

MEETING OF THE PARLIAMENT

Wednesday 7 January 2004
(*Afternoon*)

Session 2

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2004.

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

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

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

CONTENTS

Wednesday 7 January 2004

SCOTTISH MINISTERS AND DEPUTY MINISTERS
PRESIDING OFFICERS
SCOTTISH PARLIAMENTARY CORPORATE BODY
PARLIAMENTARY BUREAU
COMMITTEE CONVENERS AND DEPUTY CONVENERS

Debates

	Col.
TIME FOR REFLECTION.....	4503
BUSINESS MOTION.....	4505
<i>Motion moved—[Patricia Ferguson]—and agreed to.</i>	
FISHERIES.....	4506
<i>Statement—[Ross Finnie].</i>	
The Minister for Environment and Rural Development (Ross Finnie).....	4506
NATURE CONSERVATION (SCOTLAND) BILL: STAGE 1.....	4518
<i>Motion moved—[Ross Finnie].</i>	
The Minister for Environment and Rural Development (Ross Finnie).....	4518
Roseanna Cunningham (Perth) (SNP).....	4521
Alex Johnstone (North East Scotland) (Con).....	4524
Sarah Boyack (Edinburgh Central) (Lab).....	4526
Mr Mark Ruskell (Mid Scotland and Fife) (Green).....	4528
Maureen Macmillan (Highlands and Islands) (Lab).....	4530
Bruce Crawford (Mid Scotland and Fife) (SNP).....	4532
Mr Ted Brocklebank (Mid Scotland and Fife) (Con).....	4535
Nora Radcliffe (Gordon) (LD).....	4537
Dr Sylvia Jackson (Stirling) (Lab).....	4539
Ms Rosemary Byrne (South of Scotland) (SSP).....	4542
Christine May (Central Fife) (Lab).....	4543
Eleanor Scott (Highlands and Islands) (Green).....	4545
John Farquhar Munro (Ross, Skye and Inverness West) (LD).....	4548
Mr Alasdair Morrison (Western Isles) (Lab).....	4549
Alex Fergusson (Galloway and Upper Nithsdale) (Con).....	4551
Rob Gibson (Highlands and Islands) (SNP).....	4553
Ross Finnie.....	4555
NATURE CONSERVATION (SCOTLAND) BILL: FINANCIAL RESOLUTION.....	4559
<i>Motion moved—[Ross Finnie].</i>	
BUSINESS MOTION.....	4560
<i>Motion moved—[Patricia Ferguson]—and agreed to.</i>	
DECISION TIME.....	4562
HOLY TRINITY EPISCOPAL PRIMARY SCHOOL (CLOSURE).....	4563
<i>Motion debated—[Mr Brian Monteith].</i>	
Mr Brian Monteith (Mid Scotland and Fife) (Con).....	4563
Dr Sylvia Jackson (Stirling) (Lab).....	4566
Bruce Crawford (Mid Scotland and Fife) (SNP).....	4568
Mr Mark Ruskell (Mid Scotland and Fife) (Green).....	4570
Lord James Douglas-Hamilton (Lothians) (Con).....	4571
Carolyn Leckie (Central Scotland) (SSP).....	4572
The Deputy Minister for Education and Young People (Euan Robson).....	4574

SCOTTISH MINISTERS AND DEPUTY MINISTERS

FIRST MINISTER—Right hon Jack McConnell MSP
DEPUTY FIRST MINISTER—Right hon Jim Wallace QC MSP

Justice

MINISTER FOR JUSTICE—Cathy Jamieson MSP
DEPUTY MINISTER FOR JUSTICE—Hugh Henry MSP

Education and Young People

MINISTER FOR EDUCATION AND YOUNG PEOPLE—Peter Peacock MSP
DEPUTY MINISTER FOR EDUCATION AND YOUNG PEOPLE—Euan Robson MSP

Enterprise and Lifelong Learning

MINISTER FOR ENTERPRISE AND LIFELONG LEARNING—Right hon Jim Wallace QC MSP
DEPUTY MINISTER FOR ENTERPRISE AND LIFELONG LEARNING—Lewis Macdonald MSP

Environment and Rural Development

MINISTER FOR ENVIRONMENT AND RURAL DEVELOPMENT—Ross Finnie MSP
DEPUTY MINISTER FOR ENVIRONMENT AND RURAL DEVELOPMENT—Allan Wilson MSP

Finance and Public Services

MINISTER FOR FINANCE AND PUBLIC SERVICES—Mr Andy Kerr MSP
DEPUTY MINISTER FOR FINANCE AND PUBLIC SERVICES—Tavish Scott MSP

Health and Community Care

MINISTER FOR HEALTH AND COMMUNITY CARE—Malcolm Chisholm MSP
DEPUTY MINISTER FOR HEALTH AND COMMUNITY CARE—Mr Tom McCabe MSP

Parliamentary Business

MINISTER FOR PARLIAMENTARY BUSINESS—Patricia Ferguson MSP
DEPUTY MINISTER FOR PARLIAMENTARY BUSINESS—Tavish Scott MSP

Communities

MINISTER FOR COMMUNITIES—Ms Margaret Curran MSP
DEPUTY MINISTER FOR COMMUNITIES—Mrs Mary Mulligan MSP

Tourism, Culture and Sport

MINISTER FOR TOURISM, CULTURE AND SPORT—Mr Frank McAveety MSP

Transport

MINISTER FOR TRANSPORT—Nicol Stephen MSP

Law Officers

LORD ADVOCATE—Colin Boyd QC
SOLICITOR GENERAL FOR SCOTLAND—Mrs Elish Angiolini QC

PRESIDING OFFICERS

PRESIDING OFFICER—Mr George Reid MSP
DEPUTY PRESIDING OFFICERS—Trish Godman MSP, Murray Tosh MSP

SCOTTISH PARLIAMENTARY CORPORATE BODY

PRESIDING OFFICER—Mr George Reid MSP
MEMBERS—Robert Brown MSP, Mr Duncan McNeil MSP, John Scott MSP, Mr Andrew Welsh MSP

PARLIAMENTARY BUREAU

PRESIDING OFFICER—Mr George Reid MSP
MEMBERS—Bill Aitken MSP, Mark Ballard MSP, Bruce Crawford MSP, Patricia Ferguson MSP, Carolyn Leckie MSP, Tavish Scott MSP

COMMITTEE CONVENERS AND DEPUTY CONVENERS

Committee	Convener	Deputy Convener
Audit	Mr Brian Monteith	Mr Kenny MacAskill
Communities	Johann Lamont	Donald Gorrie
Education	Robert Brown	Lord James Douglas-Hamilton
Enterprise and Culture	Alasdair Morgan	Mike Watson
Environment and Rural Development	Sarah Boyack	Eleanor Scott
Equal Opportunities	Cathy Peattie	Margaret Smith
European and External Relations	Richard Lochhead	Irene Oldfather
Finance	Des McNulty	Fergus Ewing
Health	Christine Grahame	Janis Hughes
Justice 1	Pauline McNeill	Mr Stewart Maxwell
Justice 2	Miss Annabel Goldie	Karen Whitefield
Local Government and Transport	Bristow Muldoon	Mr Andrew Welsh
Procedures	Iain Smith	Karen Gillon
Public Petitions	Michael McMahon	John Scott
Standards	Brian Adam	Mr Kenneth Macintosh
Subordinate Legislation	Dr Sylvia Jackson	Gordon Jackson

7 January 2004

Scottish Parliament

Wednesday 7 January 2004

(Afternoon)

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

Time for Reflection

The Presiding Officer (Mr George Reid): Welcome back and a good new year. Our time for reflection leader today is his Eminence Cardinal Keith O'Brien, Archbishop of St Andrews and Edinburgh.

Cardinal Keith O'Brien (Archbishop of St Andrews and Edinburgh): At this time of the year in the Christian calendar, we are still celebrating the birth of Jesus Christ, the prince of peace. Sunday is described as Epiphany Sunday, and the feast of the Epiphany was yesterday, the 12th day of Christmas. We can legitimately regard the whole of the Christmas season as a period of manifestation, celebrating the manifestation of Christ as Messiah to all the peoples of the world, represented by the three wise men.

Scripture records various manifestations and proclamations at this season. The angel, we are told, declared unto Mary, and she proclaimed her "Yes". On the occasion of the visitation of Mary to her cousin Elizabeth, Elizabeth greeted Mary and Mary proclaimed that great hymn of praise, the Magnificat. John the Baptist, born of Elizabeth, was the man who had the responsibility of preparing the way for the Lord and proclaiming his greatness.

We ourselves can think of those various proclamations, but others have struck me over the past few weeks of Christmastide. Just before Christmas, I saw on television that a baby girl who had been born very prematurely was being returned to her parents following weeks of intensive care in a premature babies unit—a wonderful proclamation of love of life, no matter how fragile.

At the other end of the scale, our 83-year-old Pope John Paul II again proclaimed his Christmas message and celebrated the world day of peace on 1 January with the words:

"men and women tempted to turn to the unacceptable means of terrorism and thus compromise at its root the very cause for which you are fighting ... at the beginning of the New Year 2004, *peace remains possible*. And if peace is possible, *it is also a duty*!"

That is a proclamation in words of our responsibility to work for peace in whatever ways we can.

Many others around us make their own proclamations to us and to our consciences about the value of each and every individual human being. We have an increasing concern at this time for the homeless, the unemployed and those whose employment may be threatened. We have concern for those who are less able in different ways and for all who seek our help.

These proclamations are made to us, and perhaps these simple words, reminding us of the nativity scene from St Luke's gospel, might help us to discern the way ahead. We are told:

"As for Mary, she treasured all these things and pondered them in her heart".

At the beginning of this new year, near the commencement of this parliamentary session, perhaps each one of us could spend some further time treasuring, pondering and reflecting on all who come to us. In our positions, we have heavy responsibilities in proclaiming but, prior to that proclamation which is incumbent on us, there should be that treasuring, that pondering and that reflecting.

Business Motion

14:34

The Presiding Officer (Mr George Reid): The next item of business is consideration of business motion S2M-759, in the name of Patricia Ferguson, on behalf of the Parliamentary Bureau, setting out a revised business programme.

Motion moved,

That the Parliament agrees a revision to the programme of business for Wednesday 7 January 2004, as agreed on 17 December 2003—

after—

2.30pm Time for Reflection—Cardinal Keith O'Brien, Archbishop of St Andrews and Edinburgh

followed by Parliamentary Bureau Motions

insert—

followed by Ministerial Statement on Fisheries—
[Patricia Ferguson.]

Motion agreed to.

Fisheries

The Presiding Officer (Mr George Reid): The next item of business is a statement by Ross Finnie on fisheries. The minister will take questions at the end of his statement and there should be no interventions.

14:35

The Minister for Environment and Rural Development (Ross Finnie): I am grateful for this opportunity to report on the outcome of the December fisheries council in Brussels. When we debated fisheries prior to the council, I said that I had three specific aims: better outcomes for conservation; better outcomes for fishing businesses; and better outcomes for our fishing communities.

While our cod stocks remain outwith their safe biological limits, our white-fish sector will undoubtedly continue to face very real challenges. However, I believe that, within that difficult constraint, we have secured our key objectives and, in so doing, have secured a better balance between conservation on the one hand and increased fishing opportunities on the other. I shall begin by taking members through the key outcomes on total allowable catches and quotas and on longer-term cod recovery measures, including effort control—or days at sea—arrangements for this year.

On TACs and quotas, we have secured significant quota increases for many stocks across all sectors—pelagic, white fish and prawns—although the outcomes differ between the North sea and the west of Scotland and between stocks. In the pelagic sector, the North sea herring TAC has been increased by 15 per cent and the mackerel TAC has been reduced by 8 per cent. Mackerel is the single most valuable fishery in the United Kingdom and we accepted a modest decrease in that TAC as a prudent response to the scientific evidence. We overturned a Commission proposal to reduce the UK allocation of blue whiting from 20 per cent to 15 per cent as part of a wider international negotiation. Therefore, as a whole, the pelagic sector can—with responsible, sustainable stewardship—continue to look forward to stable economic returns and high profits.

For the white-fish sector, there remains a significant problem because of the state of the cod stocks, especially off the west of Scotland. Both we and the industry have advocated alternative approaches—so-called decoupling and spatial management—to secure higher quotas on buoyant stocks such as haddock without compromising cod recovery initiatives. I stress that. As a result, we have secured a 53 per cent

increase in the North sea haddock TAC, which will be an enormous boost to the white-fish sector, particularly in the north. However, that comes with strings attached.

Let me be clear: it would have been impossible to secure any increase in the haddock TAC without more stringent control and enforcement arrangements. That reflects the need to ensure that any increase in the haddock fishery does not undermine cod conservation and the unfortunate perception of black-fish activity in the Scottish mixed fishery, which was illustrated by the Commission's recent infraction proceedings against Scotland and the UK. In the negotiations, I faced a simple choice between no increase in the haddock TAC or a potentially significant increase associated with new management arrangements. I opted for a new approach because a significant TAC increase in haddock offered a lifeline to the white-fish sector and made it easier to deliver some of the control improvements that any infraction process inevitably requires.

In practice, there are two new management arrangements in the North sea haddock regime. First, there is a spatial management arrangement. The regime is designed to encourage fishermen out of the designated cod-sensitive areas to fish elsewhere for the existing haddock stock. In practice, only 20 per cent of the UK haddock quota can be taken in the cod-sensitive areas. Secondly, underpinning that is a special permit arrangement. Fishermen who want to access the extra haddock quota will have their fishing licences amended to exclude them from fishing in the cod-sensitive areas. In practice, the permit is simply a UK fishing licence with specific conditions attached. Those conditions include enhanced controls on the landing of fish at designated landing ports and provisions to preclude the renewal of such special permits—implying loss of access—where offences have been committed or licence conditions have been breached.

I appreciate that the arrangements are new. We need to clarify the practical implications and to try to ensure that no unintended consequences arise. Accordingly, discussions with the industry begin tomorrow. However, I stress that, although we must examine the details and ensure that they are clearly understood and do not have unintended consequences, we must be clear that there is no going back on the principle of spatial management associated with more stringent control and enforcement.

On the west coast, I am afraid that there is no equivalent boost for the haddock TAC. That is for three principal reasons. First, the cod stock shows none of the signs of potential recovery that we are beginning to see in the North sea. Secondly, the International Council for the Exploration of the Sea

has significantly reduced its estimate of the size of the haddock stock. Thirdly, we were not able to make a credible scientific case for decoupling haddock from cod in the way that proved possible in the North sea.

As far as nephrops are concerned, we secured an increase of 15 per cent in the North sea TAC by demonstrating once again that it is a relatively clean fishery. A further 15 per cent increase is agreed and will follow as soon as we are able to agree the specific management measures with the Commission.

As far as west of Scotland nephrops are concerned, we were not able to secure an increase in the TAC. Unfortunately, the official catch statistics suggest that the industry is not catching the existing TAC—that made it very difficult to make a persuasive case for an increase in difficult circumstances.

I turn now to cod recovery and effort control. The fisheries council reached political agreement on the Commission's long-term cod recovery initiative, albeit with some important modifications.

First, the council agreed what is essentially a multi-annual approach to the setting of cod TACs. We secured various changes to the formula so that it does not undermine the discretion of ministers. I believe that, over time, that approach should deliver better conservation and more stable and predictable TACs.

Secondly, the council agreed effort control arrangements that will be reviewed further in the course of this year. The Commission originally proposed a commercially flexible basket of tradeable effort based on kilowatt days. The council agreed to perpetuate the current interim regime, which gives a fixed number of days to particular vessels. However, the Commission also undertook to propose the more flexible approach that we want in the course of 2004. Therefore, in effect, we have agreement to the long-term cod recovery measure, the central plank of which—effort control—will be subject to further modification this year.

This year's interim regime—annex V to the TAC regulation—contains significant changes from last year's annex XVII. Significantly, the geographical boundaries have been extended to include the Irish sea and the eastern channel. They have also been extended to the north-east of Scotland to include cod-rich areas that were previously exempted because of the French saithe fishery—the so-called saithe derogation—and further to the west of Scotland. That wider geographical coverage is a significant step forward in making the conservation regime more equitable among all the member states concerned.

As far as the effort allocations themselves are concerned, the UK white-fish sector again gets 15 days; I must point out that the 15-day allocation was calculated on a different basis from last year, but it fully recognises the 30 per cent reduction in effort that Scottish vessels have achieved as a result of previous decommissioning. The nephrops sector faces a reduction from 25 to 22 days. That should not impact on nephrops fishermen in practice, although it might be helpful in limiting unwelcome diversions of effort into the nephrops sector. White-fish and nephrops fishermen with low bycatches of cod, plaice and sole in 2002 are permitted unrestricted fishing. That derogation would be removed if the bycatch level exceeded 5 per cent.

I appreciate that some of those changes will make life more difficult for part of the white-fish sector. That is why we fought hard to secure increased quotas to counterbalance the loss of the unlimited fishing that certain larger boats were able to pursue outside the regulated area last year.

The industry should not necessarily need more time to catch the additional haddock quota: the stock is more abundant and the agreed TAC represents what scientists think can be caught with the same level of effort used to catch last year's very much smaller haddock quota. The downside is the effect on those who wish to target cod further afield, but the state of the science on cod stocks means that we must place more effective limits on fishing in cod-rich areas and provide incentives for fishermen to redirect their effort to haddock.

I believe that we have achieved a sensible outcome for conservation, because the effort control regime and our control and enforcement arrangements are more robust and equitable. That means that the prospect for cod recovery should improve. The significant quota increases for haddock and nephrops represent better outcomes for the industry and its associated communities. I make no bones about it—things will continue to be difficult for certain fishermen. However, I judge that the quota increases are on such a scale that they should significantly counterbalance the continuation of effort control.

