaming everyone and taking no responsibility itself.”

The Government stands accused of exactly the same charge. The statement is a fudge. I had hoped that the Deputy First Minister would have spoken with the same clarity as his Liberal colleague Edward Davey spoke with in the House of Commons yesterday, when he described John Prescott’s statement as

“a major mistake by the Government.”—[*Official Report, House of Commons*, 28 January 2003; Vol 398, c 726.]

In an attempt to get that clarity, I will ask the Deputy First Minister three specific questions. First, will he rule out the introduction of parallel legislation in this Parliament—[*Interruption.*] Labour members were obviously not listening to the statement. Will the Deputy First Minister rule out the introduction of parallel legislation in this Parliament to legislation proposed by John Prescott at Westminster? Secondly, will he rule out the introduction of a Sewel motion to give Westminster competence over what is a devolved matter? [*Interruption.*]

**The Presiding Officer:** Order. Let us hear this.

**Mr Swinney:** The Deputy First Minister has ruled out neither. Thirdly, will he seek a categorical guarantee that Westminster will not use section 28(7) of the Scotland Act 1998 to legislate on a devolved matter after this Parliament is dissolved on 31 March?

Does the Deputy First Minister agree that, if he cannot give the Parliament specific answers on those three questions, the only conclusion to draw is that the Executive is prepared to cave in to the bully-boy tactics of John Prescott?

**Mr Wallace:** Once again, Mr Swinney should not believe what is in his pre-prepared script. I repeat that, in the remaining weeks of this session of the Parliament, I do not envisage that we will be in a position to produce firm legislative proposals for Scotland, either in the form of a bill or a Sewel motion.

**Mr Swinney:** Will the minister rule that out?

**Mr Wallace:** Our position could not be much clearer than that. [*Interruption.*] John Swinney wants to muddy the waters because the answer that I have just given does not suit him.

I do not believe that the UK Government would upset the devolution arrangement. The Government has indicated on many occasions that it would not legislate on matters that affect Scotland without the consent of the Scottish Parliament. Nothing has ever been said—either in public or in conversations with the First Minister, with me or with others—to indicate that the Government would move from that position.

**The Presiding Officer:** Many members want to ask questions. Those who shout might find that they go to the end of the queue and might not be called.

**David McLetchie (Lothians) (Con):** I thank the minister for his courtesy in giving us 10 minutes' notice of the contents of his statement, which is probably about 10 minutes more than Mr Prescott gave the Scottish Executive.

Is this any way to run a Government? The fact that it is clear that the Scottish Executive was kept in the dark about what was going on brings into serious disrepute the whole concept of partnership between the Scottish Parliament and the UK Parliament. Will the Deputy First Minister advise us whether the Scottish Executive was consulted before Mr Prescott's announcement or whether it was simply informed of the Government's intentions?

I welcome the fact that the Deputy First Minister said on a number of occasions in his statement that public safety was the primary consideration. He must therefore surely agree with me that the strikes must stop. To that end, will he confirm that section 240 of the Trade Union and Labour Relations (Consolidation) Act 1992 gives the Scottish Executive and Her Majesty's Government the power to seek an interdict or—in England—an injunction against the Fire Brigades Union to stop the strikes now? Why will the Scottish Executive and the Government not use all the legal powers that are available to them to stop the strikes and to allow the negotiations to continue without being clouded by industrial action?

I am afraid that today's statement shows that the Scottish Executive is in a state of paralysis. The

statement is a classic helping of fudge, which will stand up neither to John Prescott nor to the FBU. The Deputy First Minister is telling us that, instead of making a decision, the Scottish Executive is crossing its fingers and hoping that the problem will go away in the next few weeks. I ask the Deputy First Minister whether that is any way to run a Government.

**Mr Wallace:** I regret that Mr McLetchie has not been listening. I indicated that the First Minister and I were involved in discussions with our English counterparts—the Deputy Prime Minister and Nick Raynsford—before the Deputy Prime Minister's statement yesterday. Indeed, I spoke to Nick Raynsford on Monday afternoon.

What we sought and what we got was a commitment to consult Scottish ministers on the shape and detail of any legislative proposals. In my statement, I indicated how we propose to develop such consultation. We will be involved in consultations with the Office of the Deputy Prime Minister—consultation in Scotland, against the set of clear objectives that I have set out, will inform our input to that consultation with the Deputy Prime Minister.

In suggesting a legal solution, Mr McLetchie was no doubt taking the same tack as David Davis took in the House of Commons yesterday. It is clear that we would have to take advice from the Lord Advocate on such matters, which are for his legal judgment. Ministers would not enter into that lightly.

I make it clear to Mr McLetchie that we wish the strike to stop. I could not have made that any clearer. The strike prejudices public safety. There is a way forward, which I believe is by negotiation. We cannot say often enough that the parties should return to the negotiating table. There is an opportunity for them to do so; they ought to take that opportunity.

**The Presiding Officer:** A large number of members would like to ask questions. The briefer the questions are, the more members we will be able to get in.

**Iain Smith (North-East Fife) (LD):** In the context of this evening's welcome statement, will the Deputy First Minister dispel once and for all the suggestion that the Scottish Executive has any plans to close fire stations? Will he also confirm that by far the most preferable outcome to the dispute will be one that is arrived at through proper negotiations?

**Mr Wallace:** I will certainly take the opportunity to dispel the notion that the Scottish Executive has any plans to close fire stations. There has been a lot of scaremongering about mass closure of fire stations. Modernisation is about providing a better service by, for example, removing the kind of

existing restrictive practices that tie up resources and prevent them from being used to maximum effect. Modernisation is about a better approach to the delivery of service, which we believe can lead to saving more lives. I said in my statement, and I will say it again, that our objective is public safety. We want to improve public safety. Nothing that we support will in any way compromise public safety.

**Mr Duncan McNeil (Greenock and Inverclyde) (Lab):** I welcome the Deputy First Minister's statement. In complete contrast to those who argue that the dispute would be resolved on the streets are those who argue that banning the right to strike would resolve the dispute. However, does the Deputy First Minister agree that imposed solutions—whether proposed by John Prescott or John Swinney—would be doomed to failure without the full participation and agreement of the firefighters and their trade union? Will he assure the Parliament that, in the talks that are soon to be held between the Government and the FBU, he will press for an early resumption of negotiations so that we can resolve by agreement this prolonged and damaging dispute?

**Mr Wallace:** I entirely share the sentiments that Duncan McNeil has expressed. I already indicated that one of our objectives in engaging in any consultation would be to encourage a negotiated settlement to the dispute and, more generally, a negotiated approach to fire service pay in the longer term. Indeed, the Deputy Prime Minister's reference to the Fire Services Act 1947 involved negotiations between trade unions and employers. It is important that both the trade union side and the employers are involved in negotiation. That is what we want to encourage. I would say that there is no need for the strike to start on Saturday morning if the FBU indicates a willingness to get back to the negotiating table.

**Tommy Sheridan (Glasgow) (SSP):** The Minister for Justice seems to misunderstand what negotiation is all about. He says that he believes in a negotiated settlement but that he also agrees with the Deputy Prime Minister. Yesterday, the Deputy Prime Minister said that he wanted to impose a settlement on the Fire Brigades Union. Mr Wallace cannot agree with a negotiated settlement while also agreeing with the Deputy Prime Minister.