I appreciate that there is still further work to be done, in co-operation with the industry, on how to work through the new measures. I appreciate that as long as cod stocks remain outwith their safe biological limits, our white-fish sector will continue to face difficulties. However, overall, I believe that this represents a better-balanced package for conservation, for fishing businesses and for our fishing communities.

The Presiding Officer: Mr Finnie will now take questions on the issues that are raised in his

statement. I will allow until about 5 past 3 for that process.

Richard Lochhead (North East Scotland) (SNP): I begin by thanking the minister for giving me an advance copy of his statement. However, this was another rotten Christmas for Scotland's fishing communities, thanks to the latest deal that the Government brought back from Brussels. Our fishermen regard the deal as even worse than the notorious settlement that was agreed in the previous year. Once again, team UK went to Brussels and sold Scotland down the river. The UK minister Ben Bradshaw said that it was a good result as soon as he had signed the deal. The truth is that it is a dreadful result for Scotland, which is what Scotland's fishing communities are saying.

Once again, our fishing communities are shellshocked and have suffered from a lack of political clout in Europe and a common fisheries policy that discriminates against Scotland. In his statement, the minister talks about life being made more difficult for the white-fish sector—the truth is that life will be impossible. The deal provides bigger quotas in the North sea, but not enough time and space to catch them. For the west coast vessels, the deal provides plenty of time at sea, but fewer fish to catch.

A while back, Ross Finnie said that he did not intend to preside over the destruction of our fishing industry, but he has taken it further down the road to ruin rather than put it on the road to recovery, which is what he promised to do only a few weeks ago in the chamber.

I have three specific questions for the minister. First, he talks about the strings that are attached to the haddock quota, but does he not realise that there is a noose around the industry's neck? Will he explain why he supported a deal that foists on his own white-fish fleet extra, unworkable restrictions that will not apply to fleets from other nations that fish the same waters for the same stocks? That is the first question that the minister must answer today.

Secondly, given that the minister said that any new deal would reward the fact that Scotland has decommissioned half of its white-fish fleet, will he explain why our fleet has been limited to the same number of days at sea as it had last year, even though the fleet is much smaller and there are more fish in the sea? Can the minister answer that question, too?

Finally, will the minister give a commitment to tear up that ludicrous and unworkable part of the deal, take the first plane back to Brussels and bring back a better deal for Scotland, which will allow our fishermen access to stocks off their own shores and which will deliver an aid package to

help the fleet and the onshore sectors until that is achieved?

The minister said that he wanted to ensure that the new arrangements had no unintended consequences, but the unintended consequence might be the end of Scotland's fishing industry, unless he acts now.

Ross Finnie: Mr Lochhead's apocalyptic language and his talk of the end of the fishing industry really do not take seriously the issues that are involved.

Let us consider the number of days at sea. There are two reasons why there has been no change. First, last year we got credit for a decommissioning scheme that had not yet taken place. We argued that it would be possible to reduce fishing effort by a further 15 to 20 per cent. That was taken into account last year and we had credit for it last year, as Mr Lochhead knows. In the calculation for this year, he will see quite clearly that effort is not reduced by 65 per cent, which is what the starting point was, but by 35 per cent. The other 30 per cent is clearly accounted for by the decommissioning that the Scottish fishing fleet has undertaken in the two decommissioning schemes.

On the reason why there are conditions for haddock, one has to accept—and I hope that Mr Lochhead does so—that the fact that there is more haddock does not mean that the cod problem has gone away. The much-improved state of the haddock stock means that there is a scientific base on which to argue coherently that it is possible to decouple the traditional one-to-one relationship between haddock and cod and to engage in a scientifically based argument for better spatial management to allow access to higher quotas of haddock. The reason for the conditions is that we cannot allow people free rein to fish haddock when they are in the middle of a mixed fishery. We have to face up to that fact. The conditions are capable of being met and will result in a far higher level of quota being achieved.

I am not about to return to Brussels to tear up a deal the basic principles of which—both the spatial element and the decoupling element—were being argued for by the Scottish Fishermen's Federation. We have secured those principles and Mr Lochhead should accept that.

Mr Ted Brocklebank (Mid Scotland and Fife) (Con): Despite his assurances, will the minister accept that the Scottish white-fish sector feels cruelly let down by the recent settlement? Following the halving of the Scottish fleet through decommissioning over a three-year period, the industry was entitled to expect that there would be a better deal for those vessels that were left. Is it not a fact that this year's deal of 15 days at sea a

month has left the remaining fishermen feeling no better off at all? Does the minister accept that the increase in the haddock quota is virtually meaningless as there are simply not enough days each month in which to catch it, especially since there will be no allowance for steaming time?

While I welcome the increases in the east coast nephrops quotas, which were essential for beleaguered ports such as Pittenweem, does the minister accept that the December settlement on white fish will do nothing to halt the decline of Scotland's most fishery-dependent communities in the north-east and that further transitional aid will now be vital?

In the light of his most recent bruising experience at the hands of the council in Brussels, does the minister now agree with Conservative members who have long been telling him that, far from the task of reforming the common fisheries policy having begun, the reality is that the situation has become even more intensive and complicated, that the ludicrous end-of-year summits work against a complex fishery such as the United Kingdom's and that the situation is likely to get worse with the enlargement of the European Union?

Ross Finnie: On Mr Brocklebank's first point, I would say that the only people who feel cruelly let down are those who were led up the garden path by the likes of the Conservative fisheries spokesman, who talked—in the face of continuing scientific evidence of a decline in cod stocks—of an increase in our fishing opportunities, an increase in our fleet and an increase in fishery size. That is the kind of unrealistic assessment that leads to people feeling cruelly let down.

The fact of the matter is that as long as the cod stocks in the North sea are below and outwith their biological safe limits and we are operating in a mixed fishery, we face a fundamental problem. We are addressing that problem by taking the scientific evidence of improvement in the haddock fishery and other fisheries and deploying it successfully to persuade the scientists that it is credible to decouple the relationship between cod and haddock and engage in spatial management. That is why we have achieved a 53 per cent increase in the allocation. The fact that that is based on the available science makes it a credible alternative to the original proposition which was, as Mr Brocklebank will well remember, to close the North sea. If we were to go against the arrangement—and there are legitimate grounds for doing so—our action would still have to be credible in relation to the science and the evidence that we adduced to support our case.

On Ted Brocklebank's latter point, his half-baked suggestion—he still has not explained to me how he would manage international stocks—does not

prove that we should come out of the European Union. [*Interruption.*] I am afraid that the Conservatives will find no statement from Tavish Scott saying that we should come out of Europe. That is not a proposition that they will find anywhere at all. The answer to Ted Brocklebank's question is no.

Mr Alasdair Morrison (Western Isles) (Lab):

Does the minister agree that we should now try to seek an all-year-round derogation that would permit pelagic fishing and the potting method of fishing in the cod box to the north-west of Lewis? Will he agree to examine the possibility of a seasonal derogation for trawlers in that cod box? As he knows, 75 per cent of cod are caught in the first four months of the year. Does he agree that, if there is no seasonal derogation, there could be significant displacement of effort to the deep-water prawn fisheries west of the Hebrides, an area of water that is fully exploited? Does he also agree that, if there is to be an all-year-round derogation, we must make a compelling case for the reinstatement of the 10 per cent prawn quota that was lost some time ago?

Ross Finnie: I am grateful to Alasdair Morrison for that constructive suggestion on how to approach the issue—

Members: Oh.

Ross Finnie: It might surprise Scottish National Party members that Mr Morrison makes a constructive intervention, but it is no surprise to me. His suggestion is helpful and, if we are to follow it, he is right that we will need much more management and survey work to be done. I wholly accept the proposition that there is a danger of consequent displacement—as there always is when we change the arrangements and the balance—and I recognise that that could be serious in Mr Morrison's part of the world. I welcome his suggestion.

Iain Smith (North East Fife) (LD): Does the minister agree that the deal that has been achieved in the council marks a significant change in the European Commission's approach to issues such as spatial management and decoupling and that that is a result of hard work on the Executive's and the Scottish ministers' part? I welcome the increase in the nephrops quota, but does the minister recognise that nephrops fishermen such as those in Eyemouth and Pittenweem have suffered from being subject to restrictions because of the haddock and cod regimes, although they have no effect on those stocks? Will he take that into account when considering how to allocate the additional quota and ensure that such communities receive a significant share of it?

Ross Finnie: I certainly agree that there has been a significant change and that, in viewing the

overall picture of what was agreed in December, we should not lose sight of the fact that the principles of spatial management, decoupling and having a bycatch of less than 5 per cent—which, regrettably, few of our vessels have achieved—give access to derogations in relation to effort control. We are able to build on three key areas, and that changes the way in which the management of fish stocks takes place.

I do not think that Iain Smith would expect me to intervene on the detailed allocation of the additional quota to ports that are heavily dependent on the nephrops fishery but, with the increased quota, there is certainly an opportunity for what Iain Smith proposed to take place, and I hope that the arrangements will deal with that suitably.

Stewart Stevenson (Banff and Buchan) (SNP):

Will the minister explain why, after two years of decommissioning, with the Scottish fleet's having a dramatically reduced number of days at sea, boats from Belgium and Denmark—countries that have done no decommissioning—are not subject to the restrictions in the North sea waters that apply to Scottish boats? Given that the minister said that lives will be more difficult for people in the white-fish sector, where are the support programmes to aid the people who are harmed so greatly by the rotten deal?

Ross Finnie: First of all, Danish boats have decommissioned, so what Mr Stevenson says is factually inaccurate. Not all vessels have yet had their days allocated for 2004 because the only nations whose decommissioning arrangements the Commission has accepted for the 35 per cent decommissioning are Scotland and the UK. Therefore, what Stewart Stevenson said is simply not true.

As I explained in my statement, the notion that one could have had an increase in haddock and other quotas and simply ignored—[*Interruption.*] We have 80 per cent of that whole fishery. The notion that one could have argued for an unconditional increase is nonsense.

As far as support is concerned, we must first make a careful analysis. I did not say that those in the white-fish sector would be worse off; I said that they are in difficulties and will continue to be in difficulties as long as cod is in a state that is outwith its biological safe limits. We will review the position, but in the light of an assessment of how the new arrangements will impact on different ports.

Mr Jamie McGrigor (Highlands and Islands) (Con):

Why was there no increase in prawn quota on the west coast, given that the stocks there are healthy? Why cannot the cleanest prawn fishery in Europe as regards bycatch be decoupled and the

quota increased? Why is there no increase in the quota for monkfish in area VI off the west coast, where the monkfish TAC has been reduced by 73 per cent over the past three years? Why has there been a cut of 17 per cent in the haddock quota on the west coast while the haddock off Rockall are more plentiful than they have been for years? Why have there been all those cuts in area VI, which is so important to Scottish fishermen, while in area VII, where the Spanish and Irish boats fish, there has been a 32 per cent increase in monkfish quotas and a 27 per cent increase in megrim quotas?

Is Mr Finnie aware that the proposed complete closure of an area of 100 miles between Scrabster and the Butt of Lewis will close one of the richest fishing grounds for the north coast and west coast fisheries and will devastate the fleets of Kinlochbervie, Lochinver and Scrabster, while non-European Union boats such as Norwegian long liners will still be able to fish that area? Will the minister fight against that closure and will he immediately renegotiate a better deal for the west coast?

Ross Finnie: Mr McGrigor's question is on the reason why there is no increase in quotas on the west coast. As I explained in my statement, and as Mr McGrigor will be aware if he has read the scientific advice—I am sure that he has—there is not the same discernible improvement in the cod stocks off the west coast as there appears to have been in the North sea. There is not the same credible evidence on the west coast to advance the decoupling arguments that we successfully deployed and secured for the east coast. The argument simply was not there.

It is all very well to say that fish are plentiful; the issue is what the scientific advice tells us about the actual state of the cod stocks. Mr McGrigor knows full well that the position off the west coast was significantly worse than that off the east coast. That is why the arguments for the west coast were not capable of being developed into a credible scientific case for increasing the quotas. That is a fact. It is difficult and it is hard, but there is no point going around raising people's expectations by ignoring the scientific advice and pretending that it will all go away. We must have a credible policy that, on the one hand, takes account of the scientific evidence and, on the other hand, gives reasonable quotas where those can be credibly argued for.

Richard Baker (North East Scotland) (Lab): I welcome the additional income that the agreement could bring to sections of the fishing industry, but will the Executive continue to press for additional days' fishing for those with less than 5 per cent cod bycatch, particularly as the ability to minimise bycatches improves?

Ross Finnie: Yes. As I said, I think in response to Iain Smith's question, as well as decoupling and spatial management, the principle appears to have been established that minimal bycatches of less than 5 per cent now qualify for derogations from effort control. We will continue to press on that. However, we must accept that our own fishing industry needs to establish a track record of demonstrating that it is managing to fish with a bycatch of less than 5 per cent if it wishes to take advantage of that.

Robin Harper (Lothians) (Green): The minister referred to an unfortunate perception of black-fish activity, which is an uneasy euphemism for the reality of illegal fishing. I want to ask the minister three questions on the subject.

The Presiding Officer: You may, provided that they are quick.

Robin Harper: Can the minister point to any measures that have worked in the past four years? When will all boats be traceable by satellite tracking? What enforcement measures does the minister identify as being effective and when will they be employed?

Ross Finnie: I have already announced to Mr Harper that we intend to assist in funding the introduction of tamper-proof satellite monitoring, which will greatly improve the situation. As I announced earlier, we will also introduce measures to regulate the buyers and sellers of fish, which will close the loophole to some extent. We will give the Scottish Fisheries Protection Agency the right to access both landing records and the records of those who purchase fish. That will enable the agency to identify much more easily differences between the two that may provide evidence of illegal activity.

The Presiding Officer: That concludes questions.

Bruce Crawford (Mid Scotland and Fife) (SNP): On a point of order, Presiding Officer. Given that the fishing industry is in crisis and that this is a major issue affecting Scotland, are you prepared to seek the approval of Parliament to extend this item of business? Clearly, a number of members wish to contribute and to ask questions, so it would be appropriate for the Parliament to allow an extension. That would show the fishing industry in Scotland that some people in this place care about it.

The Presiding Officer: I appreciate that point, but I have attempted to strike a balance in selecting members to put questions. A question on the issue has been lodged for First Minister's question time tomorrow and I intend to take it there. If party spokespeople would cut the length of their questions, there would be room for more.

Tommy Sheridan (Glasgow) (SSP): Presiding Officer, you will recognise that only one political party represented in the chamber has not been allowed to ask the minister questions on this issue, whereas several members of other political parties have. Bruce Crawford's suggestion is positive and would be accepted by the chamber. Even a 15 or 20-minute extension would allow representatives of all the parties and the other members who represent fishing areas to ask questions.

The Presiding Officer: Mr Sheridan, you are remarkably well treated on other matters in which you and the party that you represent have shown sustained interest. I will continue to adhere to the position that I set out earlier. I must protect the upcoming debate on the Nature Conservation (Scotland) Bill, which is of some importance. Already a number of members who have indicated that they would like to speak in the next debate will not be called, so I intend to proceed. I say to Mr Crawford that there may be time for other cuts tomorrow.

Nature Conservation (Scotland) Bill: Stage 1

The Presiding Officer (Mr George Reid): The next item of business is a debate on motion S2M-425, in the name of Ross Finnie, on the general principles of the Nature Conservation (Scotland) Bill.

15:07

The Minister for Environment and Rural Development (Ross Finnie): There can be no doubt that Scotland's natural heritage matters to us all. It matters both in its own right and because it is one of the most basic national assets—a key resource for our most important industries and a resource that sustains the quality of life. So often, we take it for granted. Scotland's natural heritage matters because we cannot squander our environmental capital and still hope to deliver the sustainable, long-term economic prosperity and environmental justice to which the Executive and the Parliament are committed.

The bill is part of a wider vision for an integrated approach to environmental protection, for sustainable resource management and for the conservation of the natural world that is our common heritage. It builds on our existing commitments to the integrated management of Scotland's water environment, to an ecosystem approach to fisheries and to sustainable farming and forestry and the careful stewardship of Scotland's countryside.

The bill provides us with new tools for safeguarding our natural environment. We are taking action in the bill to improve existing mechanisms for nature conservation by further strengthening the law on wildlife crime and modernising the protection that is given to sites of special scientific interest.

However, we recognise that it is no longer enough to focus simply on a few endangered species or to preserve a few special places as remnants of a once vibrant countryside. The major initiative in the bill is the recognition of our fundamental obligation to conserve biodiversity.

Shiona Baird (North East Scotland) (Green): Is the minister aware that on 11 December the Deputy Minister for Environment and Rural Development agreed with me—on the record—that the biodiversity strategy provided for in the bill should include the identification of priority species and habitats within a framework? No such provision is in the bill at the moment. Does the Executive intend to lodge an amendment to include the identification of those priority species and habitats in a biodiversity strategy framework?

Ross Finnie: If I may, I will come back to that point when I develop my theme. That was a cunning intervention, coming at that particular stage.

As I was saying, we have an obligation to conserve biodiversity. We need to reconnect with the living environment that surrounds and sustains us, and we need to manage it wisely. The innovation in this bill is explicitly to seek that Scotland's public institutions should play a special role—a leadership role—on behalf of the wider community. Many public bodies already work imaginatively to protect and enhance biodiversity and to conserve our natural heritage. In future, every one of them will have to demonstrate that it has integrated biodiversity issues in its policy-making processes and day-to-day operations.

Throughout the development of the bill, we have emphasised the need to listen to the voices of consultees and, as far as possible, to secure the widest possible support from a wide range of stakeholders. I commend the Environment and Rural Development Committee on its thorough stage 1 scrutiny of the bill and on the detailed report that has resulted. I welcome the committee's clear support for the principles of the bill. I also welcome the constructive recommendations that the committee has made. There is much to which I can respond positively.

Let me deal briefly with some of the key points arising from the committee's report. Rightly, the report is critical of how the term "natural heritage" is defined. I accept that criticism—indeed, I did so when I appeared before the committee. I intend to lodge appropriate amendments to resolve that.

In relation to non-native species, I can tell members that Executive amendments will indeed be introduced at stage 2 to address the threat posed by hybridisation and the unauthorised release of invasive plants and animals.

The Scottish biodiversity strategy—to be designated by ministers—is central to the new biodiversity duty in the bill. There is no lack of commitment on my part, but I am happy to accept the committee's recommendation that the bill should require ministers to designate a strategy. I therefore intend to change "may" to "must" in section 2(1) of the bill. I say to Shiona Baird that the matters that my colleague the deputy minister referred to will, of course, be addressed in the detail of the biodiversity strategy.

The emphasis given to biodiversity in the bill lends local wildlife sites a renewed relevance and importance. I welcome the committee's suggestion that local authorities and Scottish Natural Heritage should work together to improve existing arrangements. I will be looking to SNH to take the lead in initiating that process of review.

I acknowledge the concerns expressed to the committee by the British Association for Shooting and Conservation in relation to the "catching up" of game birds. I intend to lodge amendments to the bill accordingly.

The committee has suggested in its report that the new provisions protecting the capercaillie while lekking is in progress should be extended to other specially protected birds. In general, I agree with that and I will take it forward in the form of a stage 2 amendment.

The committee's report covers a number of other detailed points and I will be writing to the convener in due course with a full response. There are, however, a number of points that I do not think require additional legislative action. Most are minor, but I want to address three that are perhaps more significant. I remain of the view that the protection of important geological sites and specimens is properly secured by the bill. I recognise the strong feelings of some members of the committee, but I have to say that long and detailed consideration, and the long consultation process, have not produced practical alternative proposals. I do not, therefore, believe that we have got the balance wrong. On the contrary, I believe that we have got it right.

A number of suggestions have also been made for amendments to the biodiversity provisions in the bill. I have already restated our commitment to the designation of a biodiversity strategy. I am committed also to the participative process that took place in developing that strategy. The important point is that a successful biodiversity policy must be about changing attitudes and ways of thinking. We are seeking the creative participation and genuine engagement of public bodies. The biodiversity provisions in the bill have been carefully drafted and I do not believe that a more coercive approach would serve us well.

On the question of snaring, I welcome the committee's conclusion that better regulation and training—rather than a ban—is the correct way forward. I certainly recognise that snaring is an emotive issue, but again I believe that we have got the balance right.

Mike Watson (Glasgow Cathcart) (Lab): In light of the remarks that the minister has just made, does he not agree that it is very disappointing that the committee's conclusions on snaring fail to recognise the indiscriminate nature of all snaring, which has the potential to cause extreme suffering to animals? Scotland is one of five countries in the European Union that continues to allow the practice of snaring. Why does he feel that it is not appropriate to take the opportunity that the bill presents to bring Scotland and, indeed, the United Kingdom into the main stream on that issue?

Ross Finnie: I feel that it is not appropriate to do so on the very good grounds of the evidence that was presented to the committee, which was very similar to the evidence that was presented during the consultation process. That evidence acknowledged that there are abuses and malpractice that must be stamped out and that is what the bill seeks to do. The bill also recognises that there have to be legitimate methods of pest control, provided that they are used in a responsible, professional and targeted manner. That is why we have drafted the bill in the way that we have.

Alex Fergusson (Galloway and Upper Nithsdale) (Con): Will the minister take an intervention?

Ross Finnie: No, I think that I am about to incur the wrath of the Presiding Officer.

The bill is important because it tackles issues that are of fundamental importance to the people of Scotland. It recognises the vital role that people must play in securing a vibrant and healthy future for our natural environment and it encapsulates a vision that I know members will share. I commend the bill to the Parliament.

I move,

That the Parliament agrees to the general principles of the Nature Conservation (Scotland) Bill.

15:16

Roseanna Cunningham (Perth) (SNP): I take the opportunity to express my thanks to all those who have assisted the Environment and Rural Development Committee in the production of its report. I should also say that the Scottish National Party has no hesitation in supporting the motion, which endorses the general principles of the bill, even though I have a few questions about detail.

Nature conservation is an end in itself. We should want Scotland to follow a strategy that meets our commitments under the United Nations Convention on Biological Diversity and we should welcome the opportunity to overhaul and improve our system of designating sites of special scientific interest, but there is more to the bill than that.

It is essential to the future of Scotland's economy that we take the steps that are prescribed in the bill. Scottish agriculture will not survive unless we proceed on a basis of sustainability and a great deal of business—not least in tourism, our biggest industry—is dependent on Scotland's image as a country with a clean environment, which provides a wide and fascinating variety of plants, birds, animals and habitats, so we must ensure that that continues.

The basic thrust of part 1 of the bill, which is about the duty to further the conservation of

biodiversity, is to be welcomed, but I agree with the committee that there is a need for more clarity on the definition of biodiversity. It seems strange that the bill seeks to introduce a duty on all public bodies and office holders to further the conservation of biodiversity without providing a working definition of what the term "biodiversity" actually means.

It is true that the fact that the bill talks about regard being paid to the UN Convention on Biological Diversity provides a definition by implication, but if that definition is to be adopted as the Scottish definition, we should make that clear in the bill. Alternatively, if it is thought that the UN definition is not appropriate, the bill should provide an alternative definition. The bill should also do more than say that bodies should "have regard to" those principles. What sanctions are available if they do not have such regard? What will compel them to have such regard if they are not so minded? Let us not provide an easy opt-out right at the heart of the bill.

The committee needed to have the framework for a biodiversity strategy in front of it during its stage 1 consideration so that we and our witnesses could analyse, rather than speculate on, how part 1 of the bill would operate in practice. At stage 1, speculation is not a sensible way for any committee to have to do its work and the situation will become even more problematic at stage 2 if we still lack the clarity that we needed at stage 1. I wonder whether the minister will reassure us that we will not have to continue with one hand tied behind our back.

The committee has made a number of recommendations, with which I concur, on the part of the bill to do with SSSIs. For the purposes of the debate, I want to concentrate on three issues. A considerable number of environmental organisations, including SNH, have expressed the view that the statutory purpose of the SSSIs is drawn too narrowly and should be expanded to take into account other factors.

In his evidence, the minister relied on the Joint Nature Conservation Committee guidelines, but surely we should take the opportunity that the bill presents to ensure the greatest possible degree of transparency, as that should dictate a rather more expansive and explicit statutory purpose than is currently envisaged. I look forward to the minister's closing remarks on that.

I also want to draw the minister's attention to the concerns that the committee expressed about land management orders and nature conservation orders in paragraph 81 of its report. Those concerns reflect the SNP's long-standing argument, which has been expressed frequently in various land reform speeches in the Parliament, that the ability to establish who owns and/or

manages land in Scotland is central to the ability of communities, both local and national, to make real progress. All the best intentions in the world will come to nothing if owners cannot be traced, so we should be prepared to impose a legal obligation of either disclosure of ownership or designation of a legal representative. I particularly look forward to the minister's response to that point in his closing remarks.

Equally, good intentions will not suffice if there is a lack of resources to carry out the designated work. Despite the minister's assurances at stage 1, there has to be real doubt about the ability of organisations to implement the legislation. I note that the Finance Committee shares SNH's concerns on that. I hope that the minister will take on board those concerns and review how the extra work is to be funded. Robbing Peter to pay Paul, which seems to be what is likely to happen, is hardly a positive approach to this aspect of Scottish politics.

Ironically, much of part 3 of the bill deals with problems of what might be called non-biodiversity, given that it deals with wildlife crime. The need for the new powers is great, but the resources will need to be available, particularly for the training and support of wildlife crime officers. Scotland currently has 80 specially trained wildlife crime officers who carry out investigative, educational and preventative duties relating to crimes against wildlife, but only two of them do so full time. Perhaps the minister will advise us what discussions he has had with the Association of Chief Police Officers in Scotland about the best way forward for policing the legislation.

Members will already be aware of the controversy surrounding the proposed outlawing of snares. Strong opinions are held on the subject, but I believe that the committee has been sensible in taking the middle road. That means supporting the ban on the use of snares that are likely to cause injury while allowing the continued use of free-running snares for pest control and other land management purposes. I understand that that is in accord with the so-called Bern convention. The only comment that I would make on that is that it is ironic that the convention should be named after a city whose major tourist attraction is a bear pit. That seems something of a contradiction in terms.

I have already expressed my concern that we have not yet had the opportunity to consider a wider marine environment strategy. It would help if, in his closing remarks, the minister could give us a clear steer as to the time scale within which that will be introduced. I hope that we will see the strategy in the lifetime of this parliamentary session.

The bill is not yet perfect. It does not address areas that it perhaps should. Nevertheless, the bill

is an important and significant step forward in protecting and conserving Scotland's natural heritage. I am pleased to be able to support the bill's general principles and look forward to working to improve it in committee.

15:23

Alex Johnstone (North East Scotland) (Con):

As we all know, the Conservative party stands up for the interests of the countryside. In trying to do that over the past four years, we have on occasion found ourselves at odds with bills that were supported either directly or passively by the Scottish Executive. On this occasion it is pleasant, therefore, to come across a bill that appears at the outset to run in the same direction that we would.

It is interesting that, although the Conservatives are fully supportive of the principles that lie behind the bill—as was the committee in its report—we also find that much remains in the bill that will be contested, discussed and possibly amended at later stages. The Conservative party wishes to preserve that constructive attitude during the passage of the bill.

Let me consider the bill's parts one at a time. On part 1, which deals with biodiversity, I would like to move quickly to thank the minister for the concession that he has already made to introduce a requirement that the Executive must produce a biodiversity strategy. It would seem strange to have all this legislation in place with all its good intentions, if the biodiversity strategy were to be an optional add-on at the end of the day.

However, we have to be careful about what we do in relation to the biodiversity strategy while we are passing the bill. Although I agree with what Roseanna Cunningham said about how desirable it would have been to have had that strategy in front of us as we considered the bill, I also believe that it is appropriate that the strategy should be dealt with as secondary legislation, which will give us the option to reconsider it from time to time as time goes by. I therefore fully support the procedure that the bill will put in place.

At the same time, we must take the robust view—as we should with all legislation—that the legislation should stand the test of time. There is also an argument that it should stand that blind test of being sound legislation without members' having seen the secondary legislation on the biodiversity strategy. The argument can run both ways.

I move on to part 2 of the bill. I have concerns about it, but there is much within it that I welcome. The main concern has not been expressed during the debate so far. It is about the role of SNH and how SNH is perceived in areas where sites of special scientific interest are being managed.

There is a belief that SNH is a secretive organisation that makes decisions without proper consultation and, in many cases, without proper information. There is a belief that it can take scientific evidence and advice and ignore it without giving any reason whatsoever. For that reason, SNH's reputation has been undermined. Although I will stop well short of suggesting that SNH's powers should be significantly curtailed at this stage, it is important that we take the opportunity presented by the bill to ensure that the future activities of SNH are more transparent and that the organisation is therefore more accountable than it has been in the past.

The committee's report has something to say on the role of the advisory committee on sites of special scientific interest. Evidence suggests that advice from that important committee has apparently been ignored when SSSIs have been allocated. It is unacceptable that that should happen without the reasons for those decisions being made public. Openness and transparency will reinforce the position of the decisions process.

The bill also proposes that the Scottish Land Court should take on a dispute resolution role and I welcome that. At the same time, I express a view that was expressed to me by an individual who contacted me in support of the notion of the Land Court taking such a role. He also said that we must do nothing to the Land Court that will undermine the position that that organisation holds. He described the Land Court as an organisation to which anyone could roll up on their bare feet and expect to get a fair hearing. We must not take any action that institutionalises the Land Court to such an extent that it becomes a forum where only those who are able to afford expensive lawyers can get a fair hearing.

Part 3 of the bill is significant and I and my party are keen to support it. It says quite a bit about poisoning and the control of pesticides. As a farmer who has had experience of controlling pesticides, I am aware that regulations are now run to such a standard that the bill will have no impact on the legitimate use of pesticides in the farming community. Consequently, I support the measures in the bill.

However, when we consider some of the evidence on snaring, for example, we see the suggestion that alternatives to snaring might be the shooting or gassing of animals. If we accept gassing, we will encourage the introduction into the rural environment of chemicals which have in the past been misused, and might be misused again. Shooting can also be a dangerous practice in certain circumstances. Consequently, the committee has taken the fair view that it must be possible to continue to use snares under controlled circumstances in Scotland. I am

therefore strongly supportive of the terms in the bill that define how that can be done humanely. I also support the principles that are set out in the committee's report.

With that, I offer the support of the Conservatives to the bill at stage 1.

15:30

Sarah Boyack (Edinburgh Central) (Lab): I wish to put on record that I am speaking as a Labour MSP and not as the convener of the Environment and Rural Development Committee.

I congratulate the committee on its work on the issue, and I congratulate the clerks for producing an excellent stage 1 report. It is worth saying at the outset that we had such overwhelming support from all the political parties that are represented on the committee and from organisations from outwith the Parliament that were consulted that we were able to get into quite detailed scrutiny at stage 1. I welcome the minister's responses so far to our detailed recommendations, and I look forward to his written response to those recommendations. We will consider his response carefully before we deliberate on our amendments.

The Parliament gives us the opportunity to improve nature conservation and our environment and to tailor our legislation to meet Scotland's specific needs. The first session of the Parliament legislated on national parks; this session will see the delivery of landmark nature conservation legislation. Our next priority should be to deliver legislation to protect our marine environment, which the committee considered at stage 1. We had particular concerns about how the bill related to the marine environment. I would like the minister to indicate a time scale for introducing a comprehensive marine strategy and to make a commitment to legislative proposals for such a strategy and to a bill on the subject.

Another important issue that has been highlighted is the current fragmented state of nature conservation legislation in Scotland. The bill takes us a big step forward in addressing that issue. There is still work to do on the clarity of the definition of biodiversity in the bill. The introduction of a statutory purpose for sites of special scientific interest is a big step forward, but a number of concerns have been raised about whether the definition of statutory purpose in the bill requires amendment. If we consider the impact of the bill on the delivery of nature conservation, another big issue that we must consider is the reform of the common agricultural policy. That reform is a huge opportunity to improve agri-environment schemes and to deliver new schemes that will result in greater public benefit from farming Scotland's

landscape. Labour wants Scotland to make the most of those flexibilities in CAP reform, and many of the bill's provisions will greatly assist that process.

I will reflect on the wildlife crime provisions in the bill and then I will move on to the implementation of the bill's provisions and how that will be funded, as much work needs to be done on those issues.

Snaring was one of the most contentious and difficult issues that the committee dealt with. The committee heard evidence from individuals and organisations with strongly held and differing views. I was disturbed by the pictures of maimed and injured animals that were circulated to us as evidence. The challenge for the committee is to try to be pragmatic on the evidence we received from the land management sector and from the animal welfare sector. The difficulty the committee faced is that there are no easy choices in relation to pest control. Shooting and poisoning can cause suffering and can injure or kill the wrong animals. Even without a full ban on snaring there is a lot more that can be done, such as stricter enforcement and tougher rules. The committee has recommended a number of changes to the snaring provisions, which we believe would make them more enforceable and would improve animal welfare. The new provisions that the minister is considering producing on recklessness and responsible management will also push land managers and owners in the right direction. Those are issues that we must return to at stage 2 to ensure that the detail in the bill is right.

In addition to the snaring provisions that members have commented on, the bill improves on existing wildlife crime legislation on, for example, poisoning of birds such as red kites, egg stealing and dolphin welfare. If we take those measures and the measures contained in the Criminal Justice (Scotland) Act 2003, we will in future have strong and comprehensive legislation to tackle wildlife crime. We on the Labour benches welcome that.

I want to concentrate on the issue of how the bill will be implemented and how the measures will be funded. Stakeholders such as public bodies and local authorities throughout Scotland will be working to implement the bill, but they will need clear guidance to ensure that they get it right. To deliver on the biodiversity duty, ministers will have to consider additional funding to ensure that public bodies undertake the biodiversity work that the bill should bring through.

The minister told the committee that he believed that the current budget for the implementation of the bill was adequate. However, both the Environment and Rural Development Committee and the Finance Committee, along with a range of external organisations, are concerned about the

stretching of budgets to make the bill work. I remain concerned about the work of key organisations such as SNH. We know that SNH is being forced to relocate and the last thing that we want is budget displacement to take place, moving resources from other priorities to implement the bill. We need the minister to examine further the budget issue as the bill proceeds through Parliament.

The Scottish Labour Party is committed fully to seeing the bill on to the statute book. Through committee scrutiny, we will work to improve the bill that the minister has introduced so that we can get on with the task of protecting Scotland's environment and wildlife. We support fully the principles of the bill.

15:36

Mr Mark Ruskell (Mid Scotland and Fife (Green)): I welcome the bill. There is a good deal of consensus around its basic principles, which is down to the good policy development process that was followed from the outset. The Executive needs to continue to be responsive to the consensus that exists in the Environment and Rural Development Committee and in civic society to deliver an effective piece of legislation. At the moment, the bill has the promise of being effective, but it will require amendment at stage 2 to turn it into a piece of legislation of which the whole Parliament, including the Scottish Green Party, can be proud.

I want to mention briefly two aspects that are not included in the scope of the bill. First, marine issues, which Sarah Boyack mentioned, are left out. That is acceptable only if a Scottish marine strategy progresses a review of marine legislation, leading to reform within the next two years. Secondly, the local site network throughout Scotland is of major importance to nature conservation, but if the promised action to develop local site systems fails, as it appears to be failing, it might be necessary to incorporate local sites into the bill at stage 2. I would appreciate the minister's thoughts on that point.