Does Mr Wallace have the courage to agree that the Deputy Prime Minister's comments yesterday on the dispute were unhelpful, deliberately provocative and profoundly undemocratic? Will his Executive have the courage to stand up and tell Mr Prescott loud and clear that his Mussolini-type tactics are not welcome here in Scotland? Does he agree that we should continue to discuss and negotiate with free trade unionists instead of talking about imposing deals over the heads of

those trade unionists, which is the talk of fascism? The former Deputy Minister for Justice should be ashamed of his comments. Is the Minister for Justice willing to condemn those comments? *[Interruption.]*

**The Presiding Officer:** Order. I must remind members of the public that they have signed a piece of paper agreeing that they will not interrupt proceedings. There should be no interruption for or against anything that is said in the chamber.

**Mr Wallace:** I totally and utterly reject allegations of fascism against a democratically elected member of the House of Commons. John Prescott and I have disagreed on a number of occasions in the House of Commons. I think it deplorable that the adjective "fascist" should be applied to a man who is undoubtedly a democrat.

I do not believe that it is inconsistent for ministers to have appropriate power and for there to be a system of negotiation and local accountability. For example, the police negotiating board has provision for police representatives and local employers to negotiate, with the involvement of ministers. As I indicated to the chamber, paragraph 10.28 of the Bain report proposes negotiating machinery that could involve central Government and, at the core, negotiations between trade union representatives and employers.

Again, I make it clear that we want a negotiated settlement. In all fairness to the Deputy Prime Minister, I should add that he also said yesterday:

"I would like a negotiated settlement—let us be clear about that. I want the employers and the employees to work to find a settlement themselves."—*[Official Report, House of Commons, 28 January 2003; Vol 398, c 724.]*

I endorse that remark.

**Tricia Marwick (Mid Scotland and Fife) (SNP):** I look forward to hearing the Deputy First Minister condemn the use of the term "fascists" to describe firefighters.

Yesterday in the House of Commons, John Prescott said that he would discuss with the devolved Administrations the best way of introducing the legislation. He anticipates that the legislation will apply to Scotland—it is only the mechanism that is to be discussed. The Deputy First Minister has come to the chamber today to tell us that all that the Scottish Executive sought and got was consultation on how the legislation will be introduced. Did the Scottish Executive even try to convince the UK Government that the measure was draconian and a mistake? Will he tell the chamber whether he still wants a distinct fire service for Scotland or whether he wants to hand the whole lot over to John Prescott and the UK Government?

**Mr Wallace:** I have indicated before that I deprecate any remarks that suggest that FBU members are fascists and I take this opportunity to deprecate any such suggestion again.

The issue is not about how any legislation will be imposed on Scotland. We want to consult the Deputy Prime Minister on the shape of any proposed legislation. Members should read the statement that he made yesterday.

**Mr Swinney:** We have read the statement. It is at column 719 of *Hansard*.

**Mr Wallace:** There is no indication as to the shape that the proposed legislation would take. We want to influence the shape of that legislation. I have set out our objectives clearly and said how we would consult the Scottish fire authorities. *[Interruption.]* John Swinney is muttering away. He knows that the final shape of any legislation has not been determined. We want to influence the shape of that legislation along the lines of the objectives that I set before Parliament.

**Cathy Peattie (Falkirk East) (Lab):** Will the minister confirm that there will be no knee-jerk reaction and that any consultation will involve stakeholders, including firefighters, the FBU, the STUC, local authorities and communities? Will he also confirm that any legislation will come to the Parliament for full discussion?

**Mr Wallace:** We want to pursue the matter in a spirit of consultation. The Parliament made its view clear earlier this month and we wish to honour the spirit of that. I indicated that we would want to talk to the fire service employers and others, including the STUC. Channels of communication are open to the FBU. My colleague the Deputy Minister for Justice, Hugh Henry, met representatives of the FBU last week. However, I do not think that we would find it acceptable to engage in that sort of dialogue while we were under pressure or any kind of threat. I therefore think it important that the FBU should get back to the negotiating table. The lines of communication are kept open.

**Michael Russell (South of Scotland) (SNP):** The Deputy First Minister said that he was involved in influencing the "shape of any legislation". John Prescott said that he would discuss through the usual channels, including the devolved Administrations, the best way to introduce the legislation. The Deputy First Minister has refused to rule out the use of section 28(7) of the Scotland Act 1998, so there can be only one conclusion, which is that legislation is planned. Will the Deputy First Minister come clean with the Parliament and tell us what legislation and when?

It might also be useful for a Liberal minister to remember that he is a Liberal minister and that the task of a Liberal minister is to make things better

rather than, as we and the firefighters have seen today, to take a stand that can only make things worse.

**The Presiding Officer:** Order. We are getting a speech now.

**Michael Russell:** The only way the Deputy First Minister will make things better is by changing his statement.

**The Presiding Officer:** We have had the question.

**Mr Wallace:** The Deputy Prime Minister said in response to my colleague Edward Davey, who suggested that he was rushing into legislation:

"that is not so. I have to consult with everybody, including the Liberals—I have started that process, and perhaps they will rethink their position".

Mr Prescott is entitled to say that. My colleague Edward Davey has written to Mr Prescott suggesting binding arbitration, which would also involve legislation.

Mr Prescott responded:

"I must then make a proposal to the House, which will debate the primary legislation."—*[Official Report, House of Commons, 28 January 2003; Vol 398, c 727.]*

The Deputy Prime Minister made it clear that there would have to be consultation and that he would thereafter make a proposal to the House of Commons. We do not have any firm legislation proposal. The SNP is trying to get the scaremongering tactic going, but what it says is not the case.

**Lord James Douglas-Hamilton (Lothians) (Con):** With regard to advice from the Lord Advocate, is the Deputy First Minister aware that an interdict of the court—either at the instance of an individual or at the instance of the Administration, under section 240 of the Trade Union and Labour Relations (Consolidation) Act 1992—would inevitably make strike action that knowingly endangers human life an offence, and that such an interdict would effectively bring the strike to an end? Why will not he, the First Minister or the Lord Advocate take a lead on the issue?

**Mr Wallace:** For a Queen's counsel, Lord James has a rather simplistic view of how the law might operate. I do not think that any of the inevitability or certainty that was implicit in his question exists.

**George Lyon (Argyll and Bute) (LD):** Will the Deputy First Minister expand on his remarks that a system of negotiation and local accountability can be wholly consistent with appropriate powers for ministers to act? Does that mean that the revival of a repealed section of the Fire Services Act 1947 would empower ministers only to enforce negotiation, but not to impose a settlement? Does

he envisage circumstances in which ministers might ask Parliament to grant such powers in Scotland?

**Mr Wallace:** As I said, it is consistent to have a legislative regime that involves negotiation, but which also has powers for ministers. The Police Negotiating Board is one example of such a regime. My understanding of the pre-1959 situation, which was based on the 1947 act, is that it was somewhat akin to what we currently have for the police pay and conditions negotiations. I repeat that our objective is to encourage a negotiated settlement to the dispute and, more generally, to develop a negotiated approach to fire service pay. By its very definition, that means the involvement of trade union representatives and employers.

**Mr Kenneth Macintosh (Eastwood) (Lab):** I welcome the Deputy First Minister's statement. I echo the remarks of my colleague Iain Smith and ask whether the minister is aware that much local media coverage of the dispute has centred on fears about alleged closures of fire stations? As well as welcoming the minister's reassurances on that point, I ask him to confirm that any such proposals did not emanate from the Executive or from the Government at Westminster, that fire services will not be cut, and that interest in people's safety will be paramount.

**Mr Wallace:** I assure Ken Macintosh that it is absolute nonsense to say that there are plans for mass closures of fire stations throughout Scotland. Suggestions of that nature certainly do not come from the Executive, nor do they come from the United Kingdom Government. I repeat—it bears repetition, because there is a lot of disinformation going around—that we believe that modernisation can and ought to lead to improvement in public safety. As an Executive, we will not be party to anything that does not lead to improvement in public safety.