Various amendments were suggested in the committee's evidence taking and they will be considered further at stage 2, but I will focus on biodiversity and a biodiversity framework. First, biodiversity needs to be defined in the bill, in line with the definition in the UN convention on biodiversity. Secondly, the bill must require ministers to put in place a strategy, rather than say that they "may" do so. I was glad to hear the minister's commitment to changing the wording of the bill to that effect. A vague power to designate a strategy is arguably no improvement on the existing situation; a law has to require action.

Thirdly, and most contentiously—the issue was brought up in Shiona Baird's intervention on the minister—the bill must define a framework for action to take place. That does not mean enshrining certain actions into law for all time. It means setting into legislation a process that has to be stuck to for the development, implementation and monitoring of biodiversity strategies. In no way would that prescribe the exact detail of what should be in the strategies, but it would ensure that they will happen and that certain key themes will not be forgotten, such as a requirement to focus on priority species and habitats.

There are many precedents for a legislative requirement for plans to be developed, implemented and monitored on a cyclical basis, such as the framework for riverbasin management plans in the Water Environment and Water Services (Scotland) Act 2003. I do not see the point of introducing legislation that is so loose that it could lead to inaction or to important aspects being left out of implementation. When we ask people in the business sector, voluntary sector or public sector whether they work with a defined strategy, with objectives and targets to meet along the way, the answer is always yes.

I do not understand the minister's reluctance to legislate in areas that require action by other bodies. Civic society wants a framework for a biodiversity strategy put into legislation, and its commitment to deliver is there. What is lacking is a matching commitment from the Executive. The minister needs to show leadership. The Deputy Minister for Environment and Rural Development agreed with my colleague Shiona Baird several weeks ago when he said that a framework should be outlined in the bill. I take it that the minister is reconsidering that aspect of the bill, as the committee requested. Is he ready to report back or even to lodge an amendment that, presumably, we could all sign up to happily?

As with the need for an effective biodiversity framework, an underlying concern with the bill, which relates to its effectiveness in delivering on its objectives, is to do with resourcing. As Sarah Boyack mentioned, CAP reform provides the best chance of resourcing the improvements that are needed in biodiversity. The bill must make biodiversity central when consideration is given to what to do with the hundreds of millions of pounds of taxpayers' money that is put into farming every single year in Scotland.

If CAP reform delivers the status quo, however, the implementation of the bill will fail. The minister's suggestion in committee that refocusing existing budgets would provide the resources that are needed for the implementation of the bill is worrying. Does that mean a displacement of the existing work that is being undertaken by public

bodies? The Executive needs to discuss urgently with SNH what revisions will have to be made to existing budgets if the bill is to be fully implemented.

Unless the improvements in police powers can be matched with an increase in resources, the police will find it very difficult to add the new duties to their work load. The resourcing issue is crucial in that respect because, as we know, the reported wildlife crime rates are only the tip of the iceberg.

The Green party has no problems with the general principles of the bill and we will support it. However, many amendments will be required at stage 2 to ensure that the bill will safeguard and regenerate the ecology of Scotland. I hope that the minister will show leadership and lodge many of the amendments that have been suggested at stage 1.

15:41

Maureen Macmillan (Highlands and Islands)

(Lab): I speak in support of the general principles of the bill, which has been welcomed widely outside and inside the chamber.

In spite of what the minister said in his opening speech, I have some concerns that the bill neither makes sufficient mention of geodiversity nor provides sufficient protection for our geological heritage. I believe that that heritage needs similar protection to the protection that is to be given to wildlife in the amendments to the Wildlife and Countryside Act 1981 that are contained in the bill. I hope that I can persuade the minister and the Parliament of that—I should say that I am considering the stage 2 amendments that I will lodge to allow us to debate those issues further.

In particular, I would like to see reference being made in the bill to the protection of Scotland's internationally important fossil heritage. Professor John McManus raised the matter in evidence to the committee, but it had been brought to my attention previously by Jack Saxon, a palaeontologist from Caithness who is a member of the Caithness fossil group.

I ask the indulgence of members before I give a short lesson in geology. About 380 million years ago, Lake Orcadie stretched from Shetland through Caithness, east Sutherland, Easter Ross and the Black Isle to the Moray and Aberdeenshire coast. Fossil fish of world importance are now to be discovered in the laminated siltstone that is to be found in the Orkney and Caithness flag quarries as well as along the Moray coast.

Members who are familiar with the life and work of Hugh Miller, the quarryman from Cromarty who was an eminent political and religious writer of the 19th century and one of the fathers of modern

geology, will be aware of the importance of the region to our national geodiversity. If I were still a teacher and members were my class, I would now ask the minister to pass around some examples of tiny ammonite fossils that I collected some years ago at the Eathie burn on the Black Isle. I would also show members photographs of fossil fish from Lake Orcadie, one of which was first discovered by Hugh Miller.

When I visited Our Dynamic Earth recently, I noted a book for sale on how to build up a fossil collection and the fact that fossils were for sale. There was no indication that fossils were anything other than fair game for the collector.

Members should note that we are no longer allowed to dig up wild flowers, nor are we allowed to collect bird's eggs. Indeed, the penalties for robbing the nests of rare birds of prey are severe. What of the rare fish fossils in Orkney and Caithness, however? Collecting ammonites may be seen to be akin to picking daisies. However, the fish fossils that are to be found at sites such as Achanarras quarry near Thurso are like rare orchids or sea eagle eggs, except that, unlike flowers, they cannot be grown again from seed and, unlike birds, they cannot breed again another year. Once the fossils are removed, they are lost.

Achanarras quarry has the largest number of fish genera in the world, yet its protection is minimal when compared with lesser sites in other parts of the world. Achanarras quarry belongs to SNH and is an SSSI. This year, it will cease to be a national nature reserve because it is feared that the site is no longer safe for the general public to visit.

Although people are supposed to have a permit to collect a limited number of fossils from the quarry floor, that does not deter the fossil thieves who, like rare egg collectors, steal for their own very private collection or have a lucrative market waiting. They attack the quarry face, often destroying good examples of fossils in their search for the most valuable ones. Specimens stolen from Caithness or Orkney quarries can fetch up to £20,000 in Germany and can be found in German museums. Indeed, Caithness fish fossils can be found on sale in other parts of Britain.

These fossil stealers are not scientists. They are businessmen, who come equipped with great diamond-toothed chainsaws to rip into the stone in search of valuable prizes and who, as they cut, destroy the environment and rob us of our geological heritage. As a result, I urge the minister to include rocks, fossils and minerals in the bill's preamble and to make it plain in the bill that fossils and so on are explicitly included in third-party damage to an SSSI or a nature conservation area.

Furthermore, I ask the minister to consider including in the guidance on the bill a list of named fossil types that are not to be removed without authorisation, whether or not they are in an SSSI or an NCA. There is a significant problem with designating fossil sites as SSSIs. When a fossil site is so designated, it becomes a focus for fossil theft. Many now see Achanarras as a sacrificial site that protects other sites by attracting collectors. As a result, I want the bill to be amended to protect our geological heritage in the same way that part 3 seeks to protect wildlife.

There is also a need for police training. At the moment, officers will carry out stop-and-search exercises on cars, looking out for the equipment that signifies an egg thief. It should also be possible for the police to spot stone-cutting equipment, to recognise fossil types and to gather intelligence on habitual culprits. Although I realise that such measures cannot guarantee success, I believe that an explicit inclusion of fossils in the bill will help local people in the north of Scotland to protect their geological heritage in the same way that the people of Mull protect their sea eagles. I also hope that it will have the same effect in other parts of Scotland, because the north is not the only area where rare fossils are found and need protection.

We must also indicate to the Crown Office and the judiciary that such environmental crimes are to be taken seriously and dealt with severely. What is important is not just the monetary value of the thefts but the incalculable harm that is done to the environment. The same is true of, for example, illegal salmon netting. Such netting has been the cause of death for two of the Moray firth dolphins, which make up the only dolphin population in Scotland. When such cases come to court, judgment must be based not just on the value of the catch but on the potential effect of illegal netting on the dolphins.

I support this most important bill. However, I ask the minister to consider whether the matters that I have raised can be included in the bill or in the guidance on it.

15:48

Bruce Crawford (Mid Scotland and Fife) (SNP): First of all, I congratulate the minister on introducing this important bill for consideration. After all, many issues related to nature conservation law in Scotland need to be addressed. At this point, I should also congratulate the Environment and Rural Development Committee on its thorough stage 1 examination of the proposals.

The bill is a good stab at setting the appropriate framework, but some important areas will need to

be strengthened. Although I am glad that the minister has begun that process so positively this afternoon, there is still some way to go.

I want to concentrate on how the bill can improve deer management in Scotland. No one can doubt the majesty of Scotland's largest animal or can fail to be moved by the sight of a deer running across the open hills or foraging for food in one of Scotland's woodlands. However, although deer might be Scotland's largest and noblest beasts, we must urgently address the issue of their fast rising numbers.

I do not know how many of my colleagues have had the chance to read the excellent report "Impacts of Wild Deer in Scotland—How Fares the Public Interest?", which was produced by WWF Scotland and the RSPB Scotland.

Mr Jamie McGrigor (Highlands and Islands) (Con): Although I agree that it is possible that there are too many deer in some parts of Scotland, does the member agree that in many parts of Scotland the numbers of deer have fallen to record low levels because of the Forestry Commission's decimation and slaughter policy?

Bruce Crawford: I certainly do not agree with much of the intent behind Jamie McGrigor's statements. For example, around the area that I know—the Stirling area—the Forestry Commission has done a superb job in bringing back the habitat. That would never have happened if it had not taken out some of the deer.

I recommend the report that I have mentioned to my colleagues. Let us look first of all at what the document says about the numbers of deer. It says that, as far as red deer on the open hill are concerned, the Deer Commission for Scotland's annual report for 2001 gives an approximate figure of 300,000. The estimated numbers of red deer in woodland, according to the report, is 100,000. That provides a conservative estimated total of 400,000. It is conservative, because the report says that the true figure is likely to be much closer to 454,000. The numbers of red deer alone have doubled since 1974, when the figure stood at 200,000. The same can be said for roe deer, whose numbers are expanding, and for other species of deer in Scotland.

The numbers need to be reduced significantly, not only to protect the deer's own habitat but because their increasing numbers are impacting on every person who works, lives and enjoys the wildlife in rural Scotland. As well as having a negative impact on rural communities and on wildlife, high deer numbers are holding back the rural economy. Walking, climbing and green tourism in general are of increasing importance to that rural economy.

Mr McGrigor: Will Mr Crawford give way?

Bruce Crawford: I have already given way to Jamie McGrigor once and, quite frankly, his point was so ridiculous that I am not going to give way again at this stage.

Not only would a reduction in deer numbers be good for the species itself, allowing people to see the deer in the wild in their best condition, but it would add significantly to the experience of visiting Scotland by allowing a more diverse landscape to return.

On the impact on biodiversity, the report states:

"The greatest impact which deer have on biodiversity will result from changes to soils and vegetation caused by deer grazing, trampling etc. Loss or degradation of native woodland, upland heaths and mires etc will have a knock-on effect on wildlife which is dependent on these habitats".

Experience from other countries has also shown that, where deer densities are held at lower levels, foresters are able to regenerate woodland naturally, without the substantial extra cost of fencing and replanting.

I therefore urge the minister to consider introducing at stage 2 amendments in the following areas. First, the compulsory control powers available to the Deer Commission for Scotland under section 8 of the Deer (Scotland) Act 1996 have never been used, simply because they are far too cumbersome. Although the voluntary powers have worked pretty well, in situations where a landowner is unwilling to co-operate, the Deer Commission for Scotland is virtually toothless.

Mr Ted Brocklebank (Mid Scotland and Fife) (Con): Does Bruce Crawford accept that the Deer Commission for Scotland itself is not advocating any strengthening in the powers to cull deer? As he rightly says, it has powers, and it is not suggesting that there should be any extra powers.

Bruce Crawford: Oh, yes it is. I think that Ted Brocklebank should take a look at the *Official Report* of the Environment and Rural Development Committee meeting at which the director of the commission said:

"We also feel that section 8 is a rather difficult and convoluted piece of legislation that is not designed to be used easily."—[*Official Report, Environment and Rural Development Committee*, 12 November 2003; c 413.]

I do not know which report Mr Brocklebank has been reading, but that is what the report that I have been reading says.

The process needs to be simplified in the public interest. If that means that the cosy relationship that sometimes exists between the Deer Commission for Scotland and landowners is put at risk, so be it. As I have already explained, such a move might even get support from the Deer Commission for Scotland itself.

Secondly, there is another argument that, to avoid unnecessarily protracted and expensive procedures, a further simplification could be achieved by removing the requirement for the Deer Commission for Scotland to establish serious damage to agriculture and the nature environment, leaving only the need to prove damage. That move would have the positive effect of protecting and enhancing biodiversity. A definition of what constitutes damage would also be a step in the right direction; such a definition does not exist at the moment.

It is time for the minister to make some bold moves on controlling deer in Scotland. The question is, does he have the will? Perhaps, in summing up, he will let me know.

15:54

Mr Ted Brocklebank (Mid Scotland and Fife) (Con): Scotland's beautiful and diverse countryside is, of course, one of its priceless assets. Through a unique combination of circumstances, including history, the weather and good custodianship, the rural environment of Scotland is as distinctive as it is irreplaceable.

Broadly speaking, we believe that the bill will help to preserve and conserve our natural heritage for future generations. We support any improvement in biodiversity. We also welcome the introduction of compensation for the management of SSSIs, although our comments on that section highlight some wider reservations that we have about the bill—namely, that a reasonable level of compensation should be identified to ensure that the money provided by the Executive is commensurate with any cost to landowners, so that it can make a realistic difference to those affected by the SSSIs.

The same reservations on finance apply to aspects of part 3, which toughens the rules to end wildlife crime. The Finance Committee, of which I am a member, is concerned that there will be insufficient funds for the increasing case loads of wildlife officers and Scottish Natural Heritage. Those concerns will have to be addressed at a later stage.

Although I broadly welcome the increase in powers for SNH, I share Alex Johnstone's view that a breath of fresh air should be allowed to flow through the corridors of that body. In particular, we believe that SNH should give more attention to fostering a partnership relationship with landowners rather than continue with the current approach, which is perceived to be adversarial. Although Scottish landowners as a breed have not had the most sympathetic press over the years, the fact is that, without their efforts and the large investment that they have made in rural Scotland,

we would not have the diverse and beautiful countryside that we have today. Certainly, there are bad landowners, but the trumpeted sins of the tiny minority should not be visited on the very large majority of decent, caring owners and stakeholders.

In that connection, I come to the vexed question of red deer—a species that is not mentioned specifically in the bill, although deer perhaps contribute more to the Highland economy than any other species. Without deer stalking and the injection of funds that that pursuit brings to the remotest glens—

Rob Gibson (Highlands and Islands) (SNP): Does the member accept the fact that the species that contributes most to the Highland economy is the human species, not the red deer?

Mr Brocklebank: The member is absolutely right, but the human species would not be in the Highlands in the same numbers without the presence of the red deer and annual stalking.

Rob Gibson: Will the member give way?

Mr Brocklebank: No, Rob Gibson has had his opportunity. I will press on.

The emptying of the glens that would result if deer stalking was abandoned would make the original clearances look something like a family flitting, in my view.

Bruce Crawford believes that the Deer Commission should be given greater powers to cull deer, and he mentioned the report by the WWF Scotland and RSPB Scotland on deer numbers. The fact is that no one—including the Deer Commission—has any real idea whether there are too many deer on Scotland's hills. However, there are certainly areas of great concern. Glen Feshie, for example, and Inverpolly, in Sutherland, are especially under pressure.

Each year, the Deer Commission seeks to identify approximately eight priority sites where deer pressure is most acute. Nevertheless, deer counts are carried out only approximately every seven years. Those counts are only snapshots and provide unreliable evidence, at best, especially as deer are no respecters of boundaries, estate marches or the like. Certainly, no one would argue that SSSIs must be protected from the ravages of deer; however, many parts of the Highlands are understocked, as Jamie McGrigor has underlined.

Bruce Crawford: I accept some of what the member says about the figures that are available, but the point is surely whether he supports what I said about potential amendments. I do not see how that, in any way, shape or form undermines what he is saying.

Mr Brocklebank: I will deal with that in the next three sentences.

I believe that the best people to manage deer in the Highlands are the landowners and estate factors who make up Scotland's 60 deer management groups. The Deer Commission attends all the committee meetings of those management groups. I find it surprising that Bruce Crawford is calling for more powers for the Deer Commission when it already has clear powers under section 8 of the 1996 act to control deer numbers on land where they are considered to be excessive. The fact is that the Deer Commission has decided not to use those powers—nobody has been leaning on it—and agrees that the way ahead is through co-operation and voluntary participation by landowners.

Bruce Crawford: Will the member take an intervention on that point?

Mr Brocklebank: No. I am just finishing.

We do not believe that the Deer Commission seeks or requires any extension of its existing powers relating to the compulsory culling of deer, and we would draw that to the attention of the minister when he comes to look at amendments for stage 2.

15:59

Nora Radcliffe (Gordon) (LD): I feel that I should be standing up and saying, "Oh deary dear," but I shall resist.

I express my pleasure at having arrived at this stage of the consideration of the Nature Conservation (Scotland) Bill and I add my thanks to all those who have contributed to getting us to this point. The stage 1 consideration has been, in some respects, unusually detailed, reflecting the bill's long gestation and the degree of consultation and input. It seems a long time since the publication of "The Nature of Scotland: A Policy Statement". Indeed, it has been a long time—the statement was published in March 2001. However, I still think that the document was by far the most attractive that the Scottish Executive has produced in five years and I should add that the content matches the quality.

There is still detailed work to do on the bill, but it is basically sound, as is widely recognised. However, it is not the final word on nature conservation. It is important to stay focused on getting the bill right—but only after a small digression at this point.

The bill deals with SSSIs, but not with local sites. I do not think that those should be covered in the bill, but I am given to understand that SNH was charged with undertaking a review of, and with developing some common standards for, the

treatment of the 3,000-odd local sites in Scotland. Many of those local sites are of SSSI calibre and could be spares to draw on if replacement SSSIs are needed. I would find it useful if the minister said whether SNH has been charged to do that work and if he outlined the probable time frame for that.

The bill is not the vehicle for tackling every form and level of designation, for rationalising the plethora of legislation that deals with nature conservation and for ensuring the proper protection of the marine environment, but it has been encouraging to hear from ministers that the last two matters—in particular the protection of the marine environment—are high on their agenda and are on the near rather than the far horizon.

On the very near horizon is a Scottish biodiversity strategy. All members of the committee and the Minister for Environment and Rural Development agree that the bill should require a strategy to be designated. Our challenge is to ensure that the bill states unequivocally what the size and shape of the strategy should be; we need to create the right-sized hole for the desired strategy to fit into while being clear about what should properly be in the strategy and what should be in the bill.

Part 2 of the bill deals with SSSIs. We will have to consider whether there should be—as has been suggested—a statutory purpose for SSSIs, which would include both the notification and designation side and the management and protection side.

In general, I welcome the greater openness and transparency and the shift in emphasis towards positive management that the bill will deliver. I am also interested in the enhanced role of, as Alex Johnstone described it, that excellent body the Scottish Land Court. I wonder whether that could be a straw in the wind that indicates the future development of an environmental court with an even wider scope. Again, that is not for the bill, but it is an important future item.

If all the proposals for improved processes and approaches are to work properly, it is necessary to ensure that the resource implications have been fully and adequately identified and will be met. The committee's report flags up concern on that front.

Part 3 of the bill relates to wildlife crime and builds on the legislation that was passed in the previous session of Parliament. Again, I hope that the outcome will be not only greater transparency and openness, but better law and a better understanding of the law on the part of professionals and the public alike, all of which should enhance enforcement. There are issues on which the committee has sought clarification—those are detailed in the report.

The subject of snaring received significant attention from the committee while it was taking evidence on the bill. A wide range of views was heard and many of the representations have been acted on. We were effectively lobbied by animal welfare groups, which would infinitely prefer a complete ban on snaring. However, we came to the view that a blanket ban on snares is not currently a practical option because of the lack of suitable alternative methods for effectively or humanely controlling vermin. Alternative methods of pest control are available, but we note in our report the reservations of land management practitioners about their effectiveness.

Although I acknowledge the strongly held views on the matter, I agree that free-running snares should continue to be available as a method of pest control until an alternative that can fully satisfy both animal welfare and land management objectives is developed. The bill includes a number of measures that are aimed at improving the operation and effectiveness of snaring. It will be important to ensure that those provisions are sufficiently tightly drafted and properly enforced, so that any irresponsible use or misuse of snares is firmly dealt with.

There are particular difficulties associated with dealing with wildlife crime because, not surprisingly, it is usually perpetrated in wild and remote areas. A careful balance will have to be struck between the practicalities of bringing a prosecution and the protection of civil liberties. Those practicalities include single-witness evidence and the question of what constitutes reasonable powers of entry and search without a warrant.

There will be considerable resource implications if the police are to be able to deal effectively with wildlife crime. My local police force, Grampian police, has seven designated wildlife liaison officers, who are backed up by crime analysis and are allocated one day per month on which to work proactively on wildlife crime. That is a significant commitment and has to be met from existing resources. In due course, I would like police funding allocations to recognise the impact of the devotion of resources to wildlife crime on the police forces that choose to use resources in that way.

The Nature Conservation (Scotland) Bill is a good bill and it has been widely welcomed. I look forward to helping to make it even better and I commend it to the Parliament.

16:05

Dr Sylvia Jackson (Stirling) (Lab): I start by declaring an interest, as I am a member of the RSPB committee for Scotland and of the cross-

party group in the Scottish Parliament on animal welfare. I am not a member of the Environment and Rural Development Committee and I appreciate the chance to speak in today's debate, as many members know more about the subject than I do.

I welcome the bill, which represents a genuine attempt to consider important conservation issues. I will mention one or two issues in particular and perhaps some that have already been mentioned in the context of how the bill might be improved.

Part 1 of the bill deals with biodiversity. I welcome the fact that the minister said that he would reconsider the definition of natural heritage, but I agree with Roseanna Cunningham and others that there is a need for a definition of biodiversity. Roseanna Cunningham suggested that, if the definition is not linked to that in the UN Convention on Biological Diversity, there should be a separate one. I agree that the inclusion in the bill of a definition is necessary.

The Environment and Rural Development Committee's report argues that the bill should relate biodiversity to the wider context of sustainable development. RSPB Scotland and other agencies regard the biodiversity strategy as very important, in part—at least—as a framework that can consider priority species and the action that is required in implementation, monitoring and reporting. We need the biodiversity strategy and the committee was concerned that it was not able to scrutinise it—or even an outline version of it—before the bill was introduced. It is essential that agencies have access to a framework for the strategy, so that they can work with it to move forward and work in partnership. One good thing about the bill is that it has already led to much partnership working among the various agencies, the Executive, the committee and others.

On the sections on land management in part 2, a general issue has been raised about the need for conservation matters to be high on the agenda for the reform of the common agricultural policy. I am sure that the minister will take that matter forward. On land management orders and nature conservation orders, the need to ascertain who owns what land is critical. Again, Roseanna Cunningham made that important point. Bruce Crawford talked about deer, although I do not think that he raised the issue—I apologise if he did and I missed it—of how land management orders will interact with the Deer (Scotland) Act 1996.

The Finance Committee and the Environment and Rural Development Committee have expressed concerns about the resource implications of the bill. As Sarah Boyack emphasised, the matter should be reconsidered—I notice that the Environment and Rural

Development Committee's report suggests that SNH discuss the issue with the Executive.

I welcome the introduction of a recklessness principle in relation to part 3. I note that ACPOS thought that the proposals represent a "major step forward".

Much has been said about snaring, which is obviously a big issue in the cross-party group on animal welfare—I am sure that it will continue to be discussed for a long time. The committee's report raised concerns about training and about the different snares that can be used and it recommended that the Executive liaise with the Department for Environment, Food and Rural Affairs about information from the current trials of different kinds of snares. Perhaps the minister will comment on that.

One of the main issues that the Subordinate Legislation Committee, which I convene, had with the bill relates to paragraph 17 of schedule 6, which concerns the alteration and updating of the lists of birds, animals and plants that are eligible for special protection. We thought that, although there has to be flexibility to enable the lists to be changed, it would be preferable if the power associated with that were exercised through an instrument subject to the affirmative rather than the negative procedure. We realise that a means is available to the Executive by which it can notify local authorities and that the mechanism allows subsequent objections to be lodged and a public inquiry to be held if ministers so decide. However, we think that that would be a lengthy and expensive process and that it would be far better to use the affirmative rather than the negative procedure.

A constituent of mine mentioned an omission in the bill in relation to nest sites of birds of prey. The bill says that sites are to be protected only while they are in use. It has been suggested that that provision should be extended, as should the provision relating to communal roost sites.

I congratulate the Environment and Rural Development Committee on its report, which is extensive—clearly, a lot of work has been done on the matter. The committee attempted to take a broader view than the bill does, by examining the marine strategy that Sarah Boyack mentioned, and it has considered how it can set in motion a constructive dialogue with the Executive on many issues. Although we have not yet got very far on geodiversity, I am sure that that battle will be extended. A lot of work remains to be done, but I propose that, as the committee suggests, we accept the general principles of the bill.

16:11

Ms Rosemary Byrne (South of Scotland) (SSP): The Scottish Socialist Party broadly welcomes the general principles of the Nature Conservation (Scotland) Bill, but we are concerned that the proposals do not go as far as a complete ban on snaring. When I consider the number of constituents who have notified me—and, I am sure, other MSPs—of their concerns about the matter in the past week or so, I am disappointed by what I have heard in the chamber today. We have good reasons for seeking a complete ban on snaring.

Alex Fergusson: Will the member explain to the chamber what her preferred alternative method of vermin control would be?

Ms Byrne: As has been stated in the chamber already, people are examining alternative forms of vermin control. I am not going to come up with all the answers today; all I know is that the cruelty that is involved in snaring causes a great deal of concern in our communities and I am glad that I am highlighting that, as I do not think that anyone else in the chamber has done so.

The bill addresses many of the issues that have been raised since the passing of the Wildlife and Countryside Act 1981. It will become an offence to use a self-locking snare, even if it is not calculated to cause bodily injury. It will become an offence to use other snares where they are calculated to cause unnecessary suffering. It will become an offence to set a snare that is likely to cause bodily injury to animals listed under schedule 6. Snares will have to be inspected once every 24 hours. All those changes are welcome, but they do not go far enough. The bill could be improved in principle and in terms of enforceability and could further enhance biodiversity and wild animal welfare by banning the use of all snares.

Mike Rumbles (West Aberdeenshire and Kincardine) (LD): Will the member take an intervention?

Ms Byrne: Not just now.

The bill will not stop animals being trapped in snares and suffering severe stress for up to 24 hours and it will not stop substantial numbers of non-target animals being caught in snares.

According to a survey conducted by the Royal Society for the Prevention of Cruelty to Animals, 103 of 246 animals snared in a given period were badgers. An RSPCA survey in 1983-84 found that, of the 360 snaring reports that RSPCA inspectors dealt with during their routine work, 150 involved cats, 52 involved badgers, 29 involved dogs and the remainder involved various animals including rabbits, hedgehogs, a deer, squirrels, a stoat, a polecat and a partridge. If members had seen the

results of a dog being caught in a snare, perhaps they would be more sympathetic to what I am trying to highlight.

Nora Radcliffe: Will Rosemary Byrne give way?

Ms Byrne: No, I do not have time.

The problem is that there is very little difference between a legal snare and an illegal one and that the differences are not always clear—a bit of rust on a snare can make it illegal when it was once legal. Free-running snares have been mentioned. Have any members seen a fox that has been running for days attached to a free-running snare? How cruel that is; it is a terrible end for any animal, and we must think about that.

The Bern convention has been mentioned. I feel that members were trying to justify the fact that we are not banning snares completely. I will quote again from the information that the League Against Cruel Sports passed on, because it did a good briefing and it is interesting to note what it says about the matter. It is concerned about

“the compatibility of any form of snaring within the Bern Convention on Conservation of European Wildlife and Natural Habitats, in relation to the indiscriminate nature of snares. Hitherto, the reason cited for the compatibility of snares with the Bern Convention is that legal snares are a form of restraint and therefore do not kill unselectively. However, the evidence that even legal snares are lethal, whether through pressure necrosis or free-running snares starting to lock, puts compatibility within the Convention in severe doubt.”

I therefore question the bill's provisions on snares.

The second matter on which I will focus is the retention of sites of special scientific interest in Scotland and the proposals to modernise the legislation. Those provisions are welcome, but it is important that the conservation of rare species and/or the irreplaceability of a particular habitat or species be criteria for SSSIs. One example is the protection of the bog bush-cricket at Dalbeattie. That was not covered in the legislation, so the planning permission for the landfill site there is going through. It is extremely sad that that extremely rare cricket and the rare bird life in the area were not protected. I hope that the bill will improve and strengthen the legislation for us. I ask the minister to review the state and status of local sites and to confirm that the Scottish biodiversity strategy will recognise local sites as a key mechanism for prioritising biodiversity action.

16:18

Christine May (Central Fife) (Lab): Like other members, I welcome the bill, which has had widespread support, as a step in the right direction. The Executive said that it would make sustainable development a priority and the bill provides a useful framework for the protection of

wildlife and biodiversity, while allowing considered rural development.

I particularly welcome the introduction of measures to allow control over third parties on SSSIs. I recall the difficulties that I had in a former life with industrial dredging for cockles on a beach that was an SSSI. The bill will help people to deal with such circumstances and all of us who have sensitive sites in our constituencies should welcome it.

Certain aspects of the bill need closer scrutiny and, although some of those that I will mention have already been mentioned, it is important that we highlight those areas in which we believe work remains to be done. The minister mentioned the first such aspect in his opening remarks: the biodiversity strategy. I, too, feel that the bill could go a bit further and give a broad definition of what the strategy should be. The bill should not give a detailed definition, but some indication of what the strategy is, what it can do and what its aims are is needed in the bill to ensure that the strategy goes ahead. I hope that the minister will confirm that that is what he meant by his remarks.

Another aspect that has been welcomed is the measure to protect birds in the breeding season. For some reason, reading about capercaillies during the lek conjures up images of David McLetchie and Brian Monteith in feather cloaks shaking their bottoms at each other and seeing who can hold his nose highest in the air. I have to say that I think David McLetchie would win every time, hands down.

Ross Finnie: If had known about that, I would have banned it.

Christine May: Indeed. However, one concern that has been raised with me is that the guidelines do not apply to certain nests outside the breeding season. Like others, I believe that they need protecting. Not every empty nest is important, but the bill could be altered specifically to protect, for example, the nests of ospreys and golden eagles. Those endangered birds return to the same nests year after year and a disruption to their breeding pattern could prove disastrous. I ask that consideration be given to that at stage 2.

The bill does much to promote the welfare of raptors. Although the number of raptors is no longer declining, it is not on the increase, as people hoped it might be. I agree that raptors should be protected. However, constituents have raised concerns with me about raptors and increased predation on racing pigeons. Will the minister assure me that ways of minimising that predation will be considered, as was outlined in the Department of the Environment, Transport and the Regions' United Kingdom raptor working group report of 2000? I have already written to the minister on that topic.

Alex Fergusson: Does the member accept that what she said about the non-increase in the number of raptors is a bit of a generalisation? I am sure that she would agree with the observations of many, including me, that some species of raptors, such as buzzards, are increasing enormously in number.

Christine May: I accept that, for the purpose of making my point, I was generalising. To be fair, I do not have sufficient specific knowledge to answer the member in any detail.

Alex Fergusson: I will have a chat with the member later.

Christine May: Indeed. Coming from a rural background, I know about the raptor issues that affect farming communities and about the concerns that have been expressed by people who operate commercial fisheries. However, people with objections cannot be given licence to go back to the wholesale culling of raptors.

Although the bill is welcome, it is not enough without the funding to back it up. That point has already been made by other members, but I make it again. It is all very well to bring in new legislation, new regulations and new guidelines, but land managers cannot be expected to foot the entire bill for implementation. Will support be given to councils and organisations such as SNH, which will bear the brunt of the cost?

Finally, I thank the Environment and Rural Development Committee and the Minister for Environment and Rural Development for their work on the bill. I support the motion.

16:22

Eleanor Scott (Highlands and Islands) (Green): I thought at one point that I was not going to get an opportunity to speak in the debate, but I am glad that it has been so well subscribed to and that there is such an interest in the bill. With my committee deputy convener's hat on, I echo the thanks that other members have expressed to everybody who has been involved in the bill. I give a special honourable mention to Sarah Boyack. This is the first time that I have been through the process, but she chaired what felt to me like a fairly intensive series of evidence-taking meetings. It seemed like quite hard work to me. I hope that the public out there realise that.

I will go back to wearing my Green hat now. I welcome what the minister said in his opening speech. He used a nice phrase about our fundamental duty to conserve biodiversity and said that we cannot squander our environmental capital. That is important. For too long, Governments around the world—I am not singling any one out—have treated our natural resources

as if they were interest, rather than capital. If we realise that we are dealing with capital, we will treat our natural resources rather better.

The bill is much needed. In many ways, the most important part is the first and shortest: part 1, on biodiversity. Essentially, its measures are new. The other parts more or less contain improvements to existing legislation or beef up things that already existed. Part 2 deals with SSSIs, which are viewed as the jewels in the crown of our natural environment—at least, they are a representative sample of those jewels. The part on biodiversity, on the other hand, relates to the environment as everyone experiences it. I will mention in particular the importance of local sites. I would like the minister to undertake, as part of the Scottish biodiversity strategy, to provide guidance to local authorities and other public bodies on the implementation of their biodiversity duties at local sites. There are currently 3,000 such sites, which are managed in diverse ways and to different standards, and we could do with looking into that. The local sites are the bits of natural environment that people see; not all SSSIs are visited by many people and some are quite remote.

I welcome the minister's confirmation that the Executive will amend the bill so that the Scottish ministers must—not just may—designate a biodiversity strategy. The strategy is a vital tool for protecting the whole of our natural environment and it should be taken seriously. The Greens agree with the committee's conclusion that

"Scottish Ministers should be obliged to report to the Parliament on an annual basis on the implementation of the biodiversity strategy".

For that report to be meaningful, the strategy must contain targets and an action plan, for which the bill should specify a framework. I hope that the minister can assure me that the Executive will support that.

Part 3 of the bill, on wildlife crime, is very welcome, as it removes the perception that has existed that Scotland is rather soft on wildlife crime and on offences such as egg theft. In particular, I welcome the proposed powers to proscribe certain pesticides that are often implicated in illegal poisonings. I emphasise the committee's view that the minister should consider an amnesty for such substances, as it would be inappropriate or dangerous for people to dispose of them via domestic refuse or sewerage.

I do not have time to say much about part 2 of the bill, which deals with SSSIs, but I would like it to be recorded that I welcome the changes that the bill proposes to the designation and management of SSSIs, in particular the shift towards rewarding positive management. I hope that that will not only serve the cause of

conservation better but make for improved relations between SNH and land managers and communities—in the past, those relations have not always been characterised by trust.