**Mr Lloyd Quinan (West of Scotland) (SNP):** If and when the negotiations begin, will the Deputy First Minister bring to the table the pathfinder report and base the negotiations on it, rather than the cobbled-together Bain report?

**Mr Wallace:** It is grossly unfair to describe the Bain report as "cobbled-together". As I said, it contains many proposals that are worth further examination. I also said that detailed consultation will be required—the Parliament will want to engage in that.

We should not forget that, last April, the Executive published "The Scottish Fire Service of the Future", which is a white paper that has many worth-while proposals that we want to develop. Bar on two or three small points, the Fire Brigades Union and many others found common ground with us in that white paper.

**Jackie Baillie (Dumbarton) (Lab):** The Deputy First Minister made a welcome commitment not to compromise on public safety. I agree with that view, because I believe that firefighters do, too. I heard what the minister said in response to Ken Macintosh and Iain Smith about the Scottish Executive's position on closures; however, persistent and particular rumours relate to closures of fire stations in Strathclyde fire brigade's area. It is clear that we need to get accurate information out to people in communities to alleviate their concerns about their fire services. Therefore, I seek the minister's assurance that, in the interests of public safety, no closures are planned or in the pipeline.

**Mr Wallace:** As section 19 of the Fire Services Act 1947 is still in force, any planned closure would have to be considered by ministers. I am unaware of any proposed closures' being on my desk at present. We should bear in mind the Executive's commitment to the fire service. In 2000-01, grant-aided expenditure for the fire service was £186.9 million. We have provided consistent and considerable year-on-year increases in our financial support for the fire service through GAE and the capital figure, which increased by 47 per cent between 2000-01 and 2002-03. That increased funding for our fire service shows that the Executive wants to support our fire service and that it recognises the service's important contribution to fire safety.

**Alex Neil (Central Scotland) (SNP):** Will the minister clarify two points that will show how far down the Thatcherite road this Administration and the Administration in London are prepared to go? In his statement yesterday, John Prescott said that he would consult on the way in which the proposed legislation would be processed, but he did not give a commitment to consult on the proposed legislation. Will the Deputy First Minister therefore give the Parliament an undertaking that no legislation that covers Scotland will be passed without the Scottish Parliament's explicit approval?

If a settlement on pay and conditions is imposed, but the firemen still strike, will the Deputy First Minister contemplate a ban on firefighters strikes? Is that part of his consultation with Deputy Prime Minister Prescott?

**Mr Wallace:** I give Alex Neil the assurance that he seeks that no legislation on devolved matters will be imposed on Scotland without the Scottish Parliament's consent. I have said that such legislation is highly unlikely and that I do not envisage such a situation during this parliamentary session.

I think that no-strike agreements are an employment matter and are therefore for the UK Parliament. However, we have not proposed such agreements.



**Mr John McAllion (Dundee East) (Lab):** Will the minister make it clear whether the Executive accepts that free trade unions are fundamental to any democratic society? Will he also make it clear that it would always be wrong—this side or the other side of a Scottish general election—for ministers to seek powers to revive obsolete laws that would deny trade unions their democratic right to negotiate pay and conditions for their members? Whatever else the proposal might be called, it ain't democratic and it ain't something that a Labour-led Executive should contemplate.

**Mr Wallace:** I assure John McAllion that I believe in, respect and support the right of free trade unions to operate and negotiate in a free country, but I would hesitate before criticising an act that was introduced by the Attlee Government.

**Margo MacDonald (Lothians) (Ind):** In order to clear up any confusion about whether discussions on negotiations took place when the Deputy First Minister met the Deputy Prime Minister and Nick Raynsford, will the minister tell the Parliament what alternatives to John Prescott's "shape of policy", as I think it was described, were proposed by the Deputy Prime Minister and his colleague?

**Mr Wallace:** As I made clear earlier, the reference was made not to a meeting but to telephone conversations that I had with Nick Raynsford, and which the First Minister had with the Deputy Prime Minister. In the course of those conversations, it was made clear that the final shape of legislation has not been settled. We said that we want to be consulted—we sought that undertaking and we got that undertaking.

**Bill Aitken (Glasgow) (Con):** The Deputy First Minister outlined earlier that, under the terms of current legislation, the Lord Advocate could seek a civil interdict to bring the strikes to an end. We are not talking about a criminal matter that requires the independent view of a law officer. The Deputy First Minister and the Lord Advocate are members of the Scottish Government. In what circumstances would they consider seeking such an interdict?

**Mr Wallace:** I accept that there is a distinction with regard to the criminal prosecution role of the Lord Advocate. On a matter of such import, however, it would be very unwise for any Government to act without the advice of its senior law officer.

**Karen Gillon (Clydesdale) (Lab):** I hope that I reflect the view of the Labour benches when I say that I hope that no Labour Administration in Scotland would ever seek an interdict against a trade union that is on a democratically decided strike. The union has gone through every process that is required of it by law and it is within its rights to strike.

**Mr Wallace:** I repeat that I recognise the importance of trade unions in industrial matters, which is why I hope that the way forward is by negotiations involving the Fire Brigades Union's trade union representatives. I do not know how many times I have made that clear.

**Dennis Canavan (Falkirk West):** The minister has tried to adopt a more conciliatory approach than is the case at Westminster. Unlike his Labour colleagues, however, he does not owe allegiance to ministers at Westminster. Will the minister take the opportunity of condemning absolutely the inflammatory statement that was made in the House of Commons, which makes it clear that John Prescott is hell-bent on ignoring the FBU? It is also clear that, by dictating a UK-wide settlement on firefighters' pay and conditions, he is ignoring the Scottish Parliament. Does the minister agree that the Scottish Parliament was set up to fight for higher standards of social justice, including for workers and trade unionists, and not to try to smash the trade union movement or to allow Blair and Prescott to do so?

**Mr Wallace:** We want a UK settlement and we want it to be a negotiated settlement. On many occasions yesterday, John Prescott said that he, too, wants a negotiated settlement. In case anyone wants to try to drive wedges between the partnership parties, I assure Dennis Canavan—indeed, I assure the Parliament—that the Cabinet was united in its discussion of the matter this morning.

**John Young (West of Scotland) (Con):** Will the Deputy First Minister state whether the possibility of strike action's being made illegal has entered the discussions? If war with Iraq goes ahead and large numbers of service personnel from this country go to the middle east, there might not be sufficient reserve forces in the event of a firefighters strike. Given that situation, has discussion taken place about making strikes strictly illegal?

**Mr Wallace:** It would be unwise to consider umpteen hypothetical situations. I want to make it very clear that we monitor constantly the level of cover that is available through the contingency arrangements that have been made. I believe that the cover that we have in place, which has been augmented by the addition of the so-called red goddesses and more recently by aerial towers, serves us well. I will make no bones about the fact that those arrangements are not the same as the level of cover that is available when the full firefighter service is available, which is why it is imperative that we seek a negotiated settlement to the dispute sooner rather than later.

**Elaine Smith (Coatbridge and Chryston) (Lab):** Can the minister confirm that the dispute began prior to the publication of the Bain report?

In yesterday's statement, John Prescott said that:

"for the avoidance of doubt, the Government's position will not change. We will continue to implement the Government's part of the Bain agenda".—[*Official Report, House of Commons*, 28 January 2003; Vol 398, c 721.]

Will he comment on that, and will he therefore tell the Parliament how on earth he thinks that a negotiated settlement can be reached between the employers and the Fire Brigades Union under those pre-imposed conditions? Can he further comment on the contradiction—

**The Presiding Officer:** Order. You have asked your question.

**Mr Wallace:** I can of course confirm that the origins of the dispute lie back in March or April last year when the 40 per cent pay claim was first flagged up. It is also fair to say that the setting up of the Bain inquiry was an effort, through the use of an independent inquiry, to avoid strike action, which I regret was not avoided. It is also important to point out that the employers removed some of the preconditions that the FBU found to be obstructions to their attendance at negotiations last week. The employers responded to the FBU, which is why it is so regrettable that the FBU would not put off the current strike and proceed with negotiations.