I welcome the provision to make the rules governing the use of snares more stringent. I also welcome Sarah Boyack's suggestion that we firm up those provisions at stage 2. However, I would like to go further and to propose a complete ban on the use of snares. I echo much of what Rosemary Byrne said. The committee heard powerful evidence from animal welfare lobbies about snares, their effects and the suffering that they cause to animals that are caught in them. Under the Bern convention, snares should be used for restraint, but we heard from gamekeepers that almost all rabbits, in particular, that are caught in snares are dead when found. Perhaps not intentionally, snares are being used to kill rather than just to restrain, which is against the Bern convention. As Rosemary Byrne mentioned, there is also a significant bycatch of other animals in snares, such as otters, badgers and domestic pets.

The United Kingdom is one of only five European Union countries that allow snaring. To be honest, I am not sure what happens in other countries. I would be interested to find out, as clearly they are not overrun by foxes or rabbits. I do not know what Germany, Austria or Italy do to kill their pests. I suspect that they shoot them. To prevent the intervention that I feel rumbling among Conservative members, I point out that a Macaulay Institute survey in 2000 found that snaring accounted for only 18 per cent of pest control, 70 per cent of which was carried out by lamping and shooting. Alternatives can be used.

In committee, Alex Johnstone said that he preferred snaring to what he nicely termed the

"artillery and poison gas route".—[*Official Report, Environment and Rural Development Committee*, 26 November 2003; c 541.]

However, there are circumstances in which poison gas and artillery are more humane than snaring. We should seriously consider banning the use of snares.

I have much sympathy for gamekeepers. The committee made two useful site visits—I took part in one of them—to estates where gamekeepers were able to talk to us informally. Those visits were helpful. I suspect that many larger estates are using snaring as a method of pest control not because it is the most effective or appropriate method but because it is the least immediately labour intensive. It is not necessary to have someone on the spot at the time when an animal is snared. Snaring is being used as a substitute for employing gamekeepers. Estates that 50 years ago employed half a dozen gamekeepers are now

employing one. We do not need snaring; we need more, and highly trained, gamekeepers.

16:28

John Farquhar Munro (Ross, Skye and Inverness West) (LD): Presiding Officer, I wish you and other members a very happy and prosperous new year. I have already said "Bliadhna mhath ùr" to my friend Alasdair Morrison.

I welcome the opportunity to contribute at this stage of the consideration of the Nature Conservation (Scotland) Bill. The general duty, in part 1, on public bodies to further their conservation efforts must be welcomed and I am sure that it will be.

Part 3, which covers the law relating to the protection of birds, animals and plants, is of concern to me. In particular, I believe that the bill must be flexible enough to allow for changes in populations of currently protected species. There has been considerable debate about some of the populations of concern.

A recent example of a problem for some of our protected species was the competition for habitat between the capercaillie and the pine marten in the Grampians. As everybody will know, the pine marten is a very rare species. It has a great liking for birds' eggs and chicks and no doubt that is contributing to the decline in the population of the capercaillie. I have received correspondence from both sides of the argument. The bill must allow ministers to take action when such conflicts arise. Burying our heads in the sand for fear of upsetting one group or another will not, in the long run, serve our wildlife.

Similar things can be said about the argument over the use of snares. As we have heard, the snare is not selective. It is set for pest control but very often what is caught is a badger, an otter or a pine marten. I have even seen roe deer and red deer caught in snares. It is justifiable to debate the use of snares as the bill progresses.

Jamie McGrigor spoke about the decline of the red deer, which he attributed to the overindulgence of the Forestry Commission. That was rather unfair, James. The Deer Commission for Scotland has insisted that the major estates in Scotland increase their cull numbers by 100 per cent in some cases. That has had a detrimental effect on the numbers of large deer.

The bill should be flexible enough to deal with future unchecked expansion of certain species of predatory birds. The prevalence of predatory birds in some areas is believed by some to be leading to the decline in the numbers of the most common birds that we all know and love, such as the robin,

the chaffinch, the blackbird and the thrush. I have seen that in my own area. It can be argued that the decline cannot be put down entirely to modern farming methods or the destruction of hedgerows. In Wester Ross, we do not have such things, but the populations of common birds have been slashed. That, I believe, is down to the increase in the numbers of predatory birds.

I think that my sister spends more on food for the birds than she does on herself. Recently, a sparrow-hawk chasing a little robin landed in her kitchen. The sparrow-hawk hit the window and knocked himself out. When I heard, I was so glad that I said, "I hope you wrung his neck." "No," she said, "I took pity on him and put him back outside." I ask you. It is a good job I was not there.

It is important that the bill recognises that future bird and animal populations will change. The bill must therefore allow ministers, in ever-changing circumstances, to take action whenever it is needed. Our Scottish environment is largely natural and partly man-made. We have a duty, having started to manage our environment, to continue to do so for the benefit and enjoyment of generations to come.

16:33

Mr Alasdair Morrison (Western Isles) (Lab): It is good to take part in a constructive debate at the beginning of a new year, and it is certainly unusual to be in this chamber without the usual invective being sprayed around from all sides. Roseanna Cunningham began with a warm endorsement of the principles of the bill. She was certainly in a very positive frame of mind—one that I suspect will not see out the week. Never mind. We must welcome it nevertheless.

Roseanna Cunningham rightly highlighted areas on which the committee sought further clarification from the Executive. The minister responded positively in his opening remarks to a number of the committee's recommendations. In due course, we will receive his written responses.

Another constructive start to the year came from Alex Johnstone of the Tory party, who said that he wanted issues to be contested and discussed at stage 2. That is exactly what this place is for. It certainly does not make for good headlines or juicy copy, but it lends itself to the formulation of good, sensible legislation. I agree with what Mr Johnstone said about the Scottish Land Court, which, since its inception many years ago, has been a force for good. As the court evolves, it will have to take account of the modern context of what is happening in our country. Mr Johnstone was right to say that the court must be a forum that is accessible to all and not just to those who can afford to engage lawyers.

Bruce Crawford was right to dwell entirely on the issue of marauding deer, which—like Bruce Crawford, on occasion—are a menace. They ruin valuable crops and destroy precious habitats. I know from experience in my constituency that crofters lose substantial amounts of money when large herds of deer jump into fields and destroy valuable crops. Bruce Crawford was also right to highlight the duplicity of private landowners, who have often refused to cull deer in sufficient numbers, simply because they could make an economic return from them. They were taking account of their own narrow economic interests and disregarding the interests of everyone else.

In my view, only one unfortunate remark has been made in this afternoon's debate. I was surprised that it was Ted Brocklebank who made that remark, as I know that he is a man who knows the Highlands well. He stated that, if deer stalking were limited in any way, it would have a negative impact on landowners and would make the Highland clearances look like "a family flitting". I say to Mr Brocklebank, who has just come back into the chamber, that he has demonstrated that he has neither a sense of proportion nor a sense of history. His remark was most unfortunate.

Several members mentioned the importance of the marine environment and of the Executive developing a strategy on that, which I certainly welcome. I will cite the example of the importance of protecting the Minches from the dangers that are posed by the supertankers that ply their trade through them. At the narrowest point, there is a channel that is only 1.5 miles wide, which is very narrow indeed in the context of a supertanker. The passage of tankers through that channel poses a great threat to our marine environment. I hope that, when the time is right and we have dealt with the Nature Conservation (Scotland) Bill, the Executive will work closely with the UK Government to introduce a pilotage system that would result in large tankers being taken through the Minch by experienced west coast mariners. Although we must never ban tankers from the Minch, a pilotage system for those waters must be implemented as part of any strategy to protect our marine environment.

It goes without saying that snaring is an emotive issue—that fact has been demonstrated again this afternoon. I believe that, in its conclusions, the Environment and Rural Development Committee got things right by taking the pragmatic route. I am not a betting man but, if I were, I would happily wager £1 that, at stage 2, snaring will generate a great amount of debate and interest. As Sarah Boyack said, there are no pleasant choices to be made on pest control, but the bottom line is that controls are needed. I refer again to experience in my constituency, where we are dealing with non-native species—the hedgehog and the mink—

which are being eradicated in a humane and proper manner. On occasion, crofters and farmers need to have methods for dealing with pests.

I agree with what my colleague Maureen Macmillan said about the importance of Scotland's fossil heritage. She has pursued that issue assiduously since the bill began its parliamentary journey and I am certain that she will continue to raise it as a matter of importance at stage 2.

The bill fulfils a Labour Party manifesto pledge. We are committed to taking action to protect and preserve the environment, not just to provide a good quality of life in Scotland today, but to ensure that the environment is safeguarded for future generations. I am happy to endorse the general principles of the Nature Conservation (Scotland) Bill.

The Deputy Presiding Officer (Trish Godman): I thank Alex Fergusson for indicating that he would agree to take only four minutes, as that allowed John Farquhar Munro to make his speech.

16:39

Alex Fergusson (Galloway and Upper Nithsdale) (Con): If I had realised that, I might not have been so generous with my time. I do not mean that at all.

As many members have said, the bill has been long awaited. I have been getting letters on the subject of nature conservation ever since I first became a member of the Parliament. It is also highly relevant to my constituency of Galloway and Upper Nithsdale, which I am proud to say is one of the few areas of Scotland that has been chosen for the reintroduction of red kites. Last spring, I was privileged to release a batch of nine chicks and I was horrified to hear about the death of five kites in that area in the late summer of last year. Although I do not believe that any illegal activity was aimed specifically at the kites, I deplore such activity and welcome all the parts of the bill that will strengthen the penalties for those who indulge in wildlife crime.

The minister spoke of the empowerment of public institutions. I perceive a potential danger in that. The unaccountability of those institutions can lead to management by diktat rather than by consensus. In the previous session of Parliament, the Rural Development Committee conducted an inquiry into integrated rural development, which we recently debated. All over Scotland, one of the foremost barriers to that policy that was highlighted to us was the dictatorial attitudes and activities of agencies such as SNH. I hope that the Executive, in altering management agreements covering areas of land under designations such as SSSIs, will take every opportunity to open up the

operations of the public institutions to full accountability. There must be an increasing development of management by consensus rather than by order—Eleanor Scott alluded to that in her speech—and the bill provides a great opportunity to do that.

On funding, which has been mentioned by members, it is obvious that mere legislation will not bring about the improvements that the bill promises. Robust funding will be required to back up the legislation. I share the concerns that have been expressed by several members, as well as by the committee, that the bill's funding back-up is unclear and uncertain at this stage. Frankly, I find that unsatisfactory. I trust that, when the bill returns to the chamber, the issue will have been suitably clarified.

The subject of deer has arisen as a contentious issue. My colleague Ted Brocklebank has informed me that the director of the Deer Commission for Scotland, in a conversation with him this morning, confirmed that the commission does not seek further powers for the culling of deer, as it believes that it has enough powers under section 8 of the Deer (Amendment) (Scotland) Act 1996.

As Alasdair Morrison rightly said, snaring is the most contentious issue, which is bound to come back at stage 2. I applaud the committee's brave conclusions on the subject and the minister's commitment to adhere to those conclusions. It would be easy to give in to the simple and highly emotive argument, which was made perfectly clearly by Rosemary Byrne, that snaring is cruel and must therefore be banned. The issue is not that simple.

I believe that the minister would have agreed with my entirely helpful intervention—had he chosen to accept it—that any further diminution of a land manager's ability to control vermin will simply endanger the very biodiversity that the bill rightly seeks to enhance and conserve. If a suitable alternative to snaring is developed, I will be amongst the foremost of those who seek to replace snares, if necessary with the help of legislation. However, let us be quite clear. Currently, the answer lies in education and training to minimise the accidents and tragedies that quite understandably concern members. It is a question of balance, which a ban would fail to achieve. I urge the minister and the committee to reject any further attempts to ban snaring.

I congratulate the Environment and Rural Development Committee on its report. As convener of the previous Rural Development Committee, I could not possibly say that the committee has produced a better report than we would have done, but it has managed to come up with a report that is every bit as good as what we

would have produced. I cannot be more generous than that.

16:43

Rob Gibson (Highlands and Islands) (SNP):

The stage 1 debate has provided us with a long-overdue chance to try to create the circumstances in which Scotland's countryside, and the people and wildlife that inhabit it, will have a far better chance of sustainability in the future than they have had until now. However, aspects of the bill will have to be clarified. Part of the committee's work involved asking 20 questions of the minister over the Christmas break. Unfortunately, the minister's answers so far do not match nearly 10 of those questions. Further answers on what are perhaps more tetchy points will need to be given before we move to stage 2. As a member of the committee, I would welcome some of those answers.

The first question, which has been raised by Roseanna Cunningham, Sylvia Jackson and others, concerns the biodiversity framework. The minister said that the framework was about changing attitudes and that the process would be participatory. It would be interesting if the framework could be set before the public in the same fashion as all other frameworks and laid out as a national planning policy guideline. In that way, people would know exactly what to expect in the framework. The bill will need to lay out in clear detail how the framework will be stated. I hope that the minister will give us more detailed answers on that than he has until now.

Criticisms have been levelled at SNH for its not being involved enough with communities. SNH must become more transparent and the bill gives it a great opportunity to do so; several members have mentioned that. The key to that is discussed in the committee's stage 1 report. The development of local sites would allow common standards to be developed. The biodiversity strategy would include those local sites and all the country would have a chance to take part in the process of valuing our wild land and wild species. SSSIs are often a considerable distance from where most of the population live, so the development of local sites could be seen by people as a means whereby they too could be involved. Whether that can be done will be a test of SNH.

We are approaching a better definition of the statutory purpose of SSSIs, but we will want to firm that up at stage 2. We will await developments.

An area that has been controversial during the debate relates to clashes between the evidence that was given by SNH and that which was given

by the Deer Commission for Scotland, and to the reality of the increasing deer numbers in Scotland. I was one of the questioners during the evidence sessions and it is clear that the Deer Commission for Scotland has not used its section 8 powers because they are too complex. During December, the press led us to believe that the minister was not minded to give more powers to the Deer Commission for Scotland, even though the commission appeared to have asked for them.

Mr Brocklebank: Alex Fergusson referred to that in his summing up. The hard fact is that only this morning, I checked out that point with the Deer Commission for Scotland. The commission does not wish any further powers. It believes that the powers are entirely adequate for it to cope with any perceived difficulties in specific areas.

Rob Gibson: The member is trying to have it both ways. The evidence is in the *Official Report* and it shows clearly that there is a clash over whether SNH should prosecute the issue of the over-stocking of deer and deer damage. We will want that to be clarified during stage 2.

As a new member coming to the debate, I find it strange that while we are talking about protecting wild species, we are not including partridge, grouse, black grouse and so on because they are seen as game birds. At the same time, we are trying to use the bill to modernise the way in which the Wildlife and Countryside Act 1981 works. Questions arise about modernising the way in which we see all wild species. I hope that it will be possible to consider the protection of all species and not to discriminate against some. It is an anomaly that wildfowl are seen as wild species, but that partridge and grouse—which are also native—are not. That is ridiculous, but it throws up the anomaly that much of the bill has to deal with land use that is pretty much anti-biodiversity.

For all that people say, we must acknowledge that a lot of the questions about wildlife crime have arisen from the maintenance of deer and grouse-shooting estates. The bill begins to tackle the difficulty of the poisoning issue.

Mike Rumbles: Will the member give way?

Rob Gibson: I do not have time to take an intervention.

There should certainly be greater clarity as we go forward, and we must ensure that the poisoning issue does not interfere with the view of biodiversity that is defined in the bill.

The minister will be answering questions about the common agricultural policy and how it might help wildlife and nature in due course. The agricultural support systems that have been mentioned by members must focus on certain areas and on how the CAP can help conservation

in the countryside. Small farmers and crofters are the best people to do that in the farming environment, because they have some of the most natural environments.

Many members mentioned aspects of the marine environment that the bill does not deal with. The minister pointed out in his evidence to the committee that we have a huge amount of work to do with the bills that are in train. I suggest that we consider whether we need separate committees for environment and for rural development to do the different jobs.

It is important to get one's facts correct on emotive issues. I inform Rosemary Byrne that the RSPCA deals with English figures on snaring and that the Scottish Society for the Prevention of Cruelty to Animals deals with the Scottish figures. However, let us not be snared by that. Let us ensure that we welcome the bill, which will be good for the countryside and for our wildlife. We welcome the bill's general thrust.

16:51

Ross Finnie: Just as in the bill's preparation we achieved a wide consensus among the main participants, so the Environment and Rural Development Committee's excellent report drew together a wide audience and concluded that there was wide support for the bill's principles. In addition, this debate has undoubtedly shown that there is wide support among members for the general principles of the bill. Therefore, I will confine myself to answering some of the questions to try to put stage 2 on the front foot and to take a positive view. I hope that I indicated in my opening speech that we had taken more generous account of questions than Mr Gibson was prepared to concede.

I was challenged earlier by one or two legal points, which I am always rather frightened of getting into, particularly when Roseanna Cunningham is the person who leads them. She made a point about the issue of definition. I understand that issue, but I find difficulty with it and I will not debate it with her now. Perhaps we can return to it at stage 2. However, the word "biodiversity" has a common and well-understood meaning and the bill specifically refers to the 1992 Rio convention. We do not, as a matter of practice, go around defining everything. However, we can return to that matter.

Likewise, Roseanna Cunningham raised the issue, in relation to some of the SSSI statutory purposes, of the JNCC guidelines. Again, our understanding is that there is an accepted and well-understood meaning and that a definition is unnecessary. Alex Johnstone posed the trickiest point of law, but I am bound to say that it is not for

me but for Lord McGhie to decide whether people should come before his court on bare feet. We will leave it at that.

Other serious issues were raised in the debate. There is the issue of statutory purpose and the selection criteria for sites. Our view remains that those concepts are inherent in the selection criteria for the SSSI series, to which section 3(2) refers explicitly. Therefore, it is unnecessary to specify those. I ask members to consider that. The concept of a site's special interest includes considerations such as rarity or conservation importance and the features that that contains. I ask members to be careful. There is always a danger—I am guilty of the tendency myself when we are drafting a bill—that once we get the short title, we get out the pail and spade and tip everything in our in-tray into a specific bill. I caution against doing that because we would end up with something unwieldy and unmanageable.

A number of members, such as Nora Radcliffe, Roseanna Cunningham and Alex Johnstone, talked about local sites. The local site label can be regarded as indicating an area of high biodiversity, which public bodies will want to take account of when prioritising their conservation activity. SNH has the choice of becoming involved in the local site system. Given what was said in the stage 1 report and in the debate, it would probably be helpful if I encouraged SNH to engage in local sites. We might then get consistency between the two systems.

Severe criticisms were levelled at SNH. Roseanna Cunningham talked about transparency in public bodies. It has never been my intention—I do not think that it has ever been anyone's intention—to suggest that SNH should not be open and transparent. It is unfortunate that the fact that SNH will be required under the European habitats directive to identify a large number of sites led to confrontation throughout Scotland. That was an unfortunate feature and I know that SNH is upset that its reputation was damaged in that way.

That takes us on to what we do about the strategy and whether we need it to be reported annually. That would be cumbersome. We are talking about a 25-year framework for action, so to impose an annual cycle rather than review it on a three-year cycle would be unnecessarily burdensome.

Roseanna Cunningham raised the issue of who owns the land in SSSIs. The Land Reform (Scotland) Act 2003 dealt with that more adequately, but section 22 of the bill refers to the register of SSSIs. On the intention of section 22, the Registers of Scotland indicated that it is rare not to be able to identify the owners of SSSIs. The registrars and SNH are in regular correspondence

to try to ensure that owners and occupiers are recorded and notified properly. I know that that does not deal with the whole ambit of the question that Roseanna Cunningham raised, but within the confines of the bill it is an important aspect to address.

Many members, such as Roseanna Cunningham, Alex Fergusson, Sarah Boyack, Mark Ruskell, Ted Brocklebank, Bruce Crawford and Sylvia Jackson, were concerned about the resources required for the bill. I assure members that we deal with SNH separately, as we review its requirements annually. Much of the bill is about changing mindsets and I hope that none of the public authorities will come back and say that changing mindsets has proved a hugely expensive exercise. I would regard that as unfortunate.

On deer, the very circumstances that Bruce Crawford described are almost word for word those that are described in section 8 of the Deer (Scotland) Act 1996. There is an issue about why the provisions are not used, but the powers exist. There might be a discussion to be had about why the Deer Commission for Scotland does not use those powers, given that if the circumstances that Bruce Crawford described are correct, they meet the requirements of the section. It is wrong to suggest that there are not powers, although there might be a discussion to be had about why they are not used in every case.

Sylvia Jackson asked me to consider the varying of the powers contained in schedule 6, at paragraph 17. I do not necessarily agree that changes to the schedules and the Wildlife and Countryside Act 1981 need to be made by affirmative procedure. Such changes have to be proportionate and the terms of the 1981 act require changes to be made by statutory instrument subject to negative procedure. It would be a disproportionate step for us to advance that further.

Nora Radcliffe mentioned schedule 6, which amends the 1981 act. The question of powers of search is a matter that the Executive also wishes to consider further before coming to final conclusions.

Several members raised the question of snaring, which is a complex issue. Many people will write to members and make their point. If I had taken Alex Fergusson's intervention, I would have agreed with him, because we need to make a proportionate response. Some of the numbers and figures relate to the position before the provisions of the 1981 act are improved. It is acknowledged that there are weaknesses and loopholes in the 1981 act. We need to be clear that the bill seeks to reinforce and improve the way in which practice can be carried out.

Some members raised resource implications in respect of snaring and other aspects of the bill. I am bound to refer them to the evidence that ACPOS gave to the committee. Its representatives said that they did not think that there would be resource implications as a result of the implementation of the bill.

The debate has been largely constructive. Members have made clear their overwhelming support for the principles of the bill. A number of sections will require detailed scrutiny at stage 2 and I have indicated the Executive's willingness to consider constructive amendments. However, we believe that the bill will make a huge difference to Scotland's biodiversity. We also believe that the great public obligation that public bodies and all of us have to preserve our biodiversity will be hugely improved by the passage of the bill. I hope that everyone will agree to the adoption of the Executive motion.

Nature Conservation (Scotland) Bill: Financial Resolution

17:01

The Presiding Officer (Mr George Reid): The next item of business is consideration of motion S2M-500, on the financial resolution in respect of the Nature Conservation (Scotland) Bill.

Motion moved,

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Nature Conservation (Scotland) Bill, agrees to any increase in expenditure payable out of the Scottish Consolidated Fund in consequence of the Act.—[Ross Finnie.]

The Presiding Officer: The question on the motion will be put at decision time.

Business Motion

17:01

The Presiding Officer (Mr George Reid): The next item of business is consideration of business motion S2M-760, in the name of Patricia Ferguson, on behalf of the Parliamentary Bureau, which sets out a business programme.

Motion moved,

That the Parliament agrees the following programme of business—

Wednesday 14 January 2004

2.30 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Executive Debate on Developing a Sexual Health and Relationship Strategy for Scotland

followed by Business Motion

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Thursday 15 January 2004

9.30 am European and External Relations Committee Debate on the European Commission's Work Programme for 2004

12 noon First Minister's Question Time

2.30 pm Question Time

3.10 pm Executive Debate on Protection of Emergency Workers

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Wednesday 21 January 2004

2.30 pm Time for Reflection

followed by Parliamentary Bureau Motions

followed by Debate on Environment and Rural Development Committee's 4th Report 2003 (Session 2): Inquiry into the National Waste Plan

followed by Business Motion

followed by Parliamentary Bureau Motions

5.00 pm Decision Time

followed by Members' Business

Thursday 22 January 2004

9.30 am Scottish National Party Business

12 noon First Minister's Question Time

2.30 pm Question Time

3.10 pm Executive Business

followed by Parliamentary Bureau Motions
5.00 pm Decision Time
followed by Members' Business—[Patricia
Ferguson.]

Motion agreed to.

Decision Time

17:02

The Presiding Officer (Mr George Reid): There are two questions to be put as a result of today's business.

Mr Duncan McNeil (Greenock and Inverclyde) (Lab): On a point of order, Presiding Officer. Given that this is the first meeting of the Parliament after the new year, is it appropriate to wait until the rest of the SNP group turns up before we take the vote?

The Presiding Officer: The first question is that motion S2M-425, in the name of Ross Finnie, on the general principles of the Nature Conservation (Scotland) Bill, be agreed to.

Motion agreed to.

That the Parliament agrees to the general principles of the Nature Conservation (Scotland) Bill.

The Presiding Officer: The next question is, that motion S2M-500, in the name of Andy Kerr, on the financial resolution in respect of the Nature Conservation (Scotland) Bill, be agreed to.

Motion agreed to.

That the Parliament, for the purposes of any Act of the Scottish Parliament resulting from the Nature Conservation (Scotland) Bill, agrees to any increase in expenditure payable out of the Scottish Consolidated Fund in consequence of the Act.

Holy Trinity Episcopal Primary School (Closure)

The Deputy Presiding Officer (Murray Tosh):

The final item is a members' business debate on motion S2M-702, in the name of Brian Monteith, on the closure of Holy Trinity Episcopal Primary School. The debate will be concluded without any question being put. I ask members who are leaving the chamber to exchange their new year's greetings outside in the lobby.

Motion debated,

That the Parliament regrets the decision of Stirling Council's ruling Labour administration to close Holy Trinity Episcopal Primary School in the top of the town area of the city; notes that the council has failed to listen to the wishes of parents, the local community and those involved in the school as recorded in its report on its own consultation exercise; believes that Stirling Council has therefore failed to make an adequate case for the closure of the school, and further believes that the Scottish Executive should use its powers over the closure of denominational schools to ask the council to find a way to keep the school open.

17:04

Mr Brian Monteith (Mid Scotland and Fife) (Con): I thank the Parliamentary Bureau for selecting my motion for debate. I wish to place on record my appreciation of the members on many sides of the political spectrum who registered support for the motion or who gave their support in other ways to parents and staff of Holy Trinity. Some of the parents, staff and community council members are here tonight in the public gallery. With the Presiding Officer's permission, I welcome them to the Parliament.

Today's debate gives members the chance to air their views directly to the Deputy Minister for Education and Young People who, because of the school's denominational nature, has the ultimate say over its future. Indeed, that particular point gives not just members of Stirling Council but members of the Parliament a direct interest in the future of Holy Trinity Episcopal Primary School.

First of all, I want to say a little about the school itself. Holy Trinity is one of only two Episcopal primaries in Stirling district and one of only eight in the whole of Scotland. As it does not have a catchment area, parents must choose to send their children to the school. This year, the school celebrates its 150th anniversary and its long and distinguished history and record of educational achievement moved Stirling Council's leader, Councillor Corrie McChord, to say as recently as 27 November that the school is

"as good now as it ever was, if not better".

Holy Trinity is a super and much-valued school. Indeed, I witnessed that at first hand on a recent

visit to the school to meet parents and staff. It is such a friendly, happy place that it is little wonder that parents go to the extra effort of using the placing requests system in order to choose to send their children there. Some people such as Bruce Crawford have been moved to say that it is just the kind of school that the council should be nurturing and encouraging instead of closing.

However, only three months after last May's elections, the council announced its decision to close the school completely out of the blue. The proposal went out to consultation and in November the council formally agreed to close the school. I had hoped that it would think again and choose to retain Holy Trinity. When that did not happen, I lodged this motion. However, as the minister will be aware from my written questions in September and October, my interest in this matter precedes the lodging of the motion.

I will now outline the council's reasons for closing the school. The council argues that the reduced number of pupils at the school will damage their education and lead to fewer opportunities for pupils to integrate and learn with a wider peer group. My response to that point is quite simple, and is to quote from a letter that I have received from a parent. The letter says:

"If the parents of the current pupils at Holy Trinity felt that attending their catchment (or another) school was the best thing for their children, they would already be sending their kids to those schools."

That is precisely the point. Parents choose to send their children to Holy Trinity; it is not the first choice for any pupil. Indeed, if the number of pupils was a determining factor, one might also ask about the other primary schools in Stirling district that have fewer pupils than Holy Trinity.

The council has also based its argument for closure on the state of the school buildings. However, if conditions are so poor, why was the school not included on the council's shortlist of 10 or so primary schools that require priority refurbishment? Only last summer, two schools were added to that very list, which means that there was ample opportunity to act at that point and indeed before.

I will be charitable to Stirling's ruling Labour group because I do not believe that this is a partisan issue. Instead, I believe that the issue of the school's viability was not on any party's political radar, but that the school was brought forward for closure by officials after the May election. It is said that the school has four teaching rooms and therefore capacity for 100 pupils. However, the fourth room is used not for teaching but as a gym, a storage area and a dining room. Although that fact is ignored in the council's consultation document, it is strange that the council's own website states:

"Holy Trinity ... is a small three class school".

The case for closure is weak and remains unproven.

I want to close by pointing out why the minister should turn down Stirling Council's application. The first reason is choice: the school's existence provides a diversity of educational provision and allows parents across the city a degree of choice about where to send their children. I have no doubt that if Stirling Council were to inform all parents of Holy Trinity's existence, the school would attract more pupils.

Secondly, national trends show that Stirling's population is increasing. Indeed, the council's stewardship of the nearby Forthside site suggests that there might well be a substantial new housing development that would provide more pupils in the vicinity of Holy Trinity. Those children would then have the possibility of going to the school. Stirling Council closed Kinbuck Primary School and Kinlochard Primary School only to find within the space of a few years that it needed the capacity that they had offered. Stirling Council's counsel, one has to say, is poor.

Thirdly, closure will also have detrimental consequences for pupils who are repatriated. Already, some pupils who have tried other schools have since come back to Holy Trinity because they were unsettled. Closing the school before the new campus at Raploch opens in August 2006 means that current Holy Trinity pupils will experience three different school buildings and social groups in their lifetime at primary school. If the council's interest is in protecting the education of those pupils, the effect of their having to move to different schools must be taken into consideration.

Dr Sylvia Jackson (Stirling) (Lab): Does Brian Monteith agree that, not at the public meeting but later, Stirling Council gave an assurance that there would not necessarily be a further change? If the school does close and the children move to Allan's Primary School, they will not be moved again to the Castlevue campus.

Mr Monteith: I understand that that assurance has been given to parents of pupils in primary 6 and primary 7, but I am not clear that it counts for parents of children in the infants section. Sylvia Jackson may wish to comment on that later if she has further information on that point.

Turning to my fourth and final point, which is the crucial issue with regard to Holy Trinity, I think that it is not too late to make a success of the school. I am convinced that if the council acted to promote its availability instead of hiding it under a bushel, pupil numbers would increase. In fact, as a result of the recent press coverage on the school's future, a parent from as far away as Fallin called to

say that she would like her child to attend if the school remained open.

I recognise that, under the current arrangements, Stirling Council is perfectly entitled to determine which schools to close and which to retain. However, this specific decision does not have the support of parents, of the church community, of those involved with the school or indeed of the wider local community.

On 16 November 2003, barely a week before the council made its decision, *Scotland on Sunday* quoted the Minister for Education and Young People as saying:

"We need clear recognition of parents' wishes and expectations together with a flexible response to meeting them, appropriate to individual schools and groups of parents."

I agree. If that recognition is to mean anything, it requires education authorities, and indeed the Executive, not simply to recognise parental wishes but to act on them. Otherwise, the promise will look very hollow indeed.

17:13

Dr Sylvia Jackson (Stirling) (Lab): I welcome the parents and staff who have made the trip to Edinburgh today. I should begin by saying that I come to the debate having spoken at a fairly early stage, and on more than one occasion, with some of the parents who are involved. I also attended a meeting prior to the public meeting, which unfortunately I could not attend. I have to say that, at that prior meeting, the Scottish Socialist Party was in evidence, but I cannot remember any other political party being present.

Mr Monteith: Is Sylvia Jackson impugning our interest in the matter? Does not she acknowledge the fact that not everybody is able to go to the same meetings that she attends and that we attend some meetings that she is unable to attend?

Dr Jackson: If Mr Monteith will give me a little time, I shall come to the point that I am trying to make.

I have been in contact with Stirling Council, which has obviously been dealing with the consultation process. I have also been in contact on many occasions with the Scottish Episcopal Church through its representative, Rob Whiteman.

What I was going to say to Mr Monteith was that I am somewhat unhappy about his lack of presence at earlier meetings. I certainly did not know of his involvement earlier, but we have found rather late in the day that he has lodged a motion for a members' business debate.

I read a recent press release in the *Stirling Observer*, which had the headline, "We Can Teach Labour a Lesson on Schools". It refers—in not much detail, I have to say—to pupil passports and what they might entail. The article also goes on to talk about the ideology that the Conservative policy would entail, which would be for choice and diversity. By promoting the approach that there should be choice and diversity and linking it with the Holy Trinity school, Brian Monteith has somewhat misunderstood the nature of the school. I want people to be aware that, although he is representing choice and diversity—good features that one would want—behind the matter is a system of pupil passports that is, essentially, a subsidy to the private sector. Brian Monteith was challenged on one or two occasions about the fact that the 60:40 split that could result from such a system would in no way help poorer families.

Mr Monteith: I am deeply saddened by the tenor of the member's speech. I made no attempt to make any partisan points, although had I wanted to do so, I certainly could have.

On pupil passports, I draw the member's attention to the fact that they are not transferable to the independent school sector. Therefore, absolutely no subsidy to fee-paying schools is involved. Let us move away from the debate about independent schools and our party policy on councils, and let us concentrate on Holy Trinity school and the arguments for keeping it open.

Dr Jackson: That is exactly what I am doing. I am trying to show, through a recent press release that Brian Monteith issued, that the issue is driven by ideology and that he totally misunderstands this particular school in what he says about choice and diversity.

The big issue is that—as with St Mary's Episcopal Primary School in Dunblane, which is a high-profile school that has attracted pupils to it—the Conservatives are looking at the denominational sector as an area that they would like to promote as faith schools. However, Holy Trinity is a denominational school only in legality and in name. It is not a denominational school as it operates on the ground: in terms of assemblies and religious instruction, it follows the five-to-14 curriculum. Brian Monteith has totally misunderstood the school and is trying to promote it as a faith school although, essentially, it is not.

I ask the minister to consider the issue of denominational schools. He is looking at Holy Trinity because it is labelled as denominational, although in practice—along with other schools in Scotland that Mr Monteith mentioned—it is just the same as every other school. That raises issues about catchment areas, which I am sure Bruce Crawford will mention. If, in practice, Holy Trinity is the same as other primary schools, there should

not be a difference in terms of catchment areas. That issue must be examined in the promotion of such schools.

I have taken some time labouring that point, so I will finish by saying that there is a significant issue about the cost of the school in that the cost per pupil is more than twice that in other city schools in Stirling. That said, nobody is saying that the education that the children at the school receive is not appropriate. They are very disadvantaged children in terms of clothing, footwear and free school meals allowances.

The Deputy Presiding Officer: I must ask you to finish.

Dr Jackson: There are many complex issues around the subject and I hope that the Deputy Minister—to whom I have spoken previously about this—and the Minister for Education and Young People will take all those matters into account.

The Deputy Presiding Officer: I ask other members to stick to four minutes, to ensure that everybody is called.

17:19

Bruce Crawford (Mid Scotland and Fife) (SNP): I sincerely congratulate Brian Monteith on securing the debate this evening. To be frank, I am amazed at the attitude with which Sylvia Jackson approached the debate—she spent most of her time attacking Brian and the Tories and spent very little time prosecuting the case on behalf of the pupils who attend Holy Trinity school and their parents.