**Bruce Crawford (Mid Scotland and Fife) (SNP):** What specific legislation has been discussed during discussion on the shaping of legislation? Will the Deputy First Minister also give a guarantee that ministers will not use any powers available to them during the dissolution of Parliament?

**Mr Wallace:** The point that I was making is that we want to try and shape and influence any moves that might be made. That is why we want initially to consult in Scotland, and then take the opportunity that has been given to us to consult the Office of the Deputy Prime Minister. I am not sure which powers Bruce Crawford thinks might be made available to us that would be of any relevance during dissolution.

**The Presiding Officer:** That concludes the questions to the Deputy First Minister. We will return to the debate—

**Michael Russell:** On a point of order, Presiding Officer. During the course of his statement, the Deputy First Minister raised the issue of the dissolution of Parliament. John Swinney subsequently referred to that matter, and mentioned the powers that are available to Westminster under section 28(7) of the Scotland Act 1998. I know that you cannot rule on this matter at the moment, but it is important that members are aware of the exact situation after Parliament's dissolution. Because the Sewel procedure is a convention only when there is an

Executive, could legislation be passed by Westminster without reference to the Scottish Parliament, which will not, after all, exist during dissolution? I wonder whether, in such circumstances, what we have discussed today, and what will no doubt be discussed in the future, will be affected. [*Interruption.*] I am sorry that members are not interested in the importance—

**The Presiding Officer:** Just address me, Mr Russell.

**Michael Russell:** I know that you are interested, Presiding Officer. What is going on is a discourtesy to you.

We need a ruling on exactly what is possible; perhaps everything is possible in the circumstances. Westminster legislation might overrule anything that we do in that period, which might last not just five weeks, but six weeks or possibly more if we include the formation of a Government. We should have some detailed information on that question.

**The Presiding Officer:** I am certainly not going to make an off-the-cuff ruling on that. I think that the member will appreciate that response.

We will return to the debate on the Water Environment and Water Services (Scotland) Bill. Mr John Scott was about to take the floor. I remind members—

**Michael Russell:** On a point of order, Presiding Officer. Are you saying that you will give a subsequent ruling?

**The Presiding Officer:** No, I am not promising anything. I just said that I would not rule off the cuff.

**Michael Russell:** But will you consider the matter?

**The Presiding Officer:** I will meditate on what you have said.

**Michael Russell:** Good.

## Water Environment and Water Services (Scotland) Bill: Stage 3

17:49

*Resumed debate.*

**The Presiding Officer (Sir David Steel):** I remind those who were taking part in the debate that the screens were cleared, which means that they have to start all over again and press their request-to-speak buttons.

Mr Scott, you have the floor.

**John Scott:** We welcome amendments 30, 79 and 80 because they accede to the committee's view that planning powers for fish farming and aquaculture should be transferred from the Crown Estate to local authorities. In general, the Parliament is not happy with the lodging of significant amendments at stage 3; however, I am sure that we are all content to make an exception in this case.

That said, we are taking the matter on trust, because the amendments were not debated in committee at stage 2. Our particular concern centres on the likely cost of such a transfer of powers to local authorities, which has not been considered by the Finance Committee. We must ask whether local authorities have the resources and expertise to deal with such applications. Will resources be made available to them or will the costs have to be borne by council tax payers in affected local authority areas?

Another concern is how fish farms that are already in operation would be dealt with under the new planning structure—and, in saying that, I assume that they would not be affected adversely by amendment 30. However, that still leaves the thorny problem of fish farms that might be sited in the wrong place. How will the Executive deal with them? Does the minister intend to introduce a planning advice note or an NPPG on the matter? Those questions need to be answered and I would be grateful if the minister would address them when he winds up the debate on this group of amendments.

**Bruce Crawford:** Some of the points that John Scott raised are relevant, particularly the point about NPPGs, planning advice notes and finance. Normally, finance is sorted by the Executive in the orders it gives local authorities about how much they can charge for granting applications for planning permission. It will be interesting to hear the answer to that.

I hope that amendment 30 is competent and complete. I recognise that the minister is trying to

give power to local authorities through the Town and Country Planning (Scotland) Act 1997 to grant planning permission for fish farms. However, does that legislation permit local authorities to operate outwith their boundaries, which were drawn up under the Local Government etc (Scotland) Act 1994? Should there not be a requirement to adjust that act to ensure that it deals with fish farms that are not located within the exact boundary of a particular authority—especially fish farms that are located offshore? It would be difficult for a local authority to deal with such situations and I see nothing in the amendment that would do so. The Executive may be intending to adjust that legislation later, but I would have thought that that approach would require primary, not secondary, legislation.

**Allan Wilson:** I will respond as best I can to the points that have been made.

In response to Jamie McGrigor's point, I repeat for the record that, as with more general planning controls, the new controls will sit beside, rather than duplicate, other control regimes. That includes those administered by SEPA under the Control of Pollution Act 1974 in respect of discharge consents or by SEERAD under the Diseases of Fish Acts 1937 and 1983. Similarly, the requirements of the Coast Protection Act 1949, to which Bruce Crawford referred, would be unaffected, as would be the Crown Estate's rights and interests as the owner of the sea bed.

Therefore, I propose that the general order-making power in subsection (5) of the new section that would be introduced by amendment 30 should not provide for a general extension of planning powers to all offshore activities, or extend planning authority boundaries seaward as was suggested. Rather, it would allow the Scottish ministers to make orders to apply the 1997 act to fish farming operations in transitional or coastal waters. Ministers would be required by subsection (7) of the new section to consult every planning authority, SEPA and such other persons as they think fit, before making an order under subsection (5). Subsection (6) of the new section would make provision for the Scottish ministers to allocate by order particular areas of such waters to particular planning authorities. The amendment would not, therefore, change the areas covered by planning authorities.

I have not addressed the general point about the lodging of significant amendments at stage 3. Amendment 30 reflects an amendment that Maureen Macmillan lodged at stage 2 and, as John Scott knows, there was extensive debate about that amendment. In connection with the Transport and the Environment Committee's wider work on aquaculture and aquacultural strategy, there have been substantial consultations with

local authorities, the Crown Estate, SEPA and other players on the proposition that planning controls would transfer to local authorities. We would all accept that there is widespread consent among the stakeholders—SEPA, the Crown Estate and the local authorities—that our proposal is a welcome transfer of those powers.

To answer Maureen Macmillan's question—and for the benefit of the BBC—when the bill receives royal assent, the provisions will not immediately affect existing fish farms. Regulations have to be made and will set out how existing fish farms are to be brought within the new regime. The regulations will make suitable transitional arrangements for such farms after consultation with all interested parties. Members will wish to note that the regulations will be subject to affirmative procedure and will be debated by the Parliament before they take effect. I hope that that addresses the question of whether the new powers apply retrospectively to existing fish farms.

*Amendment 30 agreed to.*

#### After section 24

**The Deputy Presiding Officer (Mr Murray Tosh):** Amendment 24 is in a group on its own.

**Allan Wilson:** Amendment 24 would introduce a new section to the effect that the Scottish ministers must provide an annual report to the Scottish Parliament on progress made on implementation of the bill and achievement of the environmental objectives. The amendment fulfils a commitment that I made at stage 2 to ensure that an annual report would be laid before Parliament. The report will summarise the action taken during the year by the Scottish ministers, SEPA and the authorities responsible for securing compliance with the requirements of the directive. It will also summarise progress made towards achieving the environmental objectives that we have set out in section 9. I trust that members will agree that that delivers the promise that we gave at stage 2.

I move amendment 24.

**Nora Radcliffe:** I am extremely grateful to the minister for lodging amendment 24. My first brush with European legislation was a fairly bruising encounter with the nitrates directive at the outset of this Parliament. That was the first European directive that we implemented from scratch in the Parliament, and I certainly did not want to repeat the experience in years to come. Amendment 24 should mean that the water framework directive is implemented in Scotland in an orderly way and in good time to fulfil its various obligations, so that we do not find ourselves smack up against deadlines and unprepared in future.

When I lodged my stage 2 amendment on the matter, it occurred to me afterwards that I may not

have included a proviso that an annual report would be required only until the end of the implementation period of the directive. However, that is not until 2015. If the fact that annual reporting could cease at that point is not implicit in the amendment, I am sure that there will be plenty of time to deal with the matter later.

**Allan Wilson:** Members will wish to note that, although the first environmental objectives will be set in 2009, they will be subject to review. Generally speaking, they will be reviewed at six-yearly intervals thereafter. It is therefore intended that the reporting obligation will apply to the environmental objectives that are set from time to time. That will address the period from 2009 to 2016.

*Amendment 24 agreed to.*

*Amendment 25 moved—[Allan Wilson]—and agreed to.*

#### Section 26—Duty to provide water and sewerage services

**The Deputy Presiding Officer:** Amendment 31 is grouped with amendments 32 to 78 and amendment 81.

**Ross Finnie:** This group of amendments provides for sustainable urban drainage systems—SUDS—and for Scottish Water to have responsibility for maintaining them once they have met specified construction and design standards. Successful SUDS implementation is currently hampered by uncertainty over the legal position on responsibility and maintenance. SUDS are not covered in sewerage legislation, which can result in disputes over responsibility for them among authorities and in confusion for developers. In many cases, good SUDS designs have been compromised by the need to employ techniques that cause the least dispute rather than the best outcome.

In its stage 1 report, the Transport and the Environment Committee identified the current legal uncertainty surrounding that responsibility as an issue that the bill should address. The committee report included a recommendation to the effect that amendments should be lodged to clarify the position. We agreed entirely with the committee on that point, and we regret that we were unable to have amendments ready for stage 2. I am pleased to introduce them now. The amendments clarify the position by providing for Scottish Water to assume responsibility for maintaining any SUDS that meet the construction and design standards that ministers will set.

18:00

There are two substantive amendments. Amendment 78 provides a definition of SUDS for

insertion in the interpretation section—section 59(1)—of the Sewerage (Scotland) Act 1968. Amendment 45 is to section 27 of the bill and allows ministers to specify in regulations the design standards that SUDS must meet if they are to be vested in Scottish Water.

The remaining amendments achieve three main aims. They include public SUDS in section 3 of the Sewerage (Scotland) Act 1968 and make it a duty on Scottish Water to provide SUDS where it can do so at reasonable cost. They ensure that the provisions in section 27 of the bill—which relate to conditions for connection, takeover, construction standards and connection agreements—also apply to SUDS. In addition, they make consequential amendments throughout the 1968 act to integrate SUDS fully into the existing legislation on the provision of sewerage services by Scottish Water. The amendments reflect expert and technical advice from Scottish Water and SEPA.

In addition to the support offered by SEPA and Scottish Water, the Convention of Scottish Local Authorities flooding task group recently highlighted the problem of the lack of agreement among developers, local authorities and Scottish Water on who is responsible for the future maintenance of SUDS. The group called for the Scottish Executive to address the issue of responsibility for SUDS maintenance.

The main benefits that will arise from the amendments are less pollution as a result of urban drainage, fewer flood problems, a reduced risk of sewer flooding and less pressure on the sewerage system infrastructure. I believe that there is widespread support for the amendments and for what they will achieve for the water environment. Therefore, I invite the Parliament to endorse them.

I move amendment 31.

**Bruce Crawford:** I certainly endorse the amendments. However, the minister mentioned the provision of systems by Scottish Water at reasonable cost. There is an issue about what reasonable cost means to different people. I do not expect the minister to give me a specific definition of reasonable cost today, but I hope that he will find a way of giving Scottish Water guidance on examining the best environmental options and undertaking cost analyses of the long-term environmental and economic gains. If that can be done, many more SUDS may be constructed in Scotland.

**John Scott:** The group of amendments introduces SUDS into the bill and we welcome that. However, we have concerns about the long-term costs of SUDS and who will eventually pay for the increased costs that are likely to be incurred. Those costs will probably fall on

developers and consumers and it is important to keep a close watch on them, as others have mentioned.

We recognise and welcome the long-term benefits of such schemes, but we think that it may be a little premature of the Executive to talk about cost savings at this stage. We welcome the clarification that Scottish Water will take responsibility for the maintenance of SUDS, provided that maintenance is delivered at a reasonable cost.

**Ross Finnie:** It is interesting that John Scott is calling for reasonable costs as opposed to unreasonable costs and that Bruce Crawford is simply asking for a further definition of reasonable costs. The meaning of reasonable must be within the definition and spirit of the bill. The bill has an environmental objective and reasonable must be construed in those terms.

*Amendment 31 agreed to.*

#### **Section 27—Private sewers and sewage treatment works etc: conditions for connection or takeover**

*Amendments 32 to 77 moved—[Ross Finnie]—and agreed to.*

#### **After section 29**

*Amendment 78 moved—[Ross Finnie]—and agreed to.*

#### **Section 31—Orders and regulations**

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

**The Deputy Presiding Officer:** Amendment 26 is in a group on its own.

**Allan Wilson:** Amendment 26 is a straightforward amendment. It is consequential to an amendment that was agreed to at stage 2, which allowed Scottish ministers to uprate by order the upper limit on fines for offences committed under regulations made under section 20.

That amendment provided that such an uprating could be made only to reflect inflation or deflation. It was not clear after stage 2 to which parliamentary procedure the power was to be subject. Amendment 26 clarifies the position by making it clear that any such order will be subject to negative parliamentary procedure.

I move amendment 26.

*Amendment 26 agreed to.*

*Amendment 80 moved—[Ross Finnie]—and agreed to.*

### Schedule 1

#### MATTERS TO BE INCLUDED IN RIVER BASIN MANAGEMENT PLANS

*Amendment 84 not moved.*

**The Deputy Presiding Officer:** Amendment 27 is grouped with amendment 28.

**Ross Finnie:** Amendments 27 and 28 deal with schedule 1 to the bill, which sets out the matters that must be included in a river basin management plan. Paragraph 8A, which is to be deleted by amendment 28, was introduced by an amendment at stage 2. It was explained when the amendment was moved that the intention was to ensure that the river basin management plan contained a report of the changes made to it in the light of advice from any advisory groups established under section 17.

Amendment 27 retains what I believe Nora Radcliffe was looking for at that stage. In fact, it makes more explicit the fact that it is advice from river basin district advisory groups that we require to be reported on in the plan. It also makes what I understand is a more appropriate reference to subsection (1A) of section 17 rather than subsection (2).

Amendments 27 and 28 are tidying-up amendments. I hope that they will gain members support.

I move amendment 27.

**John Scott:** Amendments 27 and 28 are to be welcomed, as they further increase the detailed reporting of views and matters to be considered in the development of river basin management plans. We welcome amendment 27 and the consequential amendment 28.

*Amendment 27 agreed to.*

*Amendment 28 moved—[Ross Finnie]—and agreed to.*

### After schedule 2

*Amendment 81 moved—[Ross Finnie]—and agreed to.*

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

## Water Environment and Water Services (Scotland) Bill

**The Deputy Presiding Officer (Mr Murray Tosh):** The next item of business is a debate on motion S1M-3707, in the name of Ross Finnie, that the Water Environment and Water Services (Scotland) Bill be passed.

18:08

**The Minister for Environment and Rural Development (Ross Finnie):** It has been clear from the outset of stage 1 that there is wide support for the bill. It is an important bill for Scotland; it gives us a sound platform to protect our water environment for the future.

Like the Land Reform (Scotland) Bill, this is an excellent example of a bill that would not have happened had it not been for the existence of the Scottish Parliament. There is no chance that Westminster would have found time for such a bill. Looking forward, Scotland's environment would have been poorer for that.

The bill is based on the premise that the environment is integral to the quality of the life of every person who lives in this country. It is based on the premise that we should not, through selfish use now, prejudice the environment for our grandchildren and their grandchildren. It is based on the premise that the best way to prevent that is to ensure that we have the best possible information about what is going on in our environment and that we actively involve those with an interest and who make use of the environment—individuals, communities and businesses—in making decisions about their future and their impact on their environment.

I will reflect on how the bill has been improved during its passage through committees. We have included provisions that will see the promotion of sustainable approaches to flood management—a matter that is close to the hearts of many members of the Parliament and their constituents. We have included new provisions today to introduce statutory planning controls over marine fish farming. We have also made much clearer the bill's protection of wetlands as an important constituent of the water cycle. The push for sustainable development is now expressly provided for in the bill.

Part 2 will change the way in which the cost of providing water and sewerage infrastructure for new housing developments is funded. We listened to the concerns about the impact that that might have on social housing development and increased the social justice budget to take account

of the additional costs that the bill will place on such development.

**Maureen Macmillan (Highlands and Islands) (Lab):** Rural communities have expressed concerns to me about the impact that the bill might have on rural housing development, particularly in relation to sewerage connection. There seems to be a question whether what is being offered is capital or revenue funding, although I am not quite sure what the difference in impact may be. Will the minister say whether what is being offered will be similar to what exists at present?

**Ross Finnie:** My understanding is that the level of support will be increased, but it might be better if I clarify that more precisely for the member. The Transport and the Environment Committee drew our attention to the need to improve funding. The clear idea was to address the problem that Maureen Macmillan describes. I will write to her separately to clarify that.

There is one point that I must convey to the Parliament. For the purposes of rule 9.11 of the standing orders, I advise the Parliament that Her Majesty, having been informed of the purport of the Water Environment and Water Services (Scotland) Bill, has consented to place her prerogative and interests, so far as they are affected by the bill, at the disposal of the Parliament for the purposes of the bill.

The bill is good for the people of Scotland and for its environment. It is good for the communities who share the environment and the individuals who are involved with it. I pay tribute to those within and outside the Parliament who have worked extraordinarily hard to ensure the delivery of a complex piece of legislation that transposes an important European directive. We are often behind on the implementation of European directives but, for once, the bill is in good time. The result of that work is a bill that will provide us with a platform to protect Scotland's water environment for generations to come.

I move,

That the Parliament agrees that the Water Environment and Water Services (Scotland) Bill be passed.

18:12

**Bruce Crawford (Mid Scotland and Fife) (SNP):** I can safely say that the bill is a job of work well done. All who have taken an interest in its progress have contributed positively and it has been improved significantly since stage 1, which took place last October.

Apart from a couple of shortcomings, the bill is a testament to how well the Parliament can deal with legislation. I put on record my appreciation for the work of my colleagues on the Transport and the

Environment Committee, who did a thorough job of scrutinising the bill and ensuring that the Executive introduced improving amendments.

It is also proper that due regard should be paid to the witnesses who gave evidence to the committee during stage 1. Scottish Environment LINK provided many valuable and timely briefings on issues of particular concern that required to be highlighted. That organisation is a resource and has established itself as a key voice on environmental aspects of legislation in Scotland.

Credit should also go to the minister and the Executive officials, who for the most part responded to concerns by producing amendments on issues such as wetlands, fish farming, planning permission and sustainable and integrated flood management. It is a pity that the Executive was not prepared to see sense and accept the need for ministers to take responsibility for a national flood strategy, which is a key piece of the jigsaw.

As the minister said, the bill will effectively transpose the European Union water framework directive into Scots law and should bring considerable social and economic benefits. However, it is a pity that the Executive has spoiled what might have been a pretty good report card by showing real weaknesses on cost-benefit analysis. Those weaknesses are not only in relation to future costs, but to future environmental benefits and social and economic advantages. In that regard, the report card says, "Must do better." The proper point at which to record our disquiet on that issue was at stage 1, which we did by voting against the financial resolution. We believe that more robust and rigorous future-impact information should have been made available. However, we will vote for the bill at decision time.

In one particular area, what the bill does not contain has made it even more interesting as far as the future is concerned. I am referring to what was previously part of the flagship of the Executive's approach to the bill. We were told repeatedly by Ross Finnie that the introduction of competition legislation in Scotland's water industry was vital. It is amazing how competition disappeared off the radar screen when the Executive saw how unpopular it was.

However, privatisation did not disappear entirely, did it? No, it was simply parked, hidden away until it was brought back to light in a tawdry little document for the Cabinet sub-committee on legislation, which outlines the legislative programme for the next session. That document says:

"Bill to establish regulatory framework for the provision of water and sewerage in a competitive environment, formerly for inclusion in the Water Environment and Water Services Bill".

The Executive intends to bring back the issue of privatisation next time around—if it gets the chance, which I do not think it will.

We support the bill, but we put on record the fact that we will oppose any proposals to bring privatisation to Scottish Water.

18:16

**John Scott (Ayr) (Con):** Today's debate brings to a conclusion months of work that has been undertaken by the Transport and the Environment Committee and the Executive and its civil servants. We are all indebted to the clerks for their tireless work and their patient understanding of all matters relating to the bill. We are also indebted to all the people and bodies who gave evidence and responded to the consultations on the bill. It could not have been achieved without their input.

It is appropriate that the bill will become law in the international year of fresh water. Although its delivery is a necessary act of compliance, incorporating the EU water framework directive into Scots law, its quick passage is a reflection of its largely non-contentious nature. I would have been less supportive of the bill if the Executive had not listened to the committee and addressed concerns about flooding, aquaculture, planning controls and sustainable urban drainage systems. However, it did and that is reflected in the fact that only four non-Executive amendments were lodged at stage 3.

The fact that we have addressed flooding in the bill does not mean that the problem is solved. With 170,000 Scottish homes at risk, the seriousness of the situation and the need for decisive action could not be greater, as the effect of global warming increases daily. That is why we welcome the inclusion of sustainable flood management plans, which will need to be supported by adequately funded agri-environment schemes. We welcome the determination to include all relevant parties in the development of river basin and sub-basin plans, and I and other MSPs look forward to receiving at the end of next month the report of the ad hoc ministerial group on flooding. I hope that it will tell us of the need to develop a national flood strategy.

I also welcome the pursuit of an holistic approach that accepts the need for an integrated approach to reconciling potentially conflicting policy objectives. That will surely deliver better value for money to the taxpayer. However, of major concern is the fact that the costs of the bill—which are likely to be huge—have still not been properly quantified. The minister reported in the autumn that the cheapest cost projection is likely to be around £70 million a year from 2006, with the worst-case projection being more than £100

million a year from 2006. Knowing, as we do, the Executive's track record on cost prediction, we can only presume that £100 million a year will be just the beginning of the financial burden to be borne principally by the industry and the taxpayer.

While we accept that we must implement the EU water framework directive, we have a duty not to impose unnecessary financial strictures on taxpayers and the farming, forestry, mining and energy industries. These are additional costs that are not on taxpayers' or industry's radar at the moment, but they will be real in the fullness of time. We may end up with clean water but little or no dairy farming in some of the more economically sensitive areas.

Nail by nail, the coffin lid is being hammered down on agriculture, mining and forestry, with increasing cost compliance and regulations. From 2007, the bodies of those industries may gradually be buried as they seek to compete in the world market with countries that do not have to bear the EU-inflicted costs. Our fishing industry has all but been destroyed and our rural industries remain on a knife edge. As a general principle, we should be sceptical of EU legislation that reduces our ability as a country to profit from our primary industries.

Scottish Water will recover its projected compliance costs of £28 million per year from us—its customers—but other businesses might not be able to recover costs from the marketplace and the net effect would be to make them less competitive in world markets. The jury is, therefore, out on what is the most important aspect of the bill.

I welcome the transfer of planning powers from the Crown Estate to local authorities. Again, that will not be without cost and it will be essential for cost recovery to be recognised in planning fees. I welcome also the minister's assurances that further legislation will be introduced that will be subject to the affirmative procedure.

I am happy that provisions on sustainable urban drainage systems have been introduced into the bill. Again, we have no hard-and-fast indication of cost, but I welcome the fact that Scottish Water will now take responsibility for that area. The funding of Scottish Water will be crucial and we will have to examine our water and sewerage charges in future to make certain that we are all getting value for money.

I welcome the bill's progress to this point. If costs can be kept to a minimum in future, the bill will undoubtedly bring significant and sustainable benefit to Scotland which, I hope, will be harvested over many generations.



18:22

**Bristow Muldoon (Livingston) (Lab):** I have to say that, considering the bill received consensual support, I was disappointed by the speeches from Bruce Crawford and John Scott, who seemed to be scaremongering.

Bruce Crawford raised the prospect of the Scottish water industry being privatised. He ignored the fact that the Labour-Liberal Executive established a publicly accountable and publicly owned water industry under the name of Scottish Water. As regards John Scott's comments, nothing could harm the interests of rural Scotland more than not introducing the Water Environment and Water Services (Scotland) Bill and allowing the degradation of Scotland's valuable natural resources. I am disappointed by the approach that both members took.

I support the motion to pass the bill and I want to concentrate on what I think are the positives that come through the bill. However, I would like first to thank, for the record, the Transport and the Environment Committee clerks—Callum Thomson, Alastair Macfie and Roz Wheeler—for the work that they provided to all committee members. Their support and endeavour was invaluable for all members from all parties.

I also want to put on record my thanks to the many organisations that gave evidence to the committee during the bill's passage. Bruce Crawford mentioned Scottish Environment LINK, which was instrumental in bringing forward many of the improvements to the bill through discussions with members of the Transport and the Environment Committee and with ministers. I also want to thank the many other organisations that gave evidence, including public sector agencies, professional representative groups and industrial organisations.

It is important to say that in passing the bill we are passing legislation that is under a European Union directive and we are doing so in a timely manner. As Ross Finnie said in his introductory remarks, it has not always been the case that the United Kingdom or Scotland has complied with all the deadlines. It is good that we are passing the bill well in advance of a deadline of December 2003. That is particularly good given the heavy legislative and other burdens that the ministerial team in the environment and rural affairs department has had over recent months.

What is important today is not the transposition of a directive just for the sake of it, but what the directive will enable us to do. The bill will enable us to protect Scotland's natural heritage in terms of our rivers, lochs, coastal waters and groundwaters—and, indeed, our wetlands, provision for which was introduced during the bill's

passage. The bill will also encourage the active participation of communities and organisations throughout Scotland in water management and ensure that we can reduce and control pollution in the future.

I will comment on a few issues on which I think the Executive has moved considerably during the bill's passage. It has taken on board comments from members of the Transport and the Environment Committee, the committee's reports and amendments, and representations from external organisations. The most significant of those issues is flooding, which was the subject of an earlier debate today. The fact that the Executive is prepared to commit to provision for sustainable flood management in the bill is a major step forward, and it has been broadly welcomed.

I believe that the definition of wetlands has been improved today. That, too, is to be welcomed, as is the introduction of proposals to transfer aquaculture planning powers. We have also discussed sustainable urban drainage systems, which Des McNulty raised during the passage of the bill.

The bill will be an important piece of environmental legislation. Over the years to come, it will improve the way in which we are able to manage our water systems in Scotland. I commend the bill to the Parliament.

18:25

**Robin Harper (Lothians) (Green):** I will be brief, as it has been a long day. I add to all other members' thanks my thanks to the clerks, the Scottish Parliament information centre and all those who gave evidence. I say a particular thank-you to the environmental organisations that are organised through Scottish Environment LINK for the extra help that they have given us all over the past weeks in providing sound advice and good ideas for last-minute improvements to the bill, which have been significant.

Some work that comes before committees is inevitably rushed, but the bill has been given adequate time. We have done a very good job on it, and it is fit for purpose.

Earlier in the bill's passage, we heard excellent and clear evidence from another group—the Executive's civil servants. I am sure that I reflect all members' feelings on the matter. Those civil servants gave us admirably clear evidence that was of great assistance in our consideration of the bill.

Section 20 passed by before I remembered to ask a question about it. I think that the question was answered, but I will return to the Executive by snail mail if I find that I am not satisfied.

The bill is not simply a set of new regulations, but is very much an enabling bill. I hope that all those in Scotland who are concerned to control the ever-increasing problem of flooding—such as the local councils, farmers and the Executive—will use the bill to develop the best flood defence system that we can, perhaps well ahead of other parts of Europe. Already we can congratulate ourselves on the fact that we are ahead of the rest of Europe in the consideration and passing of the bill.

18:28

**Nora Radcliffe (Gordon) (LD):** I endorse the thanks that colleagues have expressed to all those who have contributed to the bill.

The bill is about the sustainable management of Scotland's water resource. We have a lot of it—30,000 freshwater lochs and 7,000 river systems. Sustainable management will impinge on industry, the rural economy, the urban economy, planning, housing, drinking water, agriculture, tourism, ecology, the environment and energy. Indeed, it will impinge on just about every aspect of our lives and work. The bill is important in anybody's terms. To make the bill effective, all the interests and policy areas that I have mentioned—and probably a number that I have not—will need to be integrated into the management of our water.

The bill implements the European water framework directive and completes the primary legislative arrangements for Scottish Water. The water framework directive is the first European directive to be carried through by the Parliament from scratch, and I believe that ours is the first legislature in Europe to transpose the directive into legislation. That we have done a good job is therefore a source of pride, particularly in this year, because, as John Scott said, a United Nations resolution has designated 2003 the international year of fresh water.

The water framework directive's ethos is to deal with water resources holistically, to consider whole water systems and to involve all stakeholders in a way that manages to prevent deterioration and improve the quality of all fresh water, surface water and groundwater, as well as some coastal waters.

I am pleased that the Executive eventually took on board the idea that wetlands are an important part of water ecosystems and should be explicitly recognised as such in the bill. Wetlands are not just any old piece of land that is wet; they are a recognised and definable feature and perform a number of valuable functions in the ecosystem of which they are part. Those functions include absorbing the peaks of water flows that can otherwise cause flooding; controlling pollution by

acting like settling tanks and in a number of other ways; storing nitrogen and phosphorous in the vegetation that they sustain; and acting as buffer zones between agricultural land and aquifers used for drinking water. Peat bogs especially can absorb carbon dioxide. Wetlands also provide an important habitat for a wide range of flora and fauna and are important for migratory birds. Finally, wetland vegetation can stabilise shorelines and consolidate soils. Members can see why I was so keen to have wetlands mentioned explicitly as part of the water environment.

The bill makes extensive provision for informing and involving people in river basin planning and management, and I hope and expect that all stakeholders will get involved to ensure that all interests are considered and catered for in the management of our water resource. Concern has been expressed, notably by the whisky industry and hydro-electric companies, but I am confident that they will find that the new regime is much more of an opportunity than a threat and that they can and will make a positive contribution.

It seems to me that the costs of not implementing the bill far outweigh the costs of doing so. There was strong pressure on the Executive to use the bill to transfer planning control of fish farming from the Crown Estate to local authorities. I am pleased that that has happened, as the Executive has introduced, a year or two years sooner than would otherwise have been possible, a sensible measure on which there was wide agreement.

Amendments at stage 3 have made maintenance of sustainable urban drainage systems a responsibility of Scottish Water, thus clearing up previous confusion and, I hope, resulting in much wider use of such means of mitigating pollution and flooding.

During the passage of the bill much has been made of flooding. Correctly, flooding has been specifically recognised as part of managing water systems, but I agree with the Executive that the bill is not the vehicle for a national flood strategy. Most local authorities in Scotland are organised on flooding to the extent that Scotland is being cited as an example of good practice in that regard. The sensible way in which to build a national overview is the national waste strategy model, starting with what local authorities are doing and feeding into it.

At one of my local schools on Friday I was asked what was the best thing about being an MSP. I tried to describe the moment of intense satisfaction when we see a bill being passed that is the culmination of the efforts of many people working together and contributing to something that was as good as they could make it collectively and which will be of benefit to Scotland and everyone living and working in Scotland. I look

forward to one such moment shortly. I commend the bill to the Parliament and the people of Scotland.

18:33

**Brian Fitzpatrick (Strathkelvin and Bearsden) (Lab):** It is a brave man who stands between members and a bacon roll, so I will be brief. In supporting the Executive, I make no apology for mentioning the important issues of flood prevention and reduction. I welcome the comments that were made by both the minister and the deputy minister that solutions to flooding problems will never be found on the face of a bill.

I probably have the distinction of being one of the few MSPs to have suffered being flooded out of his constituency office. That gave me a small insight into the much more serious problems suffered by too many of my constituents who were flooded out of their homes—some of them are still out of their homes.

On sustainable urban drainage systems—happily abbreviated as SUDS—John Scott mentioned the issue of reasonable costs. I urge on all members the view that other unnecessary costs and disruption are associated with unnecessary flooding. In my part of the country, a tremendous problem has been caused as a result of the difficulties in tackling the combined drainage system. I do not think that anyone would suggest that any reasonable drainage system would have coped with the unusual level of downpours and run-off that we have experienced. It is bad enough that people have had to cope with that, without their having to cope with its effects on sewage, which was the experience of too many of the people in my constituency who suffered flooding.

I very much welcome, and believe that there will be a key role for, the roll-out of the determinations of the ad hoc group of ministers. That is one of the reasons why I was persuaded to support the Executive and to move away from the superficial attraction of Bruce Crawford's programme of action. I hope that that roll-out will include serious consideration of the need for better co-ordination and for some form of standing forum that might address the various co-ordination issues. My experience of flooding incidents revealed a lack of basic co-ordination in relation to who was in the lead, who was responsible for undertaking works and who was responsible for the costs of those works, which represent a substantial burden. I am pleased by what the minister said about Scottish Water having a role in that regard.

All members whose constituents have faced flooding will be aware of the different stories that people have. Anything that can be done to ensure that people who face very difficult circumstances

are not given the bureaucratic runaround is to be welcomed.

My colleague Sarah Boyack made an important point about information on flood risk. She is a sterling advocate of the need for effective information on action and campaigning on the environment and is to be congratulated on that.

It is vital that we should have better mapping. A number of my constituents face problems of insurance and insurance cover. Many more share such anxiety. Anything that ministers can do to secure better mapping for those who are affected by flood risk and for those who are identified by postcode as being at risk of flooding, even though they have not experienced it, would be welcome.

The Executive faces a number of serious challenges. I suspect that members have moved on to consideration of other matters, but we should not pretend that the bill does anything other than address key problems that are faced by constituents across Scotland.

**The Deputy Presiding Officer:** I invite Allan Wilson to wind up the debate. When he has finished—depending on the length of his speech—I will be willing to accept a motion without notice to bring forward decision time.

18:37

**The Deputy Minister for Environment and Rural Development (Allan Wilson):** I begin by adding my thanks to the clerks to the Transport and the Environment Committee, who worked tremendously hard on the bill, especially during the five weeks of stage 2 in the run-up to Christmas. I thank, too, all the members of the committee, who worked constructively to produce the bill that we have before us today, which is a better bill than the bill that was introduced.

I also thank the backroom team of civil servants, whose massed ranks members can see at the back of the chamber. Even as we speak, they are desperately waiting to get to the pub to celebrate the successful passing of the bill. I am sure that they will not mind my singling out for special mention Mr Michael Kellet, who, in delivering a briefing to me at 1 o'clock in the morning, went above and beyond the call of normal civil service duty.

Like Bristow Muldoon, I was surprised—or perhaps not—by the tone of the speeches of John Scott and Bruce Crawford. I will not call John Scott's speech a rant, as it did not reach that standard. It was anti-Executive, which one could say is fair enough. However, it was also anti-euro and anti-environment and it missed the whole point of the cost-benefit analysis that was undertaken. Even if one were to consider the issue

of better water management in purely cash terms—we know that Tories know the price of everything and the value of nothing—that analysis pointed to benefits in the region of £1.5 billion.

Bruce Crawford's impression of a drowning man trying to resurrect a privatisation scare was equally discouraging. Brian Fitzpatrick is absolutely right. It must be said to the nationalists that it is the oldest example of muddled thinking in the book to believe that something will get done only if it is written on the face of a bill. What is even worse is that Bruce Crawford wanted to write his proposal on the face of the wrong bill. During the debate, I set out the nationally co-ordinated action that the Executive is taking on flooding, but the bill is simply not the place to deal with that issue. It is crass to suggest that, if we do not agree with that, there can be no nationally co-ordinated response.

As my colleague Ross Finnie has said, the bill puts us on the front foot in the protection of our rivers, lochs, coastal waters and groundwaters. In many respects, we are leading the way in Europe. The bill is an example of Scottish devolution delivering for the Scottish people. As we all know, the success of the Parliament is what the nationalists find more difficult than anything else to accept. They wrongly believe that they have a vested interest in failure. When members vote to support the bill—as I am sure they will—they will be rejecting that narrow nationalist mentality and delivering a vital measure to protect, conserve and enhance our unique water environment for future generations to enjoy.

I have much pleasure in supporting the motion moved by Ross Finnie that the Parliament should pass the Water Environment and Water Services (Scotland) Bill.

## Motion without Notice

18:41

**The Deputy Presiding Officer (Mr Murray Tosh):** I call Euan Robson to move the motion without notice.

*Motion moved,*

That the Parliament agrees under Rule 11.2.4 of Standing Orders that Decision Time on Wednesday 29 January 2003 be brought forward to 6.41 pm.—[*Euan Robson.*]

*Motion agreed to.*

## Decision Time

18:41

**The Deputy Presiding Officer (Mr Murray Tosh):** There is one question to be put as a result of today's business. The question is, that motion S1M-3707, in the name of Ross Finnie, that the Water Environment and Water Services (Scotland) Bill be passed, be agreed to.

*Motion agreed to.*

That the Parliament agrees that the Water Environment and Water Services (Scotland) Bill be passed.

*Meeting closed at 18:42.*

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