Brian Monteith has provided us with the opportunity to bring to the Executive's attention some of the real concerns that exist in respect of the robustness of the decision that has been reached by Stirling Council to close Holy Trinity school: I believe that the case to close the school has not been made by Stirling Council. The minister should look extremely closely at a number of aspects before an irrevocable and unsafe decision to close the school is made.

Shortly after the start of the consultation period, I met a group of concerned parents of pupils at the school. It was clear from the meeting that the parents were able to put a case for keeping the school open that was clear headed and which was not based on a romantic attachment to a lost cause.

The easy option at that stage would have been to whip up emotions through the local press in an attempt to gain maximum political advantage, but I say to Sylvia Jackson that I think that the case for keeping the school open is too important to play politics with. I therefore wrote to the council to respond to its consultation process, in a serious

attempt to explain in what respects I thought that its proposals for closure were unsafe. In the letter, I asked specific questions of the council about its decision-making process. Unfortunately, I have received no response—perhaps that is no surprise.

I have also since written to the Minister for Education and Young People, Peter Peacock, to explain where I think that the decision that has been reached by the council is unsafe, and to state that the school should remain open.

The council's decision has been partly, but substantially, based on the cost of current spend per pupil at the school. With only 21 pupils attending the school—according to the council's records at the time—the council's own figures show that the current spend per pupil stands at £7,647. However, that masks the reality of the situation because it does not show how pupil attendance at the school has been managed down to enable the picture of a high-cost school to be painted. Let me explain what I mean by that. In 1999, the number of pupils was 53, but every year since then pupil numbers have been allowed to fall. If 53 pupils were attending the school today the cost per pupil would be only £2,750—that figure is lower than the average spend per pupil across the Stirling Council area.

The denominational issue is a catch-22 situation. I think that the reality is that Holy Trinity is not a denominational school, but that begins to undermine some of the arguments for keeping it open. The council's rationale for the falling number of pupils is the status of Holy Trinity as an Episcopalian school. That status has allowed the council to avoid allocating it its own catchment area, and placements there are not offered to parents who are looking for first-time places for their children. If a real desire existed within the council to continue operation of the school, what prevented it from approaching the Episcopal Church authorities to have the school's denominational status removed? I cannot imagine for one moment that the church would have created any barriers if removal of denominational status would have meant that the school would continue in existence.

Mr Monteith: Does the member share with me the view that the nature of an Episcopal denominational school is different from that of other denominational schools, such as Roman Catholic ones, in that a fairly liberal attitude is displayed in the curriculum and that that in itself marks such schools out as being different?

Bruce Crawford: I understand entirely the point that Brian Monteith makes.

I hope that the Deputy Minister for Education and Young people is aware that I raised other

matters with Peter Peacock in my letter to him, but I do not have time to go into all the detail because I have been limited to four minutes.

I can only ask the ministers to see that the council's decision is unsafe, and to support the views of the parents who want to keep the school open. Please refuse the council permission to close this good little school, which has not had a chance to achieve its potential. Keep it open and tell the council to breathe new life into it.

17:24

Mr Mark Ruskell (Mid Scotland and Fife) (Green): I echo comments that colleagues have made and I thank Brian Monteith for bringing the topic forward for debate.

What is particularly worrying is the allegation that Stirling Council has systematically run down the roll of the school. If there is any element of truth in that allegation it is extremely worrying. It must be the role of councils to preserve people's ability to choose small denominational, or non-denominational, schools. I hope sincerely that Stirling Council has not sought to systematically run down Holy Trinity's roll.

It is clear that Stirling Council has used arguments for closure of the school that do not appear to be justified. For example, the consultation document states that the school does not have separate dining and gym spaces, but that is not unusual. Many schools in central Scotland, including schools that are larger than Holy Trinity, do not have separate spaces for dining, separate gyms or even separate assembly spaces. On the cost of educating pupils at the school, it is clear that the school has a high number of pupils who have additional support needs, which will lead to increased costs. However, if the school is closed, the costs will just be transferred elsewhere.

It is clear that the top of the town in Stirling is, or used to be, an area of deprivation. It used to receive funding through the council's programme and it had objective 2 status from the European regional development fund. If we are to regenerate communities, it is important that we retain core services and seek to build relationships between those services and the communities in which they are offered. We should not unnecessarily create exclusion. In deprived communities, levels of car ownership are exceptionally low, so we should not force people to seek access to schools that are outside their immediate communities.

I read the report on the school by Her Majesty's Inspectorate of Education; it is clear that the school has shown much improvement in recent years. I note that it has had to deal with some difficult problems, including high levels of disruptive behaviour. The school has made good

progress on that front, but we know that disruptive pupils need continuity and consistency. They need staff who have good knowledge of their needs, of the community and of their families. In some cases, those families have been there for several generations.

I take on board the comment that the pupils might not have to be moved twice. We do not want a situation in which that happens, either to pupils who are in the latter stages of primary education or to those in the lower years. It would be extremely disruptive for pupils to be moved once and then moved again to the Castlevue campus in 2006.

A sensible way forward would be for the school to have a stay of execution for at least two to three years and, during that time, for Stirling Council to work on publicising the school and attempting to raise its roll.

Dr Jackson: Will the member take an intervention?

Mr Ruskell: I am just about to finish.

The council should also use that time to harness the renewed community interest in the school. It was clear from the HMIE report that there was not previously a huge amount of community interest in the school, but interest is being renewed through the current campaign and it is important that the council work with that interest during the next two years. When the Castlevue campus is developed, that will be an appropriate time for the school's status to be reviewed with the status of other primary schools in the area. We can take it from there.

17:28

Lord James Douglas-Hamilton (Lothians) (Con): The Holy Trinity Episcopal Primary School certainly is a denominational school. Its case has been taken up by no less a person than the Rev Graham Blount, of the Scottish Churches Parliamentary Office, who sent an e-mail to several of my colleagues with an attached submission from the Bishop of St Andrews, Dunkeld and Dunblane. Mr Blount said that the bishop's letter

"raises several questions which have not been addressed by the Council ... It is therefore the view of the Scottish Episcopal Church that due process has not been followed by the Council and that several issues remain to be addressed before a proper decision can be made on this."

It seems to me that the bishop presents a persuasive case. He makes it quite clear in his letter that he is supporting the school

"not by dint of their denominationalism, but where they provide good education for their pupils."

The bishop's letter continues:

"There appeared to be universal agreement at the Public Meeting held on 4 November 2003 that Holy Trinity provided the highest quality of education to some of the most disadvantaged children in the Stirling Region."

It is important to note that the school contains a large percentage of children from disadvantaged backgrounds. It has also been acknowledged that a number of pupils have educational difficulties and undoubtedly require extra support, so the extra cost per pupil can partly be explained by the council's recognition of the need for extra staffing and the associated cost of that.

The bishop went on to say that he acknowledged that the roll was small but that the quality of education in the school has been recognised by all to be high and that there can be no doubt that small schools have a place in education and, for some children, offer the best environment.

I will make a few brief points that merit the minister's sympathetic consideration. First, the school has inspired the confidence of parents. Secondly, the community wants to retain the school. Thirdly, parents have taken it upon themselves to make placing requests for the school. Fourthly, Stirling's population is on the increase, with the prospect of more housing being built, and we need to look ahead to a time when there might be a need for more places. I suggest that the minister uses his authority, and the powers that he has, to find a way in which to keep the school open; it has, in our view, served its community well for 150 years.

17:31

Carolyn Leckie (Central Scotland) (SSP): I apologise if my voice does not hold out; I have a cold.

I welcome the parents and staff of Holy Trinity who are in the public gallery tonight. The school is in Central Scotland, which I represent, and the issues that affect that school are similar to those that affect parents, pupils and staff across Scotland in relation to school reviews, closures and public-private partnership programmes.

I want to challenge the idea that big is always better. I do not think that that is proven and I think that the testimony of the parents, staff and pupils involved with schools such as Holy Trinity show that small is quite often better. Perhaps we should replicate that model in other areas. The idea that centralising schools and creating greater and greater distances for pupils to travel is better than having smaller schools does not stand up. The idea that the big superschools will make up for the sense of community and the expertise that is delivered by small schools such as Holy Trinity does not stand up either. Instead of moving

towards bigger and bigger schools, which undoubtedly results in larger class sizes, we should be reducing class sizes. Holy Trinity has small classes; the absolute maximum class size for any school should be 20. If that is deliverable in Denmark, it should be deliverable here.

The references that have been made to the suspicion that falling rolls have been deliberately arranged over a period of years were not unfamiliar to me. For a number of years, parents of children in Ballerup High School in East Kilbride, which my eldest daughter attends, have suspected that the school has been deliberately run down. Indeed, the roof has been in need of repair for at least 10 years. Last year, when my daughter was studying for her highers, rain drops would fall onto her school jotters.

That leads me to the use of the poor state of schools as an argument for their closure. When I went to the roadshow that was being held in South Lanarkshire as part of a so-called consultation, I was absolutely horrified to see that photographs of the dire state of repair of Ballerup were used in justification of the argument to close it. In other words, the absolute failure properly to maintain and invest in the school for years is being used as an excuse to close it. That is clearly what is also happening to Holy Trinity.

The comments about housing developments were also familiar to me. There is a suspicion that the demographic evidence that has been put forward in the South Lanarkshire consultation is, at best, tarnished and, at worst, has been deliberately misrepresented to justify the arguments for closure. No account appears to have been taken of proposed housing developments in the area, which suggests that the data are highly questionable. No attention has been given to the possibility of attracting pupils to the schools that are in danger of being closed and ensuring that the local community has pride in them.

As always, it is the poorest communities that suffer. If the proposals go through, almost half of the south of East Kilbride—including two large areas with the poorest families—will be left with no secondary provision. That means that the poorest children, and those with additional needs who need most support, will be required to travel further. Lo and behold, they will not get assistance with the cost of travel as they will be within two miles of the school that they will have to attend. The poorest children will therefore travel the furthest and be most at risk of truancy from school, because it will become more and more cumbersome to attend school in the first place.

There is also the question of safety. I was involved in a walk to Earnock High School in Hamilton to find out what the pupils faced. I am not

sure what circumstances current Holy Trinity pupils face, but Earnock High pupils are forced to walk through an industrial park and across busy roads without security. I am sure that that is a familiar picture, none of which seems to have any effect on South Lanarkshire Council or other parties. That is another story similar to that of Holy Trinity.

I have a real fear that, with schools as with hospitals, communities that mobilise themselves, care about their facilities and know better than anybody the likely impact of closing those facilities, will be ignored. There is a serious democratic deficit and a gap between what communities want and need and what the Parliament and councils are prepared to deliver.

The Deputy Presiding Officer: For fear that Miss Leckie's daughter might have ended up being quoted again, I did not feel inclined to interrupt the speech at any point, but generally a closer degree of relevance to the subject of the debate is expected, and Miss Leckie might find that, on an occasion when there is not as much time to play with as today, the Presiding Officer has to step in.

17:36

The Deputy Minister for Education and Young People (Euan Robson): As is customary on such occasions, I add my congratulations to Brian Monteith on securing this debate. I also acknowledge the interest that Sylvia Jackson, who is the constituency member, Bruce Crawford and other members who are present have taken in the matter. I confirm to Bruce Crawford that his written representations have been received—as have Brian Monteith's—and that Peter Peacock is on the point of sending a reply to them; I think that Bruce Crawford asked about that during his speech.

As is perfectly clear to all, Stirling Council's proposal to close Holy Trinity Episcopal Primary School formally requires the Scottish ministers' consent before the council can implement it. I must make it clear at the outset that it would be inappropriate for me to comment on the particular circumstances of the proposal at this point in time, and I will explain why.

The council's application for consent was submitted to the Executive in December and, as is usual in such circumstances, Scottish Executive officials are reviewing the background to the proposal in detail. For me to express views on the proposal now could be held to be prejudicial to full and proper consideration of the case, and I shall therefore not comment on it. Nevertheless, it has been useful to hear the points that have been made about the proposal today, and I assure

members that we shall take all those points into account before any decision is reached.

Although I cannot comment on the proposal itself, I can say why the council cannot implement it without first seeking ministers' consent and I can give an indication of the procedures that are involved, which might be helpful. I think that it was Sylvia Jackson who said that the school is classified as a denominational school. That is correct; in fact, it is one of only four local authority-managed Episcopalian primary schools in Scotland—I understand that the others are St Mary's Episcopal Primary School in Dunblane, Bishop Eden Primary School in Inverness and St Ninian's Episcopal Primary School in Perth.

Proposals to close denominational schools do not automatically require the Scottish ministers' consent, but the proposal to close Holy Trinity does because, if it were to close, the pupils would no longer easily be able to attend an Episcopalian school. It is important to put that point on the record. Under those circumstances, and in considering whether consent to the closure proposal should be given, we are required to have regard to the arrangements that are proposed by the local authority for the religious instruction of the pupils involved. In accordance with usual practice in such cases, my officials have written to the Scottish Episcopal Church, seeking its views on the question of the religious instruction of pupils, should the closure be implemented. I heard what Lord James Douglas-Hamilton said on the matter. It was very interesting and helpful, but an official process to obtain the church's view is under way. The church has also been asked to describe its current arrangements for the religious instruction of pupils at Holy Trinity and any other involvement that it has in the life and management of the school.

Dr Jackson: I welcome the clarification that the Executive is to seek from the Scottish Episcopal Church, which will be useful not just for the school that is the subject of the debate, but for the four Episcopalian schools in Scotland. As I understand the situation, the school is Episcopalian only in name, and religious and moral education is provided according to the five-to-14 curriculum, as it is in any other school in the Stirling area.

Euan Robson: We shall certainly clarify those issues in the course of the discussion that is under way with the Episcopal Church.

Another part of our procedure is to seek views from Her Majesty's Inspectorate of Education, which I do not think has been alluded to in the debate. Once we have those views and the information that we have requested from the church, we should be in a position to reach a decision. That process will also take account of the representations that the council received

during its consultation on the closure proposal. That there are such representations underlines the requirement for statutory consultation with parents, school boards and denominational bodies when an authority proposes to close a school.

Authorities have to take account of representations that are made during the consultation period before they reach a decision. That ensures that there is a full opportunity for all the issues surrounding a closure proposal to be aired locally and for them to be considered. That is an essential part of the democratic process, which allows local elected members to be fully aware of local concerns and considerations before they decide on the way forward.

I understand that there will invariably be concerns about school closure proposals, and that those concerns can generate different views and perceptions. Setting to one side the position of particular schools, it is right that I should remind members that authorities have a general responsibility to keep the provision of schools under review. That applies in all areas. Population patterns change over time and school buildings might no longer be suitable for current requirements—a range of factors might come under consideration. Authorities have to take a strategic view of their school needs. They are in the process of developing school estate management plans, which should be a valuable tool for local authorities in the proactive and effective management of the very large capital asset that the school estate forms. The plans will help authorities to manage their assets in order to support wider community and policy objectives.

Bruce Crawford: Can the minister give any information about likely time scales? He has told us that HMIE and the Scottish Episcopal Church will be involved in this case, but parents and pupils are concerned about the matter and the quicker it is resolved, the better. Does the minister have any idea about the time scale of decision making?

Euan Robson: Yes. We are talking about weeks, rather than months. I certainly hope that the decision will have been taken before Easter. The member will appreciate that we have to go through the proper procedures. Things are not necessarily in our own hands; we must await responses. We will, however, do everything that we can to ensure that any uncertainty is dispelled as quickly as possible.

The Executive is fully committed to supporting authorities in developing a school estate that meets all our aspirations, that responds to evolving needs and that is effectively managed and maintained over the long term. I shall not go into the figures for the amount of investment that we have been making in school estates, despite the temptation to do so, but to say that a

significant investment has been made would be a fair summary of the record of the past few years.

The case of Holy Trinity Episcopal Primary School in Stirling will be examined with great care and attention. Brian Monteith's motion invites the Executive to ask Stirling Council to find a way of keeping the school open. I cannot speculate on the outcome of the council's application for consent to close the school. However, I assure all members that before reaching a decision we will give the proposal, including the denominational aspects, and all the representations that have been received about it the most careful consideration.

The Deputy Presiding Officer: That concludes today's business.

Meeting closed at 17:45.

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

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, 375 High Street, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Wednesday 14 January 2004

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

PRICES AND SUBSCRIPTION RATES

DAILY EDITIONS

Single copies: £5

Meetings of the Parliament annual subscriptions: £350.00

The archive edition of the *Official Report* of meetings of the Parliament, written answers and public meetings of committees will be published on CD-ROM.

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

Single copies: £3.75

Special issue price: £5

Annual subscriptions: £150.00

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75

Annual subscriptions: £150.00

Standing orders will be accepted at the Document Supply Centre.

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

The Stationery Office Bookshop
71 Lothian Road
Edinburgh EH3 9AZ
0870 606 5566 Fax 0870 606 5588

The Stationery Office Bookshops at:
123 Kingsway, London WC2B 6PQ
Tel 020 7242 6393 Fax 020 7242 6394
68-69 Bull Street, Birmingham B4 6AD
Tel 0121 236 9696 Fax 0121 236 9699
33 Wine Street, Bristol BS1 2BQ
Tel 01179 264306 Fax 01179 294515
9-21 Princess Street, Manchester M60 8AS
Tel 0161 834 7201 Fax 0161 833 0634
16 Arthur Street, Belfast BT1 4GD
Tel 028 9023 8451 Fax 028 9023 5401
The Stationery Office Oriel Bookshop,
18-19 High Street, Cardiff CF12BZ
Tel 029 2039 5548 Fax 029 2038 4347

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

Telephone orders and inquiries
0870 606 5566

Fax orders
0870 606 5588

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

RNID Typetalk calls welcome on
18001 0131 348 5412
Textphone 0131 348 3415

sp.info@scottish.parliament.uk

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers