

MEETING OF THE PARLIAMENT

Thursday 4 February 2010

Session 3

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Scottish Parliament

Thursday 4 February 2010

[THE PRESIDING OFFICER *opened the meeting at 09:00*]

Business Motion

The Presiding Officer (Alex Fergusson): Good morning. The first item of business today is consideration of business motion S3M-5671, in the name of Bruce Crawford, on behalf of the Parliamentary Bureau, which sets out a timetable for stage 3 consideration of the Marine (Scotland) Bill.

Motion moved,

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

Groups 1 and 2: 25 minutes

Groups 3 to 5: 55 minutes

Groups 6 to 9: 1 hour 40 minutes

Groups 10 to 12: 2 hours 10 minutes

Groups 13 and 14: 2 hours 40 minutes

Groups 15 to 17: 3 hours 5 minutes

Groups 18 to 20: 3 hours 40 minutes

Groups 21 and 22: 4 hours.—[*Bruce Crawford.*]

Motion agreed to.

Marine (Scotland) Bill: Stage 3

09:00

The Presiding Officer (Alex Fergusson): The next item of business is stage 3 of the Marine (Scotland) Bill. In dealing with amendments, members should have the bill as amended at stage 2—that is, SP bill 25A; the marshalled list, which was revised on Tuesday—that is, SP bill 25AML (revised); and the groupings which, as Presiding Officer, I have agreed. The division bell will sound and proceedings will be suspended for five minutes before the first division this morning. The period of voting will be 30 seconds. Thereafter, I will allow a voting period of one minute for the first division after a debate and 30 seconds for all other divisions.

I inform members at the outset that time is incredibly tight, so I ask everyone to keep their contributions as brief as possible.

Section 2A—Sustainable development

The Presiding Officer: We come to group 1. Amendment 101, in the name of Peter Peacock, is grouped with amendments 2 and 5.

Peter Peacock (Highlands and Islands) (Lab): I am pleased to kick off today's proceedings with three amendments. Two are concerned with general duties on ministers and public authorities, and the third is a minor but important amendment to the bill's long title that will reflect the fact that furthering sustainable development is now part of the bill's purpose.

Amendment 101 is a revised version of an amendment that I moved at stage 2, which the Cabinet Secretary for Rural Affairs and the Environment opposed at that time. It concerns the health of our marine environment. If the Marine (Scotland) Bill is to mean anything, it is important that it makes a real difference to the health of our marine environment in the long term. The amendment would require ministers and public authorities to act in ways that are best calculated to protect and enhance the health of the Scottish marine area. It seeks to translate into the bill the Rural Affairs and Environment Committee's unanimous support for that principle in its stage 1 report.

I listened carefully to what the minister said at stage 2 and, although I did not share his anxieties, I have tried to change the amendment to accommodate some of the concerns by linking the health of the marine environment to sustainable development. An amendment on sustainable development was agreed to at stage 2 and is in the bill that is before us today. Amendment 101 replicates the key aspects of the provision that

was approved at stage 2 and refers to it, along with the health of the marine area. I have discussed the amendment with the minister and his officials and I hope that he is now ready enthusiastically and generously to support the amendment, and also to do so graciously, no doubt. We will see when the time comes.

Amendment 2 deals with mitigation and adaptation to climate change. Last year's Climate Change (Scotland) Act 2009 set ambitious targets that will be met only if the follow-through is there to deliver on them. Scottish Renewables estimates that Scotland's carbon emissions could by 2020 be cut by about a third through installation of offshore renewables. Scotland's seas are potentially our trump card in the fight against climate change. As the bill is the first environmental legislation to be considered post the 2009 act, it is vital that those strong climate change objectives be directly reflected in the bill and it is important that climate change be reflected in the national marine plans that will result from the bill, but a general duty will ensure that climate obligations are considered throughout the bill's workings. That will be important as new management arrangements come on stream and new bodies are established in years to come to manage such matters. I hope that the minister has reflected on his stance at stage 2 and feels able to accept the amendment.

Amendment 5 is designed to have the long title reflect a particular change about sustainable development that was agreed at stage 2. It seems to me to be a fairly innocuous amendment, but one that symbolises the fact that the bill is, in significant part, about sustainable development. Again, I hope that the minister will be able to support the change.

I move amendment 101.

John Scott (Ayr) (Con): I speak in support of Peter Peacock's amendment 101, which is an improved version of an amendment that he lodged at stage 2. It seeks to include in the bill a duty to protect and enhance our seas where appropriate. That will, combined with a requirement to develop our seas sustainably, enhance the bill, so I am happy to support the amendment.

I also support amendment 2 because it will oblige the Government to mitigate climate change where possible. I support Peter Peacock's comments in that regard.

Liam McArthur (Orkney) (LD): I am conscious that I will be clambering to my feet fairly regularly this morning, so I will keep my comments brief. Liberal Democrats support all three amendments in the group. The bill seeks to protect our marine environment, but if that is to avoid being a process of managed decline in certain instances, we need

to ensure that there is a duty on ministers and public authorities not only to maintain but where appropriate—and only where appropriate—to enhance that environment. As Peter Peacock said, the cabinet secretary expressed concerns at stage 2, but I believe—as John Scott does—that they have been addressed in the form of amendment 101.

Amendment 2 acknowledges the threat to our marine and wider environment that is presented by climate change. The general duty that the amendment would place on ministers and public authorities would help to ensure that that is properly acknowledged in the bill. Amendment 5 provides consistency with the approach that we have adopted in other legislation. By adding sustainable development to the long title, it will allow us to put on the tin what the bill is about. I urge members to support all three amendments.

The Cabinet Secretary for Rural Affairs and the Environment (Richard Lochhead): I am pleased to start on a positive note. In the spirit of Peter Peacock's contribution, I "enthusiastically and generously" say that I am content to accept amendment 101, which delivers the right message about the Government's approach to marine management and the need to balance the use and protection of Scotland's spectacular seas. We welcome the reference to the health of Scotland's seas.

I turn to amendment 2. We discussed the issue in great detail at stage 2, when I said that there are already such general duties in the Climate Change (Scotland) Act 2009 and that I did not believe that it was necessary to replicate them in the bill. However, in order to reiterate our commitment to mitigation and adaptation to climate change, I am happy to accept the amendment.

On amendment 5, again, we debated such an amendment at stage 2. However, my views remain the same. The long title is meant to be an accurate legal description of the content of the bill. I have to say to Peter Peacock that my legal advice is that the amendment would make the long title inaccurate, so on that basis we have no option but to oppose it. I ask Peter Peacock to consider not moving the amendment.

Peter Peacock: I will not delay proceedings. I am grateful for the support for amendments 101 and 2, and I hope that the Parliament will still support amendment 5, notwithstanding what the minister said.

Amendment 101 agreed to.

After Section 2A

Amendment 2 moved—[Peter Peacock]—and agreed to.

Section 3—National marine plan and regional marine plans

The Presiding Officer: Amendment 102, in the name of Elaine Murray, is grouped with amendments 6, 103, 23, 91 and 92.

Elaine Murray (Dumfries) (Lab): I lodged but did not press a similar amendment at stage 2. However, I believe that the issue is worthy of consideration by the whole Parliament as it links marine planning in part 2 of the bill with protection and enhancement in part 4. Amendment 102 would require national and regional plans to state how Government policies on nature conservation marine protection areas and other conservation sites that will also form part of the network of conservation sites that is created under section 68A, such as European marine sites, sites of special scientific interest and Ramsar sites, will contribute to conservation or improvement of the marine area.

The minister resisted my amendment at stage 2 on the basis that

“sustainable development policies are about using Scotland’s seas in a manner that is best calculated to deliver Scotland’s needs, which are protecting the marine area while allowing activity to take place.”—[*Official Report, Rural Affairs and Environment Committee*, 18 November 2009; c 2124.]

I have reflected on that response and I believe that it misses the point. The national and regional plans are the policy documents that will guide the marine planning partnerships’ decisions on appropriate development in the different parts of the marine area that they cover. There will inevitably be competing interests. It is important that the policy intention of the creation of nature conservation MPAs and the network of conservation sites is explicit in the plan and is available to members of the planning partnerships, to applicants who wish to undertake activity in the marine area, and to the general public.

Schedule 1 to the bill relates to the preparation, adoption and amendment of marine plans, including publication of and consultation on draft plans, and the laying before Parliament of national plans and possibly—depending on agreement to amendments that will be debated later today—regional plans. As the creation of nature conservation MPAs and the network of conservation sites will constrain some of those activities in some parts of the marine area, I think it sensible that the plans explain the policies underpinning their creation.

At stage 2, Liam McArthur was concerned that there was no counterweight against climate change mitigation. I believe that that concern has been addressed in his amendment 6, his alternative pass in amendment 103 and Peter

Peacock’s amendment 2, which has just been agreed to. I am happy to support whichever amendment Mr McArthur wishes to press. I am also happy to support amendments 23, 91 and 92, which are in the name of the cabinet secretary.

I also point out that Scottish Environment LINK supports amendment 102. In its briefing for today’s debate, it stresses the importance of a three-pillar approach to marine conservation and points out that that was also supported by the advisory group for marine and coastal strategy and the sustainable seas task force. As a result, a clear link between planning provisions and provisions for marine protection and enhancement is necessary.

I move amendment 102.

The Presiding Officer: Before I call Liam McArthur to speak to amendment 6 and the other amendments in the group, I point out to members that amendments 6 and 103 are direct alternatives.

Liam McArthur: First of all, I have no difficulty in supporting the three Government amendments in this group. The Liberal Democrats also support amendment 102, as it reinforces the three-pillar approach to nature conservation that was identified by the advisory group on marine and coastal strategy and the sustainable seas task force as the surest means of linking marine planning with marine protection and enhancement provisions. I certainly recognise that efforts have been made to address the concerns that I expressed at stage 2.

On amendments 6 and 103, committee colleagues will recall that at stage 2 Alasdair Morgan, showing all the parliamentary cunning that befits someone who has risen to the elevated status of Deputy Presiding Officer, succeeded in hoisting me by my own inferior amendment, and I am sure that some will feel that I am about to make the same schoolboy error at stage 3. However, on this occasion, I have lodged amendment 103 as a backstop.

I hope that Parliament will agree to support the more substantive amendment 6, which I think provides the clarity of direction and purpose that has been sought by stakeholders across the board and the committee itself since stage 1. Its approach would not compromise the flexibility that we all want in regional planning partnerships, but is consistent with the Water Environment and Water Services (Scotland) Act 2003 and the Flood Risk Management (Scotland) Act 2009, both of which require the Scottish Environment Protection Agency to put in place programmes of measures to achieve stated objectives.

Although I am grateful to the minister and his officials for seeking a compromise, I urge the

Parliament to go a little bit further and to agree to amendment 6, which will ensure that national and regional plans set out clearly, simply and in a flexible way what will be done and who will be responsible for doing it.

Richard Lochhead: Amendment 102 is useful and reflects stakeholders' concerns. As it makes more explicit the link between the planning and conservation parts of the bill, we are happy to support it.

As for amendment 6, a similar amendment was discussed in detail at stage 2. My views remain the same: the bill contains no powers to require anyone to implement policies and programmes such as are referred to in the amendment. The plans get their force from section 11, which requires certain decisions in a marine area to be made "in accordance with" a plan, and requires that regard be had to a plan when other decisions are made. Given that a marine plan is not a vehicle for delivering freestanding programmes or a series of actions, I oppose amendment 6.

However, I am happy to accept amendment 103, which is similar to amendment 6 but has had removed from it the references to policies, programmes, responsible public authorities and persons. As the Presiding Officer has pointed out, the Parliament has to choose between the two amendments: we choose amendment 103, because it focuses on the objectives for marine plans, the condition of the marine area at the time of the plan's preparation and the pressures of human activities on the area. Although such things would appear in plans anyway, I am happy for the bill to refer specifically to them.

Amendment 23 is a minor technical amendment that seeks to bring section 7(2)(b)(i) into line with section 7(2)(a)(i) with regard to the reference to

"the living resources which the area supports".

Amendment 91 is another minor technical amendment that seeks to correct a reference to the Marine and Coastal Access Act 2009 following changes in the final numbering of that act, and amendment 92 seeks to make a minor grammatical correction in schedule 1 so that the sentence in question will read:

"the Scottish marine region to which the plan is to apply".

John Scott: I, too, am happy to support amendment 102 in the name of Elaine Murray, as it develops the three-pillar approach to nature conservation that the Rural Affairs and Environment Committee and others have agreed is vital to the development of a national marine plan.

I have to say that I prefer amendment 103 to amendment 6 in its attempt to flesh out the bill's intentions. Amendment 103 will help commercial

development by providing greater clarity in marine plans and making the bill more compatible with the Water Environment and Water Services (Scotland) Act 2003 and the Flood Risk Management (Scotland) Act 2009. Both pieces of legislation clearly set out their objectives; this bill should do so as well.

Elaine Murray: I thank members for their support. I will press amendment 102.

Amendment 102 agreed to.

Amendment 6 moved—[Liam McArthur].

The Presiding Officer: The question is, that amendment 6 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division. As this is the first division of the day, there will be a five-minute suspension.

09:15

Meeting suspended.

09:20

On resuming—

The Presiding Officer: We will proceed with the division on amendment 6.

For

Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Foulkes, George (Lothians) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Hume, Jim (South of Scotland) (LD)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McArthur, Liam (Orkney) (LD)

McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McConnell, Jack (Motherwell and Wishaw) (Lab)
 McInnes, Alison (North East Scotland) (LD)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Mulligan, Mary (Linlithgow) (Lab)
 Murray, Elaine (Dumfries) (Lab)
 O'Donnell, Hugh (Central Scotland) (LD)
 Oldfather, Irene (Cunninghame South) (Lab)
 Park, John (Mid Scotland and Fife) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Stewart, David (Highlands and Islands) (Lab)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tolson, Jim (Dunfermline West) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Allan, Alasdair (Western Isles) (SNP)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brown, Keith (Ochil) (SNP)
 Brownlee, Derek (South of Scotland) (Con)
 Campbell, Aileen (South of Scotland) (SNP)
 Carlaw, Jackson (West of Scotland) (Con)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 FitzPatrick, Joe (Dundee West) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West of Scotland) (SNP)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMillan, Stuart (West of Scotland) (SNP)
 Milne, Nanette (North East Scotland) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)

Neil, Alex (Central Scotland) (SNP)
 Paterson, Gil (West of Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Salmond, Alex (Gordon) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Somerville, Shirley-Anne (Lothians) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Presiding Officer: The result of the division is: For 59, Against 62, Abstentions 0.

Amendment 6 disagreed to.

Amendment 103 moved—[Liam McArthur]—and agreed to.

Section 7—Duty to keep relevant matters under review

Amendment 23 moved—[Richard Lochhead]—and agreed to.

Section 8—Delegation of functions relating to regional marine plans

The Presiding Officer: Amendment 24, in the name of Elaine Murray, is grouped with amendments 104, 25, 105, 106, 42 and 43.

Elaine Murray: The Rural Affairs and Environment Committee stage 1 report expressed concerns that functions relating to regional marine plans could, under the present wording of the bill, be delegated to one public authority acting on its own without any other partners.

At stage 2, I introduced a similar amendment to amendment 24 that, surprisingly—considering the committee's view at stage 1—was defeated on the convener's casting vote.

Amendment 24 would require delegation of functions in relation to regional marine plans to

“a person nominated by Scottish ministers”

plus a public authority and/or a person who is

“nominated by a public authority with an interest in the ... marine region”.

The requirement to include a person who is nominated by Scottish ministers as a delegate reflects the committee's stage 1 recommendation

“that Marine Scotland's experience and expertise will be crucial for the effective running of all MPPs. The Committee would expect that Marine Scotland would take the lead role in administering MPPs.”

The inclusion of a representative from Marine Scotland would ensure that national priorities be appropriately reflected in regional plans.

Amendment 24 has the support of the Scottish Fishermen's Federation and it is the view of that organisation, and of other witnesses who gave stage 1 evidence, that Marine Scotland should chair the regional planning partnerships in order to ensure fairness and consistency.

Amendment 25 is consequential on amendment 24. The intention is the same as that of section 8(3), which it would replace, and it would require ministers only to give direction with the consent of the public authority or authorities involved in the partnership, either directly or by nomination of delegates.

Amendments 42 and 43 would apply the same principle to the delegation of functions relating to marine licensing, and would mean the requirement of a partnership approach to the issuing of marine licences where that has been delegated by Scottish ministers. The consent of the public authority or authorities involved will also be required if an order is made.

Concerns have been raised that amendments 24 and 42 would mean that only one person who has been nominated by ministers and one person who has been nominated by the local authority or public authority could be on the planning partnership or licensing authority. However, in the amendments, as in all United Kingdom and Scottish legislation, the singular includes the plural. I refer members to the Scotland Act 1998 (Transitory and Transitional Provisions) (Publication and Interpretation etc of Acts of the Scottish Parliament) Order 1999, statutory instrument 1379, which states in schedule 1, paragraph 3:

"In an Act of the Scottish Parliament, unless the contrary intention appears,-

(a) words importing the masculine gender include the feminine;

(b) words importing the feminine gender include the masculine; and

(c) words in the singular include the plural and words in the plural include the singular." [Applause.]

As there is no contrary intention in, for example, the use of the word "one" rather than the use of the word "a", in amendments 24 and 42, more than one person could be nominated by ministers or by the authority, and there could be more than one public authority delegate.

I move amendment 24.

Robin Harper (Lothians) (Green): Amendment 104 seeks to give some structure to marine planning partnerships. Section 8 currently enables ministers to delegate regional planning functions

to "a group of persons". The policy intention is to delegate, and we support increased local governance for planning, but the bill contains no provision for how those groups would be structured or constituted.

In its stage 1 report, the committee supported a flexible approach to membership, and that support was reiterated at stage 2. However, it also made it clear that the MPPs should be diverse bodies that are not dominated by narrow sectoral interests. Amendment 104 seeks to strike a balance between those concerns and, as with the similar amendment that was lodged at stage 2, it requires ministers to ensure only "so far as" is "reasonably practicable" that the partnerships include

"representatives of persons with an interest in ... the protection and enhancement"

of the area, and in use of the area for recreational and commercial purposes. Amendment 104 is supported by Scottish Environment LINK, Surfers Against Sewage and Scottish Renewables, who

"welcome strong, transparent and inclusive marine planning partnerships that can bring all the stakeholders together early in the process to get renewables rapidly developed in the right places."

On amendment 105, in its stage 1 report, the Rural Affairs and Environment Committee stated that it found it almost impossible to envisage circumstances in which a single public authority would be an appropriate partnership, and it advocated removal of that provision. Amendment 105 does not go that far, but we agree that ideally, regional planning functions should be delegated to a group of people and not to a public authority. Amendment 105 therefore would require that when ministers make such a direction, they must include a statement of reasons why they have chosen a public authority, and it would require that authority to consult representatives of persons from the three broad sectoral interests that I mentioned when speaking to amendment 104, and any other persons that Scottish ministers consider appropriate, when it is exercising its delegated functions. Again, amendment 105 comes with broad support.

Amendment 106 would require ministers to lay before Parliament a draft of any direction that they give under section 8 to delegate regional planning functions, in order that Parliament has an opportunity to consider a direction that will hand enormous power to those groups. Parliamentary scrutiny of the partnerships and their composition will ultimately give them clear authority to get on with the job with which they are tasked, safe in the knowledge that they have passed the test, that they are representative, and that they have the seal of Parliament. If the composition of the partnerships were to leave out interests, the danger would be that those groups would cry foul

at a later date, and would seek to undermine the plans and agreements that had been put in place. It is essential that we get this part of the planning process right.

Liam McArthur: Despite Elaine Murray's rather learned, three-musketeer style defence of her amendments, I am afraid that we cannot support amendments 24 and 25 because it appears that they would dilute the flexibility that ministers have in the bill as it stands in return for no commensurate benefit.

I am, however, minded to support amendments 104, 105 and 106. Although I am not certain that they would add a great deal of practical effect beyond what is in the bill already, amendments 104 and 105 seem to have the benefit that they would provide additional clarity for those who might expect to be involved in marine planning. As Robin Harper said, amendment 106 seeks to introduce greater transparency and accountability through Parliament's role. On that basis, the amendments are worthy of support.

John Scott: I speak in support of Elaine Murray's amendments 24, 25, 42 and 43, which will give the opportunity for a wider view to be taken in the development of regional plans and marine licensing than that which might be taken by a single authority acting on its own. In terms of consistency of approach, Marine Scotland should have an input into the development of all regional plans and granting of marine licences. That is why I believe Elaine Murray's amendments to be so important. I know that the minister has concerns about the amendments, but they are, nonetheless, better than what is already in place, notwithstanding what Liam McArthur said. Elaine Murray has more than adequately answered any doubts that the minister might have.

I am happy to support Robin Harper's amendments 104 and 105, although I am unable to support amendment 106.

09:30

Richard Lochhead: Amendment 24 would remove the flexibility to delegate planning functions to a single public authority. I believe that none of us would wish the powers to delegate planning functions to be limited in such a way. It is not inconceivable that delegation of planning functions to a single public authority might be appropriate in some cases. For example, delegation to one of the islands councils in Scotland might be a possibility. Elaine Murray referred eloquently to existing legislation, but we must address the wording of the amendment that is before us, so I ask her to consider seeking to withdraw amendment 24.

Amendment 104 is similar to amendment 141— at stage 2. That amendment was defeated, as it was too prescriptive, but amendment 104 addresses the issue by including the phrase

“any other persons that the Scottish Ministers consider appropriate”.

That drafting provides more flexibility to meet the wide range of circumstances around the Scottish coast, so we are happy to accept amendment 104.

We want to resist amendment 25, which is consequential on amendment 24.

Amendment 105, which sets out further details on what a direction to a public authority must include, would offer a safeguard to a number of stakeholders who are worried about the use of the Government's direction-giving powers, so we are happy to accept it.

Amendment 106 would introduce another layer of decision making by requiring the Government to lay before the Parliament for consideration a copy of the draft directions that are given to marine planning partnerships. That process, which would take a minimum of 40 days, is not necessary and would add a further layer of bureaucracy. For those reasons, and given the movement that I have made on amendments 104 and 105, I ask Robin Harper to consider not moving amendment 106.

The arguments on amendment 42 are similar to the ones that I have just laid out on amendment 24. Amendment 42 would remove the flexibility to delegate licensing functions to a single public authority. We would not wish to limit the powers to delegate licensing functions in such a way. I repeat that it is not inconceivable that delegation of licensing functions to a single public authority might be appropriate in some circumstances, perhaps to one of the islands councils. Therefore, I ask members to resist amendment 42 and the consequential amendment 43.

Elaine Murray: To clarify, in the situation that the cabinet secretary describes, a partnership could be a single public authority plus a representative of Marine Scotland. That is not ideal, but that is all that amendments 24 and 42 would require. I do not think that there can be a partnership of one—I have never heard of that—and it is important that Marine Scotland be involved in all the regional marine planning partnerships.

The statutory instrument to which I referred affects all acts of the Scottish Parliament and applies in all cases, including the bill. I have come up against the issue previously when I have complained about something being expressed in the singular and been advised that that includes the plural. The clerks have checked the

amendments and discussed them with a senior draftsman, so I am confident that they would not restrict partnerships to two people plus one local authority. I therefore press my amendment 24.

The Labour Party supports amendments 104 to 106 in the name of Robin Harper.

The Presiding Officer: The question is, that amendment 24 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Carlaw, Jackson (West of Scotland) (Con)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Foulkes, George (Lothians) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Annabel (West of Scotland) (Con)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McConnell, Jack (Motherwell and Wishaw) (Lab)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Nanette (North East Scotland) (Con)
 Mulligan, Mary (Linlithgow) (Lab)
 Murray, Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Park, John (Mid Scotland and Fife) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Scanlon, Mary (Highlands and Islands) (Con)

Scott, John (Ayr) (Con)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Allan, Alasdair (Western Isles) (SNP)
 Brown, Keith (Ochil) (SNP)
 Brown, Robert (Glasgow) (LD)
 Campbell, Aileen (South of Scotland) (SNP)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Finnie, Ross (West of Scotland) (LD)
 FitzPatrick, Joe (Dundee West) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hume, Jim (South of Scotland) (LD)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Kidd, Bill (Glasgow) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West of Scotland) (SNP)
 McArthur, Liam (Orkney) (LD)
 McInnes, Alison (North East Scotland) (LD)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McMillan, Stuart (West of Scotland) (SNP)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 O'Donnell, Hugh (Central Scotland) (LD)
 Paterson, Gil (West of Scotland) (SNP)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Robison, Shona (Dundee East) (SNP)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Russell, Michael (South of Scotland) (SNP)
 Salmond, Alex (Gordon) (SNP)
 Scott, Tavish (Shetland) (LD)
 Smith, Iain (North East Fife) (LD)
 Somerville, Shirley-Anne (Lothians) (SNP)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Tolson, Jim (Dunfermline West) (LD)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Presiding Officer: The result of the division is: For 62, Against 60, Abstentions 0.

Amendment 24 agreed to.

Amendment 104 moved—[Robin Harper]—and agreed to.

Amendment 25 moved—[Elaine Murray].

The Presiding Officer: The question is, that amendment 25 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Carlaw, Jackson (West of Scotland) (Con)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Foulkes, George (Lothians) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Annabel (West of Scotland) (Con)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McConnell, Jack (Motherwell and Wishaw) (Lab)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Nanette (North East Scotland) (Con)
 Mulligan, Mary (Linlithgow) (Lab)
 Murray, Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Park, John (Mid Scotland and Fife) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)

Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Allan, Alasdair (Western Isles) (SNP)
 Brown, Keith (Ochil) (SNP)
 Brown, Robert (Glasgow) (LD)
 Campbell, Aileen (South of Scotland) (SNP)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Finnie, Ross (West of Scotland) (LD)
 FitzPatrick, Joe (Dundee West) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hume, Jim (South of Scotland) (LD)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Kidd, Bill (Glasgow) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West of Scotland) (SNP)
 McArthur, Liam (Orkney) (LD)
 McInnes, Alison (North East Scotland) (LD)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McMillan, Stuart (West of Scotland) (SNP)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 O'Donnell, Hugh (Central Scotland) (LD)
 Paterson, Gil (West of Scotland) (SNP)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Robison, Shona (Dundee East) (SNP)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Russell, Michael (South of Scotland) (SNP)
 Salmond, Alex (Gordon) (SNP)
 Scott, Tavish (Shetland) (LD)
 Smith, Iain (North East Fife) (LD)
 Somerville, Shirley-Anne (Lothians) (SNP)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Tolson, Jim (Dunfermline West) (LD)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Presiding Officer: The result of the division is: For 62, Against 60, Abstentions 0.

Amendment 25 agreed to.

Amendment 105 moved—[Robin Harper]—and agreed to.

After section 8

Amendment 106 moved—[Robin Harper].

The Presiding Officer: The question is, that amendment 106 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Foulkes, George (Lothians) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Hume, Jim (South of Scotland) (LD)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McArthur, Liam (Orkney) (LD)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McConnell, Jack (Motherwell and Wishaw) (Lab)
 McInnes, Alison (North East Scotland) (LD)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Mulligan, Mary (Linlithgow) (Lab)
 Murray, Elaine (Dumfries) (Lab)
 O'Donnell, Hugh (Central Scotland) (LD)
 Oldfather, Irene (Cunninghame South) (Lab)
 Park, John (Mid Scotland and Fife) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)

Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stewart, David (Highlands and Islands) (Lab)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tolson, Jim (Dunfermline West) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Allan, Alasdair (Western Isles) (SNP)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brown, Keith (Ochil) (SNP)
 Brownlee, Derek (South of Scotland) (Con)
 Campbell, Aileen (South of Scotland) (SNP)
 Carlaw, Jackson (West of Scotland) (Con)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 FitzPatrick, Joe (Dundee West) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West of Scotland) (SNP)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMillan, Stuart (West of Scotland) (SNP)
 Milne, Nanette (North East Scotland) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Paterson, Gil (West of Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Salmond, Alex (Gordon) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Somerville, Shirley-Anne (Lothians) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)

White, Sandra (Glasgow) (SNP)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Presiding Officer: The result of the division is: For 61, Against 62, Abstentions 0.

Amendment 106 disagreed to.

Section 16—Requirement for licence

The Presiding Officer: We come to group 4. Amendment 26, in the name of the cabinet secretary, is grouped with amendments 69, 84, 97 and 98.

Richard Lochhead: Amendment 26 is a consequential amendment arising from an amendment that was made at stage 2. The inclusion of section 28A, concerning submarine cables, means that section 16(2) should now refer to exemptions and special cases provided by sections 24 to 28A.

Amendment 69 is simply a drafting amendment to correct the erroneous placing of a bracket.

Amendment 84 is a technical drafting amendment to correct a reference relating to the production of evidence during an inspection. In section 125(3), the first reference to “section 124(3)” needs to be changed to “section 124(2)”.

Amendment 97 is a minor drafting amendment to insert missing words in paragraph 10(1) of schedule 2. Amendment 98 is also a minor drafting amendment. It is consequential on a stage 2 amendment, as a result of which what was section 40(5) is now section 40(4A).

I move amendment 26.

Amendment 26 agreed to.

Section 17—Licensable marine activities

The Presiding Officer: We come to group 5. Amendment 107, in the name of Karen Gillon, is grouped with amendments 27, 108 and 112.

Karen Gillon (Clydesdale) (Lab): When we began to consider a marine bill in the previous session of Parliament, the advisory group on marine and coastal strategy, which came to be known as AGMACS, was set up. In that group, and in the bill, it was never the intention to obstruct the legitimate right to sustainable fishing in Scottish waters. However, there is genuine concern that section 17 as drafted will interfere with that legitimate right to sustainable fishing in Scotland.

When I lodged an amendment the same as amendment 107 at stage 2, the cabinet secretary indicated clearly that it was not his intention for section 17 to apply to fishing and that it was not about making fishing a licensable activity.

However, Scottish Environment LINK argues in its briefing against amendment 107, on the basis that it would stop the licensing of fishing in the future. There is ambiguity about what is intended in section 17.

Labour members are not against clear, effective and transparent action being taken to control fishing effort if necessary. However, if it is not the minister's intention to license fishing activity, we need clarity in the bill—it is important that the bill is absolutely clear and precise. If we do not intend to make legitimate sustainable fishing a licensable activity, we must include that exemption in the bill. That is the view of the fishing industry, which I share. If we do not do that, we risk making a back-door fundamental attack on the legitimate right to sustainable fishing in Scotland.

Amendments 108 and 112, in Kenneth Gibson's name, are no such back-door attacks on the legitimate right to sustainable fishing in Scotland; they are a full-frontal attack. I am surprised that a member of the Scottish National Party, which prides itself on standing up for the Scottish fishing industry, would come to the chamber and seek to remove from the bill the requirement for Scottish ministers to have regard to

“the need to prevent interference with the legitimate uses of the sea”.

Surely we in Scotland have fought hard to protect the legitimate use of our sea. The bill has been developed through consensus and consideration of all the factors concerning our seas. I hope that all members will vote against Kenneth Gibson's amendments, which seek to remove that line from the bill and attack fundamentally the rights of our fishermen.

I ask members to support amendment 107 in my name to make it absolutely clear that licensing does not apply to fishing, and to reject the amendments in the name of Kenneth Gibson, who seeks to attack fishing in that fundamental way.

I move amendment 107.

Richard Lochhead: We debated the issue at stage 2 and my views remain the same. I appreciate that amendment 107 seeks to put beyond doubt whether fishing could be a licensable activity. I am on record as saying that it was not our intention to make fishing a licensable activity under the Marine (Scotland) Bill. If there is any doubt, I am happy to put the question beyond doubt by using the order-making power to create exemptions. On that basis, I ask Karen Gillon to withdraw her amendment.

Amendment 27 is a minor technical amendment to ensure that any consequential amendments arising from a change to section 17(1) can be addressed.

I recall that we had various debates about the legitimate uses of the sea at stage 2. Amendments 108 and 112 would remove the duty on Scottish ministers to have regard to

“the need to prevent interference with legitimate uses of the sea”

when adding to or removing from the list of licensable activities or exempting activities. That would mean that, in making our decisions, we would not need to consider activities such as navigation, fishing, mineral extraction, amenity use and offshore renewables projects. I am not sure what my colleague Kenny Gibson is trying to achieve, but I think that it would be unwise for me to accept his amendments. I therefore ask him not to move amendments 108 and 112.

Kenneth Gibson (Cunninghame North) (SNP): To call my amendments “a full-frontal attack” on the Scottish fishing industry is hyperbole, to say the least.

Section 17 lists licensable marine activities and states that Scottish ministers must have regard to the need to protect the environment and human health. Section 17(4)(c) states that in deciding on exemptions, ministers must have regard to

“the need to prevent interference with the legitimate uses of the sea”.

It can be argued, therefore, that that effectively makes the marine licensing regime inoperable; that is the point behind amendment 108, and amendment 112, which is similar. Nearly all uses of the sea are legitimate with the exception of the use of personalised watercraft, which probably have no authorisation under the public right to navigation, and the use of beaches except by anglers and swimmers, those uses—neither of is authorised under common law. This exemption process is not included in the UK Marine and Coastal Access Act 2009 and perhaps that is why.

09:45

Karen Gillon: I welcome the minister’s comments and appreciate that he would like to use order-making powers to clarify that fishing activities are exempt from the bill, although that seems a slightly convoluted way of doing what we might achieve by agreeing to amendment 107. For clarity, it is important that we place on the face of the bill that fishing is not to be a licensable activity in Scotland. I will press amendment 107.

Bill Wilson (West of Scotland) (SNP) rose—

The Presiding Officer: Too late, I am afraid.

The question is, that amendment 107 be agreed to. Are we agreed?

Members: No.

The Presiding Officer: There will be a division.

For

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Allan, Alasdair (Western Isles) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brown, Keith (Ochil) (SNP)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Campbell, Aileen (South of Scotland) (SNP)
 Carlaw, Jackson (West of Scotland) (Con)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 FitzPatrick, Joe (Dundee West) (SNP)
 Foulkes, George (Lothians) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Goldie, Annabel (West of Scotland) (Con)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grahame, Christine (South of Scotland) (SNP)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Henry, Hugh (Paisley South) (Lab)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West of Scotland) (SNP)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McConnell, Jack (Motherwell and Wishaw) (Lab)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)

McLaughlin, Anne (Glasgow) (SNP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McMillan, Stuart (West of Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Nanette (North East Scotland) (Con)
 Morgan, Alasdair (South of Scotland) (SNP)
 Mulligan, Mary (Linlithgow) (Lab)
 Murray, Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Park, John (Mid Scotland and Fife) (Lab)
 Paterson, Gil (West of Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Robison, Shona (Dundee East) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Salmond, Alex (Gordon) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Somerville, Shirley-Anne (Lothians) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

AGAINST

Brown, Robert (Glasgow) (LD)
 Finnie, Ross (West of Scotland) (LD)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hume, Jim (South of Scotland) (LD)
 McArthur, Liam (Orkney) (LD)
 McInnes, Alison (North East Scotland) (LD)
 O'Donnell, Hugh (Central Scotland) (LD)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Smith, Iain (North East Fife) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tolson, Jim (Dunfermline West) (LD)

The Presiding Officer: The result of the division is: For 106, Against 17, Abstentions 0.

Amendment 107 agreed to.

Amendment 27 moved—[Richard Lochhead]—and agreed to.

Amendment 108 not moved.

Section 17A—Pre-application consultation: preliminary

The Presiding Officer: We come to group 6. Amendment 109, in the name of Karen Gillon, is grouped with amendments 28 to 31 and 8 to 12.

Karen Gillon: The policy intention behind amendment 109 is quite simple and I ask members to see it clearly. It was proposed by the renewables industry to bring consistency to section 17A. I hope that the cabinet secretary will be able to support it and the policy intention behind it.

We are happy to support amendment 28.

I move amendment 109.

Richard Lochhead: I understand the motive behind amendment 109, in that it would give a power to exclude applications from the pre-application consultation provisions where the application relates to an activity that has been carried out and licensed previously. It seems to me that the regulations that prescribe the relevant classes or descriptions of licensable marine activities could be used to produce the desired result. However, I have no particular difficulty with the amendment being agreed to.

Amendment 28 will remove from section 17A(3)(d) some wording that we think unnecessary and perhaps unhelpful.

Amendments 29 and 30 simply reflect that there is no need for section 17B to provide a power to make different provision for different cases or classes of case. All orders and regulations under the bill may do that by virtue of section 145(1)(a).

Amendment 31 is a minor technical amendment so that reference is made to a proposed “activity” rather than “development”, since licensing is for marine activities rather than developments.

Amendments 8 to 12 would require that investigations, examinations and tests would be carried out only should any information supplied or articles produced not be sufficient for Scottish ministers to determine a licence application. The amendments would also allow investigations to be carried out only where “necessary”, thus removing current references to “expedient”. Accepting those amendments is unlikely to lead to any substantial changes in practice, but we have no objections to their being incorporated in the bill.

Liam McArthur: I had hoped that, in return for my supporting his amendments 28 to 31, the cabinet secretary would support my amendments 8 to 12. Given that he seemed to speak against an amendment in the previous group and then vote for it, I will watch with interest what happens at the end of this group.

The amendments return to ground that was covered at stage 2 and I hope that they address the concerns that were raised then. As I acknowledged at the time, we know far less about the marine environment than we know about the terrestrial environment. However, we need to be careful about the way in which we try to make good that deficit of knowledge. By removing the word “expedient” from section 18, amendments 9 and 12 would allow ministers to require all the information necessary for determining a licence application but stop short of allowing them to go on a fishing expedition that might be nice to have but is not essential for the purpose of determining the application. [*Interruption.*]

Amendments 8, 10 and 11 would ensure that, where possible, any additional data that are required to support an application could be collected by the applicant under the direction and to the satisfaction of Scottish ministers.

At stage 2, the cabinet secretary appeared to suggest that he was resisting that approach to save the renewables industry from itself by arguing that it would delay consideration of applications as developers fought off attempts by ministers to seek the information required to make licence determinations. That is rather given the lie by Scottish Renewables, which suggests that the amendments would result in

“the most efficient way to handle extra data requirements, given that the applicant is likely to be the person with the greatest knowledge of the site and the person to put the highest priority on getting the data collected swiftly.”

On that basis, I urge Parliament to support my amendments, the cabinet secretary’s amendments and the amendment in the name of Karen Gillon.

The Presiding Officer: That is the second time that an electronic signal has come through the microphones. I would be grateful if all members would ensure that they have BlackBerrys and mobiles switched off.

John Scott: I speak in support of Karen Gillon’s amendment 109. It seems a reasonable amendment, which, if implemented, would cut down on red tape and the bureaucratic process of reapplication. Karen Gillon is to be commended on lodging the amendment.

I am also happy to support amendments 8 to 12, in the name of Liam McArthur, as they tidy up and add value to this part of the bill.

Amendment 109 agreed to.

Amendment 28 moved—[Richard Lochhead]—and agreed to.

Section 17B—Pre-application consultation: compliance

Amendments 29 to 31 moved—[Richard Lochhead]—and agreed to.

Section 18—Application for licence

Amendments 8 to 12 moved—[Liam McArthur]—and agreed to.

Section 19—Notice of applications

The Presiding Officer: We come to group 7. Amendment 32, in the name of Liam McArthur, is grouped with amendments 110 and 33.

Liam McArthur: I dare say that we cannot really claim to have cut our teeth on a bill until we have risen to speak in opposition to an amendment in our own name.

At stage 2, I moved various amendments in an attempt to drag the bill into the 21st century. I said at the time that despite the fact that access to high-quality broadband remains a luxury that is denied to many of my constituents, I believed that it would be useful for the bill to state specifically that web-based information on applications must be made available. The minister accepted that premise at the time and agreed to look at alternative wording at stage 3 to give effect to that.

Unfortunately, on reflection, I think that amendment 32—and amendments 45 and 46—go rather further than I would have wished. By insisting that the information be available only via the web, all three amendments fail to deliver the policy intention behind my moves at stage 2.

As things stand, nothing in the bill will prevent ministers from making that information available via the web. I hope that the cabinet secretary will agree to ensure that that happens.

I have no difficulty in supporting Karen Gillon’s amendment 110.

I would welcome clarification from the cabinet secretary about the intention behind amendment 33. The word “appropriate” seems vaguer than the concept of involving those with “particular expertise.” I am not sure that such additional vagueness represents a step in the right direction.

I move amendment 32.

Karen Gillon: The policy intention behind amendment 110 is to ensure that ministers have regard to and take advice from their statutory consultees prior to determining an application.

I understand that the minister is concerned that the amendment as drafted might require him to take that advice as he is determining the application. That was not the intention of the amendment. Perhaps the minister will clarify on

the record how he will consult statutory consultees ahead of determining an application and how he will ensure that they are included, so that the consultees who are watching this process will be clear about that. It might be helpful if, after the passage of the bill, he could write to the committee to outline that process, so that the committee would also be clear about it. Such a letter would be on the public record.

Richard Lochhead: At stage 2, Liam McArthur proposed that the publication of licence applications should be on a website, so that they could readily be viewed. Amendment 32 would allow publication to be on a website only, unless it was felt that further publication, such as in a newspaper, was necessary. I am happy to accept amendment 32.

One of the purposes of the bill is to introduce a simplified and streamlined licensing regime. Amendment 110 would require the Scottish ministers to determine applications in consultation with statutory consultees. That would mean that consultees would be contributing to the decision making directly, rather than making their views known to ministers, as we would normally expect in any consultation process. I understand Karen Gillon's purpose and I am happy to reassure her that consultation is a fundamental part of the bill. I am fully committed to delivering the consultation processes that are outlined in the bill. That is why I accepted an amendment from Karen Gillon on pre-application consultation at stage 2.

For the avoidance of doubt, I point out that the consultation processes are set out in section 20(4). I will consult in the summer on the list of potential consultees. I look forward to receiving and using the advice of the many relevant consultees, which will no doubt arise in the consultation process in due course and which will be of high value to this Government and future Governments. Karen Gillon asked me to clarify those points by writing to the committee. I give a commitment to do that.

Before determining an application for a marine licence, the Scottish ministers are required or empowered to consult those referred to in section 20(4). Amendment 33 will simply extend the scope of who the Scottish ministers can consult, so as to cover any persons that they consider "appropriate". I consider that it would be useful to have that flexibility. I hope that that gives Liam McArthur the reassurance that he seeks.

Liam McArthur: We are in an Alice in Wonderland world, where the cabinet secretary speaks against amendments that he subsequently votes for and I move an amendment that I do not intend to press and do not support.

I heard what the cabinet secretary said about retaining a degree of flexibility about publishing information by a means other than websites. That should offer reassurance. However, after looking again at the wording of amendment 32, I cannot see that it achieves that.

I heard what the cabinet secretary said about amendment 33, which satisfies the concerns that I had about it. We are happy to support amendment 33.

I do not wish to press amendment 32, but I suspect that the cabinet secretary might.

Amendment 32, by agreement, withdrawn.

Section 20—Determination of applications

Amendment 110 not moved.

Amendment 33 moved—[Richard Lochhead]—and agreed to.

Section 23—Variation, suspension, revocation and transfer

The Presiding Officer: We come to group 8. Amendment 13, in the name of Liam McArthur, is grouped with amendments 14, 15, 111, 34 and 35.

Liam McArthur: For the avoidance of doubt, I clarify that I am speaking in favour of my amendment 13.

The right of ministers to vary, suspend or revoke a licence is essential if we are to ensure that appropriate and timely responses can be made to changed circumstances, developments in our understanding of the marine environment or the advance of science. Nevertheless, that right cannot be exercised without safeguards, which my amendments in this group seek to underpin.

Amendments 13 and 14 would make it clear that licensees can and will only be held responsible for the information that they provide, and that there is a test of reasonableness in relation to that information.

10:00

Amendment 15 seeks to address what appears to be a rather open-ended approach to ministerial powers under the bill, whereby a licence can be suspended, revoked and so on

"for any other reason that appears to the Ministers to be relevant."

It is difficult to envisage what that might entail that could not be specified in the bill. The consequence is that the power introduces a considerable element of doubt, and therefore risk, for renewables developers.

Amendment 34, which is more detailed, attempts to make provision for a hearing to be requested by a developer within 28 days of a licence being varied, suspended or revoked. In essence, that opens up the possibility of addressing any concerns without the need for potentially lengthy and costly appeals procedures to be initiated. In recognition of concerns that I know might exist, amendment 34 would also give ministers the power to disapply a right to a hearing in cases in which urgent change was required to protect a feature.

I confess that amendment 35 is more of a probing amendment. The suspension, revocation or even variation of a licence can involve significant costs being incurred by a renewables developer who, in all likelihood, will not be in breach of their own licence conditions. I do not believe that the question of how, in such circumstances, agreement is reached on what compensation might be due is adequately addressed by the bill. It has been suggested that the Government might deal with that more appropriately under its section 144 order-making powers, but I would welcome the cabinet secretary's comments on the matter before I decide whether to move amendment 35.

I move amendment 13.

Karen Gillon: Amendment 111 seeks to ensure that, if there is a variation to a licence that is not material, Marine Scotland will have discretion to make the changes without going through a lengthy pre-application consultation process. Members will be well aware of my long-standing concerns over safety, particularly in the workplace. I do not believe that changes associated with minor maintenance or safety need to be or should be consulted on.

One of the biggest challenges facing those who develop new offshore renewables installations will be to ensure the highest standards of safety for those who are involved in the construction and operation of those installations. Lessons that we have learned from the tragedies that have taken place in the offshore oil and gas industries must be built on to ensure the safety of those who will be working in incredibly hostile environments, sometimes with completely new technologies. That demands flexibility to ensure that licences can quickly accommodate any changes that might be needed to prevent loss of life. I hope that the Parliament will support amendment 111.

Richard Lochhead: I am happy to accept amendment 13, as it is appropriate that the powers in section 23 should be exercisable only where inaccurate or incomplete information has been provided by the applicant. I am also happy to accept amendment 14, which provides that the failure to supply information should refer only to

information that the applicant might reasonably have been expected to supply in connection with the consideration of a licence.

I cannot accept amendment 15, as it could seriously affect the ability of the Scottish ministers to act in unforeseen or unusual circumstances. An example of a situation in which the provision in section 23(3)(d) could be used is when a new dredging operation might disturb or recover something of great archaeological interest. In such instances, the provision could allow for appropriate mitigation to be put in place, and the significance of any discovery to be properly evaluated. I therefore ask Liam McArthur to consider not moving amendment 15.

On amendment 111, there could be situations in which the licensee wishes to notify a change in the activity that would result in the licence requiring to be varied. An example might be a change to the name of the ship that is carrying out the activity listed in the licence. We are happy to accept that amendment.

On amendment 34, section 23 contains crucial provisions for the marine licensing regime that repeat much of what is already applied under part II of the Food and Environment Protection Act 1985. As the decision to issue a marine licence will have been reached after a rigorous assessment, the circumstances in which Marine Scotland is required to vary, suspend or revoke a licence will be exceptional. Given that background, I am happy to accept amendment 34.

Amendment 35 would require the Government to pay compensation to the licensee for any costs incurred due to the variation, suspension or revocation of a licence due to the circumstances that are detailed in section 23(3), for example

“a change in circumstances relating to the environment or human health”

or

“increased scientific knowledge”.

It would not appear to be appropriate for the Government to have to pay compensation for bringing to a halt an activity that might be causing environmental damage. There are always risks in business, and the Government should not be expected to be liable for those. Despite the vagaries of minority government, I will resist amendment 35, no matter what happens. I ask Liam McArthur to consider not moving it.

Liam McArthur: I welcome the cabinet secretary's acceptance of amendments 13 and 14. In light of what he has said, and in the generous spirit with which he opened the debate, I will not press amendment 15.

I congratulate Karen Gillon on the comments that she made about the importance of safety in the offshore environment, and I reassure her of our support for amendment 111.

I welcome the cabinet secretary's acceptance of the points behind amendment 34.

On amendment 35, I am not persuaded by what the cabinet secretary said in relation to the avenues for seeking a mechanism for compensation—whether or not that is included in the bill or achieved through order-making powers. On that basis, I will press amendment 35.

Amendment 13 agreed to.

Amendment 14 moved—[Liam McArthur]—and agreed to.

Amendment 15 not moved.

Amendment 111 moved—[Karen Gillon]—and agreed to.

After section 23

Amendment 34 moved—[Liam McArthur]—and agreed to.

Amendment 35 moved—[Liam McArthur].

The Deputy Presiding Officer (Alasdair Morgan): The question is, that amendment 35 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Brown, Robert (Glasgow) (LD)
 Finnie, Ross (West of Scotland) (LD)
 Hume, Jim (South of Scotland) (LD)
 McArthur, Liam (Orkney) (LD)
 McInnes, Alison (North East Scotland) (LD)
 O'Donnell, Hugh (Central Scotland) (LD)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tolson, Jim (Dunfermline West) (LD)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Allan, Alasdair (Western Isles) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Keith (Ochil) (SNP)

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 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 FitzPatrick, Joe (Dundee West) (SNP)
 Foulkes, George (Lothians) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Harper, Robin (Lothians) (Green)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West of Scotland) (SNP)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McConnell, Jack (Motherwell and Wishaw) (Lab)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McMillan, Stuart (West of Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Nanette (North East Scotland) (Con)
 Mulligan, Mary (Linlithgow) (Lab)
 Murray, Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Irene (Cunninghame South) (Lab)
 Park, John (Mid Scotland and Fife) (Lab)
 Paterson, Gil (West of Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)

Peattie, Cathy (Falkirk East) (Lab)
 Robison, Shona (Dundee East) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Salmond, Alex (Gordon) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Somerville, Shirley-Anne (Lothians) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Deputy Presiding Officer: The result of the division is: For 15, Against 104, Abstentions 0.

Amendment 35 disagreed to.

Section 24—Exemptions specified by order

Amendment 112 not moved.

Section 25—Activities below specified threshold of environmental impact

The Deputy Presiding Officer: Group 9 is on marine licensing: exemptions specified by order. Amendment 16, in the name of Elaine Murray, is grouped with amendments 17 to 19.

Elaine Murray: The amendments in this group relate to activities that are deemed to have a sufficiently low impact on the environment that they do not require to be licensed but will be registered instead.

At stage 2, I lodged an amendment that would have required ministers to make regulations for those activities that will be registered rather than licensed. That amendment was resisted by the cabinet secretary and rejected by the Rural Affairs and Environment Committee on the convener's casting vote, and I have not lodged the same amendment at this stage. I still believe, however, that if ministers make regulations providing for licensable marine activities that fall below a specified environmental threshold, there are certain matters that should be covered by those regulations.

Amendments 16 and 17 would require definitions of what being registered means, what the specific environmental threshold is and what falling below that threshold means. If the bill is to provide a mechanism by which licensable activities are not to require a licence, clarity about the criteria used to assess whether the activity should be registered is essential.

Amendment 19 would replace the requirement for the Scottish ministers to

“consult such persons as they consider appropriate”

with a requirement to consult persons who represent conservation and commercial interests. Scottish Natural Heritage would also have to be consulted, as would other persons that the Scottish ministers considered appropriate.

At stage 2, I lodged but did not move a similar amendment, which the cabinet secretary said was unnecessary because he would consult such groups anyway. That might be so, but there is no harm in making such a requirement clear in the bill, as other amendments that we have agreed to today will do.

The bill team expressed concern that amendments 16 to 18 would require the regulations to be rewritten every time a minor amendment was made. I do not think that that is a problem. If the definitions do not change, all that will be needed will be to cut and paste the appropriate part from one regulation to another. Committees consider many statutory instruments that involve minor variations to general text that does not change from one year to another. I do not think that there is an insurmountable problem in that regard.

I have been advised that consequential amendments might be required as a result of amendment 19. If the minister advises what should have been included I will decide whether to move the amendment.

I move amendment 16.

Richard Lochhead: Amendments 16 to 18 would require all regulations made under section 25(1) to deal with all the matters in section 25(2). However, until we have developed a registration scheme under section 25, we cannot be certain that it would be sensible to make an absolute requirement of the sort that Elaine Murray proposes. For example, there might be no need to elaborate on the meaning of “fall below”, but if the amendments were agreed to, regulations that failed to do that would be incompetent.

Moreover, the wording of the amendments is such that they would prevent amending regulations from being made after an initial set of regulations had dealt with the section 25(2) matters. Instead, the principal regulations would have to be remade on every occasion. I doubt that that is Elaine Murray's intention and I would be grateful if she would not press amendment 16 and not move amendments 17 and 18.

At stage 2, we debated a similar amendment to amendment 19, and our view remains the same. Amendment 19 is unnecessary and unhelpful.

Section 25(4) already requires the Scottish ministers to consult

“such persons as they consider appropriate”

when they make regulations under section 25. I reassure Elaine Murray again that the groups that are mentioned in amendment 19 will be consulted. An absolute statutory requirement, worded in the way that she envisages, could give rise to disputes about whether the right people had been consulted and could make regulations challengeable by people who thought that they came into the stated categories.

Elaine Murray: The meaning of “fall below” is not necessarily obvious and will depend on the

“specified threshold of environmental impact”,

which could be 1 per cent, 5 per cent or 10 per cent. The issue is not straightforward; it will depend on the criteria that are used. The issue is important because, as we discussed in committee, a number of small registrable activities could have a cumulative effect. We need to understand what is meant by the terms that are used in section 25.

Amendment 19 was not intended to be unhelpful. I heard what the cabinet secretary said, but surely the same argument could be made against the many provisions in the bill that require representatives of recreational, commercial or environmental protection and enhancement interests to be consulted or involved in partnership. The specification of such groups could lead to disputes between different representatives. I do not see why the argument that applies to amendment 19 should be different from the argument that applies to other provisions in the bill. I press amendment 16.

The Deputy Presiding Officer: The question is, that amendment 16 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Foulkes, George (Lothians) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)

Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Henry, Hugh (Paisley South) (Lab)
 Hume, Jim (South of Scotland) (LD)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McArthur, Liam (Orkney) (LD)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McConnell, Jack (Motherwell and Wishaw) (Lab)
 McInnes, Alison (North East Scotland) (LD)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Mulligan, Mary (Linlithgow) (Lab)
 Murray, Elaine (Dumfries) (Lab)
 O'Donnell, Hugh (Central Scotland) (LD)
 Oldfather, Irene (Cunninghame South) (Lab)
 Park, John (Mid Scotland and Fife) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stewart, David (Highlands and Islands) (Lab)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tolson, Jim (Dunfermline West) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Allan, Alasdair (Western Isles) (SNP)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Keith (Ochil) (SNP)
 Brownlee, Derek (South of Scotland) (Con)
 Campbell, Aileen (South of Scotland) (SNP)
 Carlaw, Jackson (West of Scotland) (Con)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Crawford, Bruce (Stirling) (SNP)
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 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 FitzPatrick, Joe (Dundee West) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kidd, Bill (Glasgow) (SNP)

Lamont, John (Roxburgh and Berwickshire) (Con)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West of Scotland) (SNP)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMillan, Stuart (West of Scotland) (SNP)
 Milne, Nanette (North East Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Paterson, Gil (West of Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Salmond, Alex (Gordon) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Somerville, Shirley-Anne (Lothians) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Deputy Presiding Officer: The result of the division is: For 58, Against 60, Abstentions 0.

Amendment 16 disagreed to.

Amendments 17 to 19 not moved.

Section 27—Special procedure for applications relating to certain electricity works

The Deputy Presiding Officer: Group 10 is on marine licensing: electricity works. Amendment 113, in the name of Elaine Murray, is grouped with amendment 44.

10:15

Elaine Murray: Amendment 113 would require the Scottish ministers, when—and only when—they sought to use the power in section 27 to require an application for a marine licence and an application under the Electricity Act 1989 to be treated jointly, to give any planning authority adjacent to the offshore site the right to object and thereby trigger a public inquiry.

As members know, a terrestrial planning application for energy generation of more than 50MW will be referred to the Scottish ministers for determination. The planning authority or authorities are statutory consultees and an objection from them will trigger a public inquiry. That happened in my constituency in the case of the Harestanes wind farm application, which was approved by ministers in 2007 after a public

inquiry was triggered by the objections of Dumfries and Galloway Council.

Schedule 8 to the 1989 act, which deals with section 36 and section 37 applications, requires marine applications above 1MW to be referred to ministers. However, the definition of “relevant planning authority” under schedule 8 is more difficult in the marine area. Referral applies only if the marine area is within the area of jurisdiction of the authority rather than in relation to the area’s geographical relevance to a local authority. In the case of the Robin Rigg development in the Solway Firth, Cumbria County Council and SNH objected to the application, but the application was determined without a public inquiry being held.

The 1989 act is United Kingdom legislation and cannot be amended by the Scottish Parliament. Hence amendment 113 would apply only when ministers had determined that a marine licensing application to them was being considered jointly with an application referred to them under the 1989 act. Amendment 113 would provide that in such cases the relevant planning authority to be consulted would be any local authority or national park authority

“whose area is adjacent to any part of the Scottish marine area where the generating station (or any part of it) is, or is proposed to be, situated”.

Amendment 113 has the support of the Royal Town Planning Institute and I understand that it also has the support of local authorities.

I move amendment 113.

Richard Lochhead: Amendment 113 would place an absolute requirement to apply a modified version of paragraph 2 of schedule 8 to the Electricity Act 1989 in cases in which there is to be a single process for applications for a marine licence and consent under the 1989 act. However, we have not yet reached a final view on exactly which provisions of the 1989 act are to apply in the single process, nor how they should best be modified. Amendment 113 could restrict our ability to develop a sensible and flexible process under section 27. I ask Elaine Murray to seek leave to withdraw it, in light of my comments.

Elaine Murray: I seek assurance from the cabinet secretary that we can be updated on the progress of his discussions. On the basis of what he said I am content not to press amendment 113, but the issue is important and I would like to be kept informed as it evolves.

Amendment 113, by agreement, withdrawn.

Section 29—Appeals against licensing decisions

The Deputy Presiding Officer: Group 11 is on marine licensing: appeals against decisions and

notices. Amendment 36 is grouped with amendments 37 to 40, 47 to 49 and 93 to 96.

Richard Lochhead: The bill contains a number of appeal rights. For example, an unsuccessful marine licence applicant can appeal against the decision to refuse the licence. However, the bill does not say with whom the appeal would lie; that is left to be established through secondary legislation. The Rural Affairs and Environment Committee and the Subordinate Legislation Committee both commented adversely on that approach, and I gave assurances to Karen Gillon and others during stage 2 that Government amendments would be lodged to specify in the bill what the appellate body should be.

We think that appeals under the bill would best be dealt with in the sheriff court. This group of amendments provides for that and makes consequential changes to reflect the choice of the sheriff court as the appropriate body.

I move amendment 36.

Karen Gillon: I welcome the amendments in this group. The Rural Affairs and Environment Committee looked for them at stage 2 and the minister has responded positively to our suggestions, so I urge members to support them.

Amendment 36 agreed to.

Amendments 37 and 38 moved—[Richard Lochhead]—and agreed to.

Section 38—Fixed monetary penalties: procedure

Amendment 39 moved—[Richard Lochhead]—and agreed to.

Section 40—Variable monetary penalties: procedure

Amendment 40 moved—[Richard Lochhead]—and agreed to.

Section 42—Delegation of functions relating to marine licensing

The Deputy Presiding Officer: Group 12 is on marine licensing: fish farming. Amendment 41, in the name of Elaine Murray, is grouped with amendment 22.

Elaine Murray: This area of the bill is a little contentious. I hope to be able to give an explanation of the intention behind amendments 41 and 22 and provide reassurance to the local authorities that have expressed concern about them.

The amendments were prompted by the majority conclusion of the Rural Affairs and Environment Committee at stage 1 and the policy intention of

the bill as expressed in the policy memorandum. The bill aims to provide a simplified and streamlined way of getting a licence for a marine activity and provides powers for ministers to deliver a single consent to each renewable energy project. However, unfortunately, marine fish farming is excluded from the bill. It alone among licensable activities remains under terrestrial planning legislation within the Town and Country Planning (Scotland) Act 1997 as amended by the Water Environment and Water Services (Scotland) Act 2003 and the Planning etc (Scotland) Act 2006.

The bill enables local authorities to transfer responsibility for granting and refusing marine fish farming consents to the Scottish ministers should they wish to do so. The majority view of the Rural Affairs and Environment Committee—disagreed with only by Liam McArthur at stage 1—was that that was the wrong way round and that marine fish farming should be treated in the same way, and dealt with under the same legislative planning framework, as every other licensable marine activity.

Provisions already exist in section 42(1) for the delegation of marine licensing functions to public authorities and other partners. The subsection that amendment 41 would insert after subsection (1) makes it explicit that that would include the function of approving or refusing a licence for a licensable activity, such as fish farming if it were transferred under the bill, as would happen if amendment 22 was agreed to.

Amendment 22 would remove fish farming from the provisions of the Town and Country Planning (Scotland) Act 1997 as amended and thereby bring it under the bill. I am aware that the proposal has been opposed by the Convention of Scottish Local Authorities. I have met COSLA representatives and spoken with officials from a number of councils that, historically, have had key roles in the determination of marine fish farming applications, such as Orkney Islands Council, Shetland Islands Council, Western Isles Council, Highland Council and Argyll and Bute Council. Those councils are concerned that a power will be removed from them but, with their long experience, they should and could apply to ministers to have the licensing function devolved to their marine licensing authorities.

Furthermore, under the amendments to the Town and Country Planning (Scotland) Act 1997 that were made by the Planning etc (Scotland) Act 2006, decisions on marine fish farm applications are deemed to be local and, therefore, are made by planning officials, not a council's planning committee. Licensing authorities, which would assume responsibility for such decisions if these amendments were passed, would probably include

councillors. Therefore, the arrangement under my amendments would be not only more logical but, potentially, more democratic.

The Scottish Salmon Producers Organisation has also advised me that it is likely that combined renewable energy and marine fish farming proposals will be developed within the next five years. As the bill stands, such applications would have to be determined under two legislative regimes: the Town and Country Planning (Scotland) Act 1997 for the fish farming side and the bill for the renewables side. Amendment 22 would enable such applications to be determined under one system and, potentially, by the local licensing authority.

Amendments 41 and 22 are supported by the Scottish Fishermen's Federation and the SSPO. I understand that Scottish Environment LINK is also in favour, although that has not been included in its briefing on today's amendments.

I move amendment 41.

John Scott: I speak in support of amendments 41 and 22.

In its stage 1 report, the Rural Affairs and Environment Committee concluded that licensing should come under one regime and that, for consistency of approach, fish farming should be under the same licensing regime as other activities. With the notable exception of Liam McArthur, the committee also took the view that the function could be delegated to other authorities.

The key point is that ultimate responsibility for planning decisions on fish farming would rest with the Scottish ministers and Marine Scotland, not local authorities—in an undemocratic way, as Elaine Murray pointed out—as is the current position. Amendment 41 would allow the Government to delegate that responsibility if it chose to. Local authorities would still have a huge input into the process, but the current approach—with different local authorities taking different approaches to similar planning applications—is simply a mess. Professor Phil Thomas drew attention to that in his evidence to the committee.

Amendment 41, taken in conjunction with amendment 22, seeks to bring clarity to a confused situation and I hope that it will be supported at this late stage by members who agreed with the conclusion in the committee's report.

Bill Wilson: My concern in the committee was that, if we had several local authorities in a single marine region, we could end up with multiple licensing conditions within that region. I would be reassured if the minister assured us that he will issue guidance to ensure that multiple local

authorities will co-ordinate to produce a single licensing regime within a marine region.

John Scott: Bill Wilson should speak to the minister about that because, thus far, he has made no attempt to reassure us in that regard.

Amendment 22 would change the provisions of section 54 and ensure that the consenting of marine fish farms falls within the new licensing system. It would ensure that fish farming consents are treated in the same way as all other applications and are dealt with by the Scottish ministers. The benefit of that will be to provide a consistent approach towards fish farming applications, which is lacking at the moment. That is the key element, but the amendment will further allow the Government to set a strategic direction, should such be required to encourage food production over tourism, for example.

Liam McArthur: After some of the less generous comments about my antics on amendment 32, I am pleased to note that Elaine Murray and John Scott acknowledge my consistent rebellion on licensing arrangements for fish farming. The arguments against the approach that amendments 41 and 22 propose have not changed since I first articulated them at stage 1. I appreciate that those arguments have so far failed to convince Elaine Murray and her Labour and Tory colleagues, but I am heartened by the success that the cabinet secretary and I enjoyed in winning hearts and minds among SNP back-bench members at stage 2.

The changes that Elaine Murray proposes are unnecessary and unwelcome. They introduce a presumption in favour of centralisation in the interest of administrative neatness rather than in favour of the communities that have the greatest interest in the future of fish farming. As Elaine Murray indicated, COSLA has prepared an excellent briefing that highlights the risks that are inherent in the approach. Those include a loss of efficiency, local accountability and financial certainty in business planning.

Moreover, the proposal sends entirely the wrong signal about the confidence that the Parliament has in local councils, a number of which have invested a considerable amount of time and resources in developing the specific expertise that is necessary to deal effectively and efficiently with fish farming planning procedures. Elaine Murray acknowledged that point.

As the RTPI makes clear in its submission, the current planning system provides the integrated view that is essential for coastal communities. It does so with local and national accountability and with expert consultee input from scientists in Marine Scotland, SNH, the Scottish Environment Protection Agency, district salmon fishery boards

and other bodies. If it ain't broke, we should not attempt to fix it.

Tavish Scott (Shetland) (LD): As the MSP for Shetland—an area where 200 jobs depend on salmon farming and 36 per cent of Scotland's farmed salmon is produced—I will make a brief contribution on amendments 41 and 22.

I take issue with Elaine Murray's point that the industry supports her proposal, as she said early on. The industry in my constituency absolutely does not support it.

Elaine Murray: I actually said that the Scottish Salmon Producers Organisation supports the amendments, which it does.

10:30

Tavish Scott: It does, but it does not represent the entire industry. If she is to make a contention about the industry, I ask her please to be accurate about the industry's view.

The proposed measure is not good; it is centralising and anti-democratic. I am disappointed that good friends and colleagues of mine in Labour think that the measure is a way forward—I look particularly at Mr Peacock. I am sure that, as a Highlands and Islands representative, he will reflect on the amendments before he votes on them.

John Scott made a point that—

John Scott: Will the member take an intervention?

Tavish Scott: In a minute—I will deal with Mr Scott's point.

John Scott suggested that different approaches throughout Scotland were a bad thing and that everything had to be done in the same way. I could not disagree more. He could and should ask the planning authorities that have dealt with salmon farming since the early 1980s to show him any problems that the existing regime has created, because they do not exist. Of course, procedures will always be refined, but John Scott and Elaine Murray contend that planning authorities—particularly those in Highland, Shetland, Orkney and the Western Isles, which are the main authorities that deal with salmon farming—cannot do the task, which I do not believe is right. I hope that the cabinet secretary will hold to his position on how the matter is dealt with.

The idea that marine licensing is the only regime that applies to salmon farming is wholly wrong. The Scottish Environment Protection Agency and several other bodies deal with salmon farming day in, day out. In many ways, the consents that SEPA grants mean that it has more say than any other part of the system, so John Scott's suggestion that

the matter is all down to planning again shows ignorance of the industry.

I hope that amendment 41 will be rejected. It is anti-democratic and would create more centralisation. We should not have it.

Peter Peacock: I am grateful to have the chance to respond to Tavish Scott and to support the amendments. I am in an unusual position. When I was Highland Council's leader, I argued strongly for fish farming powers to be removed from the Crown Estate and given to local authorities. If returning those powers to the Crown Estate had been proposed, I would argue against that, but that is not proposed.

The bill fundamentally shifts all permissions in the marine environment to Marine Scotland, with the sole exception of fish farming permissions. I was persuaded by the evidence that the Rural Affairs and Environment Committee took—I thought that my role on the committee was to listen to such evidence. With the notable exception of Liam McArthur, the committee agreed overwhelmingly with the propositions that were put to us in evidence and agreed that fish farming should move to the marine planning system, to be consistent with everything else in Marine Scotland.

I know that local authorities are upset. I have had my ear severely chewed by Michael Foxley, Highland Council's leader. I have had representations from the Western Isles and I spoke to Shetland Islands Council's vice-convenor the other day. I told them that they should be relaxed about the proposal and that they will have a big opportunity in the marine planning regional plan framework to lead the strategic planning process on where fish farms should be located—they will play a strong part in that.

As amendment 41 makes clear, the powers could be delegated straight back to local authorities, but in a consistent framework throughout Scotland of the Marine Scotland permissions system. For example, I know that Shetland Islands Council has an exemplary record in handling fish farming. I would fully expect that council to apply to be given the powers back and ministers to give them back. That would happen in a consistent framework that still allowed discretion for local councillors. On the basis of the evidence that we heard, that is a sensible way to move forward.

Richard Lochhead: As we have just heard and as we all know, where the responsibility for marine fish farms should lie is controversial. The amendments have just generated some angst in the chamber.

The matter was well debated at stage 2 and the arguments remain the same. Amendment 22 would remove local authorities' controls over

marine fish farming under the Town and Country Planning (Scotland) Act 1997 and would place responsibility for consents with Marine Scotland under the marine licensing system. Amendment 41 would make special mention of marine fish farming licensing decisions among those that can be delegated to bodies such as local authorities.

We acknowledge that requests have come from the aquaculture sector for greater streamlining of the consenting processes that apply to aquaculture and we are not unsympathetic to those pleas. Nonetheless, local authorities have a role in delivering local accountability, which cannot be dismissed lightly. The way through the problem is by involving local authorities in marine planning and by showing that local accountability can be safeguarded through the marine planning process.

My response to Bill Wilson's intervention is that we would of course be willing to speak to local authorities when more than one local authority is involved in one marine region, which would create the possibility of more than one licensing regime for aquaculture operators. Only once we have convinced local authorities and their stakeholders that local accountability can be safeguarded will we seek to ask them to consider what streamlining for aquaculture consents can be achieved.

The consenting regime for the aquaculture industry was significantly changed as recently as 2007 and further change now might not be a sensible way forward.

We appreciate the many pressures behind the amendments, but the issue is far too complicated for us simply to remove existing functions from local authorities. On that basis, we resist the amendments.

Elaine Murray: If what Bill Wilson said in his intervention on John Scott is the case, why on earth did he sign up to the committee's report? We are not talking about what was discussed thereafter.

Bill Wilson: Will the member take an intervention?

Elaine Murray: I will not, because we are short of time.

Tavish Scott's comments were impassioned but deeply uninformed. It is clear that he did not listen to me or John Scott and that he has not read the bill or the policy memorandum. The bill is about streamlining the licensing system, not centralising it. The bill also provides for delegation to regional planning partnerships and licensing authorities. If Tavish Scott checks the *Official Report*, he will find that I did not mention "the industry"—I talked about the Scottish Salmon Producers Organisation, from which the amendments originally came.

The amendments are not about centralisation. The bill allows the powers to be passed back to Shetland Islands Council, Western Isles Council and Highland Council, with additional powers for licensing activity elsewhere. The amendments would make the bill logical and would bring all marine licensing activity within the same legislative framework. Given that, I will press amendment 41.

The Deputy Presiding Officer: The question is, that amendment 41 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
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 Peattie, Cathy (Falkirk East) (Lab)
 Scanlon, Mary (Highlands and Islands) (Con)

Scott, John (Ayr) (Con)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
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 Brown, Robert (Glasgow) (LD)
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 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hume, Jim (South of Scotland) (LD)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Kidd, Bill (Glasgow) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West of Scotland) (SNP)
 McArthur, Liam (Orkney) (LD)
 McInnes, Alison (North East Scotland) (LD)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McMillan, Stuart (West of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 O'Donnell, Hugh (Central Scotland) (LD)
 Paterson, Gil (West of Scotland) (SNP)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Robison, Shona (Dundee East) (SNP)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Russell, Michael (South of Scotland) (SNP)
 Salmond, Alex (Gordon) (SNP)
 Scott, Tavish (Shetland) (LD)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Somerville, Shirley-Anne (Lothians) (SNP)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Tolson, Jim (Dunfermline West) (LD)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)

Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Deputy Presiding Officer: The result of the division is: For 59, Against 63, Abstentions 0.

Amendment 41 disagreed to.

Amendment 42 not moved.

Amendment 43 moved—[Elaine Murray].

The Deputy Presiding Officer: The question is, that amendment 43 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Carlaw, Jackson (West of Scotland) (Con)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Foulkes, George (Lothians) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Goldie, Annabel (West of Scotland) (Con)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McConnell, Jack (Motherwell and Wishaw) (Lab)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Nanette (North East Scotland) (Con)
 Mulligan, Mary (Linlithgow) (Lab)
 Murray, Elaine (Dumfries) (Lab)
 Oldfather, Irene (Cunninghame South) (Lab)
 Park, John (Mid Scotland and Fife) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)

Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Stewart, David (Highlands and Islands) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Allan, Alasdair (Western Isles) (SNP)
 Brown, Keith (Ochil) (SNP)
 Brown, Robert (Glasgow) (LD)
 Campbell, Aileen (South of Scotland) (SNP)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Finnie, Ross (West of Scotland) (LD)
 FitzPatrick, Joe (Dundee West) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hume, Jim (South of Scotland) (LD)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Kidd, Bill (Glasgow) (SNP)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West of Scotland) (SNP)
 McArthur, Liam (Orkney) (LD)
 McInnes, Alison (North East Scotland) (LD)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McMillan, Stuart (West of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Paterson, Gil (West of Scotland) (SNP)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Robison, Shona (Dundee East) (SNP)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Russell, Michael (South of Scotland) (SNP)
 Salmond, Alex (Gordon) (SNP)
 Scott, Tavish (Shetland) (LD)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Somerville, Shirley-Anne (Lothians) (SNP)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Tolson, Jim (Dunfermline West) (LD)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Deputy Presiding Officer: The result of the division is: For 59, Against 60, Abstentions 0.

Amendment 43 disagreed to.

Amendment 44 moved—[Richard Lochhead]—and agreed to.

Section 45—Register of licensing information

The Deputy Presiding Officer: Group 13 is on marine licensing: registration of licensing information. Amendment 45, in the name of Liam McArthur, is grouped with amendment 46.

Liam McArthur: I will be brief and will not repeat what I said about amendment 32, which was debated earlier, save to reiterate my regret at not having spotted earlier the shortcomings of amendments 45 and 46. I confirm that I will not press the amendments to a vote.

I move amendment 45.

The Deputy Presiding Officer: Does the cabinet secretary want to respond?

Richard Lochhead: No.

Amendment 45, by agreement, withdrawn.

Amendment 46 not moved.

Section 52—Appeals against notices

Amendments 47 to 49 moved—[Richard Lochhead]—and agreed to.

Section 54—Power by order to provide marine fish farming is not “development”

Amendment 22 not moved.

Section 58—Marine protected areas

The Deputy Presiding Officer: Group 14 is on marine protected areas: designation and review of achievement of objectives. Amendment 20, in the name of Liam McArthur, is grouped with amendments 50 to 53, 3, 54 to 56, 114, 57, 4, 21, 115, 59, 60 and 90.

Liam McArthur: Presiding Officer, I hope that I can perhaps compensate for the brevity of my remarks in group 13. I will focus on amendments 20, 52, 60 and 90, which are in my name.

Amendment 20 is a reprise, as colleagues on the Rural Affairs and Environment Committee will remember, of the sad, lonely islands preservation measure for which I sought support at stage 2. Committee colleagues will also recall my concern about the apparent uncertainty over the potential for the bill's provisions to encroach beyond stacks, crags and so on to include inhabited islands. I should perhaps declare an interest by making plain my opposition to, for example, Burray in Orkney being designated a marine protected area

under the bill, no matter what historical artefacts my kids might in future disinter at the bottom of our garden. I am grateful to the cabinet secretary for agreeing to consider the issue further and to his officials for liaising directly with Orkney Islands Council. I understand that a possible resolution may have been reached, so I will listen carefully to what the cabinet secretary has to say about amendment 20.

Amendment 60, too, returns to an issue that was debated at stage 2. I believe that the retention by SNH of a register of candidate sites would provide a degree of transparency about the likely extent of future designations and the reasons for those. Such a register would therefore limit the scope for mischief making by those who are intent on portraying the process somehow as a threat. I acknowledge the concerns that were raised by several members at stage 2 that such a provision might frustrate attempts to designate sites urgently or to adapt sites that have already been identified as candidates for designation, but I do not believe that that would be the case. Amendment 52 sets out a means whereby changes could be made to take account of, for example, new scientific evidence or other changed circumstances.

Finally, amendment 90 would allow Parliament oversight of the designation of nature conservation MPAs, demonstration and research MPAs and historic MPAs. Urgent designations would be specifically excluded, given the representations that were made at stage 2. I believe that amendment 90 would help to reinforce the perceived legitimacy and transparency of the process of designation.

I move amendment 20.

Richard Lochhead: I will speak to all 17 amendments in group 14, so I apologise in advance for the length of this speech.

Amendment 20 would restrict the ability to include parts of small islands in MPAs. The amendment would replace the reference to "island" with the terms

"reef, skerry, stack or sandbar".

The existing drafting allows features that extend above high-water mark to be included in an MPA if they are connected to the features in the sea. Historic and marine biodiversity features are sometimes found above high water in places that would not be covered by the amendment. For example, historic artefacts above high water could be part of a submerged feature. The proposed provision would mean that unless the part above high water was on a reef or so on, we could not include it in an MPA even though it was very well connected. Therefore, two separate protected areas would need to be designated for a single feature. That would add to bureaucracy and cost

and, as most members will accept, would be rather confusing to the public. In our opinion, the bill is best served by the term "island", which covers reefs, skerries, stacks and sandbars but is not restricted to those categories. I repeat that our intention is not to use the MPA powers to designate large islands or inhabited areas. I will be happy to write to Liam McArthur and to Orkney Islands Council to confirm that point if Liam McArthur will withdraw amendment 20.

Amendment 50 is a drafting amendment that will change the term "order" to "designation order" for the purpose of clarity in section 59.

Amendment 51 is connected to amendment 53. Together, amendments 51 and 53 will move text that was inserted by an amendment in the name of Elaine Murray at stage 2 that linked the designation of MPAs to the network of conservation sites. The text is much better moved to a more suitable place in section 59. In so doing, the amendments will retain the substance of Elaine Murray's stage 2 amendment.

Amendments 52 and 60, in the name of Liam McArthur, would introduce a new step in the MPA process by requiring SNH to maintain a register of candidate sites. Our intention has always been that Marine Scotland would lead on the identification of MPA proposals, with support from SNH. My aim has always been to move away from red tape and unnecessary bureaucracy where possible and, in doing so, to benefit the health of our seas and our marine industries. Amendments 52 and 60 risk creating confusion about, for example, what a candidate site is. Is a candidate site the same as an MPA, or is it a new category? Creating a new category of site would not be helpful to the process. We have to keep things simple if we can.

10:45

Amendments 52 and 60 would also add another layer of bureaucracy by in effect importing into the bill one of the more bureaucratic elements of the habitats directive. I wonder whether Liam McArthur really wishes us to go down that road. If greater transparency is the reason behind the amendments, I reassure him that we will work closely with stakeholders in identifying marine protected area proposals. For those reasons, and with the assurances that I have given, I urge Liam McArthur not to press amendment 52.

Amendment 3, in the name of Peter Peacock, is well intentioned and we are happy to support it.

Amendment 54, in the name of Robin Harper, seeks to reverse an amendment in the name of Karen Gillon that was agreed to at stage 2 that allowed for consideration of socioeconomics as part of the MPA designation process. We opposed

Karen Gillon's amendment at the time, but she pressed the amendment and it was agreed to by the committee. Karen Gillon has subsequently written to the Government to clarify the intention behind her stage 2 amendment. We now understand that the text was amended to introduce a degree of flexibility into the MPA designation process that could be used only in exceptional circumstances. We have accepted Karen Gillon's clarification and we placed a letter in the Scottish Parliament information centre earlier this week to outline our thinking on the issue. As a result, I do not think that there is anything to be gained from amendment 54.

However, let me reaffirm that science should be the primary consideration, with provision to take account of socioeconomics in exceptional circumstances, for example when choosing between locations that make an equivalent contribution to the MPA network or when the network duty has already been met. Whether or not socioeconomic factors are considered for particular site proposals, the legal obligation will be to create a network of sites, as required by section 68A of the bill. We understand the good intentions behind amendment 54, but the committee has already voted on the issue at stage 2. For all the reasons that I have outlined, I ask Parliament to resist amendment 54 in the name of Robin Harper.

Amendment 55, in the name of Elaine Murray, is a good amendment, which we support. At stage 2, Elaine Murray lodged a similar amendment that was not pressed. At the time, we were opposed to the amendment not on principle but because it would have conflicted with the six-yearly reporting and monitoring requirements that are set out in section 91 of the bill. However, the revised amendment that Elaine Murray has lodged—amendment 55—has solved that problem and would allow the reporting and monitoring of MPAs to fit into the six-yearly reporting cycle that is required by section 91. We congratulate Elaine Murray on her revised amendment, which we urge Parliament to support.

Government amendment 56 is a consequential amendment to ensure consistency of drafting following acceptance at stage 2 of a Government amendment to tighten the test in section 61(1) for designating historic MPAs.

Amendment 114, in the name of Karen Gillon, would allow Scottish ministers to have regard to any social and economic consequences in considering whether it is desirable to designate an area as an historic MPA. As discussed at stage 2, our approach to heritage protection, whether on land or at sea, has always been that cultural significance should be the sole criterion for decisions to designate our most important heritage

sites. We should take proper account of socioeconomics in how heritage sites are subsequently managed. We remain of that view on historic MPAs. The Parliament might be tempted by a drive for consistency with the position on nature conservation, but we should remember that each marine historic asset is a unique and finite resource that is non-renewable, vulnerable to man-made pressures and without capacity to recover if damaged.

For example, there is only one HMS Campania in the Firth of Forth. We cannot choose between two locations to minimise social or economic consequences. If we do not designate a nationally important historic asset where it is found because of the pressure to have regard to social or economic consequences that would come with amendment 114, we run the risk that the asset will be lost without our even having the right to ensure that it is properly investigated or recorded. I am sure that no one wants to go down that road.

There is also an issue that is specific to marine heritage. Some historic wrecks are directly targeted for commercial gain through the recovery and sale on the open market of valuable artefacts, which is a process that shows little regard for national heritage value. One of the unintended consequences of amendment 114 would be that treasure-hunting companies would argue that designations would have economic consequences on their pursuit of profit from Scotland's historic shipwrecks. We obviously want to avoid the risk of heritage value becoming sacrificed to narrow commercial interest. For those reasons, I ask Karen Gillon not to move amendment 114.

The Government's amendment 57 is a technical drafting amendment.

Peter Peacock's amendment 4 seems reasonable and would enhance the accountability and transparency of the MPA designation process for the general public, so we support it and urge Parliament to do likewise.

Elaine Murray's amendment 21 seeks to shorten the period for which an urgent MPA designation may stay in place. Designation is based on marine research, which can take a significant amount of planning and resourcing, and is entirely dependent on the weather. A period of 12 months would be too short to guarantee that proper research into a potential MPA could be carried out. Urgent MPAs will be used only in exceptional cases, when there is a clear need to act fast. They will not be used as a matter of course. I hope that that gives Elaine Murray some comfort.

Under the UK Marine and Coastal Access Act 2009, Scottish ministers have powers to designate MPAs in the Scottish offshore zone. The UK act powers are now fixed and include a two-year

period—the period that is currently set out in the Scottish bill. It is important that timescales inside and outside the 12 nautical mile zone are consistent, so that they can be understood by the marine industries and other stakeholders. We urge Parliament to resist amendment 21.

Robin Harper's amendment 115 seeks to require Scottish ministers to review any urgent MPA designation that extends beyond six months. In practice, I am not sure that it is necessary. When Scottish ministers designate an MPA using the urgent process, they will seek to review the situation as soon as possible, and normally within the period that is mentioned in amendment 115. The review will determine the case for the designation to be made permanent. However, it could well be that the data that are needed to make a full assessment of the site are not available within the six-month period, which could restrict the case for making the designation permanent. Nonetheless, we are content to accept amendment 115 because we are relaxed about the impact that it will have in practice.

Robin Harper's amendment 59 seeks to constrain use of the urgent MPA designation process for a second time in the same location. If an urgent designation order were made and Scottish ministers did not take steps to make the order final, any attempt to make a second urgent designation could, I believe, be challenged. I have said repeatedly that, if used at all, an urgent MPA would be used only in exceptional circumstances. For those reasons, we are doubtful that amendment 59 is necessary, but we are content to support it to make the position absolutely clear on the face of the bill.

Liam McArthur's amendment 90 was debated and defeated at stage 2, and our position on it has not changed. We see no particular reason for designation orders to be statutory instruments, and the Subordinate Legislation Committee was content with that position. If Liam McArthur is still intent on moving the amendment, I urge Parliament to vote against it for the reasons that I have outlined.

I am sorry for the length of my remarks, but there were 17 amendments to deal with.

Peter Peacock: I am grateful for the minister's indication of support for amendments 3 and 4; I am slightly surprised by his support for one of them, but I am nonetheless grateful.

I will not labour the point about the amendments, but I refer to the letter that the minister sent out following stage 2 and the change that was made to the bill with regard to socioeconomic considerations. That letter is extremely helpful, as is the fact that he has referred to it on the record. I take it that the spirit and the detail of that letter

apply equally to climate change considerations—I believe that that should be the case.

I hope that the Parliament will support both amendments.

Robin Harper: I listened carefully to what the cabinet secretary said about amendment 54. The Scottish Green Party strongly believes that the designation of marine protected areas should be based on the best available scientific advice and on biodiversity needs alone. In the light of the assurances that the cabinet secretary gave, I am happy not to move amendment 54.

I intend to move amendments 115 and 59 because, in our opinion, there is a loophole. The amendments seek to tighten up the way in which an urgent designation order may be used. Given all the associated impacts that urgent designation of an MPA could have on a licensed activity, it is only fair that the Government should review the impact of the designation timeously.

A good deal of knowledge of a historic or environmental feature will be necessary to bring about an urgent designation in the first place. For example, if an archaeological feature is uncovered by a dredger and the dredging is stopped, it is far more appropriate to hold a review after six months than it is to wait until the end of the designation to assess the effect. Likewise, if the bold step of suspending a renewables licence is taken as a result of an urgent MPA designation, an assessment of the impact of the switch-off needs to be carried out sooner rather than later.

Amendment 115 would not prevent an order from remaining in place for the full designation period. It would simply require the situation to be reviewed after six months so that the impact of the designation could be better established.

Amendment 59 would ensure that if an urgent designation were put in place, the area could be considered for full MPA designation rather than face continued repeat urgent designations over time. At present, nothing would stop continued redesignation of a site under section 67 without any consultation. Amendment 59 would close that loophole by preventing the redesignation of the site on the expiry of the original order.

In relation to other concerns, it is important to make clear amendment 59's intention to prevent avoidance of the consultation provisions. It seeks to prevent an immediate repeat urgent designation of the same area; it is not intended to prevent the urgent designation of the area for any purpose ever again. It is quite clear from case law that that statement will clear up any future ambiguity. The authority for that is the case of *Pepper v Hart*, in case anyone wants to know.

Elaine Murray: As the cabinet secretary said, amendment 55 would require ministers to make periodic assessments of the success of a nature conservation MPA in achieving the objectives for which it was designated. As the cabinet secretary also said, I lodged a similar amendment at stage 2 but withdrew it because of an issue with conflicting timescales. I am pleased that the cabinet secretary confirmed that amendment 55 conforms with the provisions of section 91, which requires ministers to lay before Parliament a report that sets out

“the extent to which in the opinion of the Scottish Ministers the stated conservation objectives have been achieved”.

I believe that it is important that there is a process of assessment.

Amendment 21 is another that had a forerunner at stage 2, which was one of a series of amendments that sought to alter the designation period for an urgent MPA. Since lodging the amendment, I have become aware that, like the bill, the UK Marine and Coastal Access Act 2009 includes a maximum period of two years for the designation of an urgent MPA. I think that it makes sense to maintain consistency between the bill and the UK act, so I will not move amendment 21.

I support the cabinet secretary's amendments 51 and 53. Amendment 51 seeks to move wording that was introduced in the bill by an amendment that I lodged at stage 2 slightly further up the section, and to reintroduce wording that was deleted by my amendment at stage 2. This is an example of the sort of problem that Liam McArthur encountered with amendment 32, whereby the sponsors of the amendment negotiate on behalf of the member who lodged it without communicating with them. Unfortunately, a phrase was missed out of the amendment, and I am glad that the minister has reintroduced it.

I was interested by the cabinet secretary's views on Robin Harper's amendments 115 and 59. We, too, wondered whether amendment 115 was necessary, but if the cabinet secretary is content to accept it, we should be content with that. We had some concerns about amendment 59 and whether it would mean that if the designation of an MPA that had been urgently designated ceased and the reasons for that urgent designation reappeared, urgent redesignation could not take place. If Robin Harper or Richard Lochhead could clarify that, it would give us some comfort.

11:00

Karen Gillon: As the cabinet secretary said, I moved an amendment at stage 2 to ensure that, in designating any nature conservation MPA, ministers would have regard to the social or economic consequences of designation. The

fishing industry and the renewables industry welcomed that amendment and the committee's decision on it. The amendment gave the cabinet secretary the flexibility to have regard to socioeconomic issues in designation. He was correct. It was not my intention that the provision be used regularly; rather, it was to be used only in exceptional circumstances, particularly where a range of measures were coming together.

The policy intention of amendment 114 is to have consistency in relation to historic MPAs. Initially, I hoped that the helpful letter that the cabinet secretary sent would provide similar comfort on historic MPAs. However, I understand the points that he has made, particularly on unintended consequences for treasure hunters, who may seek to use the provision to plunder the historic assets of Scotland's coastline. For those reasons, I do not intend to move the amendment.

John Scott: I support Elaine Murray's amendment 55, which allows for the assessment and evaluation from time to time of nature conservation MPAs. That is entirely reasonable.

Like Karen Gillon, I was going to support amendment 114, but, given what the cabinet secretary said and Karen Gillon's intention not to move it, I will not be required to support it.

Peter Peacock's amendment 4 would insert into section 65 the words:

“indicate where a plan or chart identifying the area's boundaries can be obtained or inspected.”

That amendment is also sensible.

I had doubts about Robin Harper's amendments 115 and 59, too, but if the cabinet secretary is prepared to accept them, who are we not to?

Liam McArthur: That is a remarkable concession or confession from John Scott.

I acknowledge the helpful clarification that the cabinet secretary provided on my amendment 20 and his offer to write to me and to Orkney Islands Council. I welcome that commitment and confirm that I will not press the amendment. However, I am slightly disappointed that he felt unable to repeat that approach in relation to amendment 90, which I will move.

I noted what the cabinet secretary had to say about the lack of clarity and certainty that amendments 60 and 52 may introduce. Perhaps that is slightly contradicted by the comments and support from Scottish Renewables, which the amendments would have a direct impact on. It thinks that a register of candidate sites for nature conservation MPAs, including the reasons why they are good candidate sites, would provide transparency and certainty.

I support Peter Peacock's amendments in the group. Like him, I am a little surprised that they have been accepted, but that is to be welcomed. The cabinet secretary sent a helpful letter to the convener of the Rural Affairs and Environment Committee, some of which he put on the record today. I noted the slightly disingenuous reference in that letter to the fact that

"the UK Government has now clarified that it plans to follow a similar policy in terms of the exercise of the equivalent power in section 117(7) of the UK Marine and Coastal Act."

My understanding was that the Scottish Government was being urged to follow precisely the approach that had been adopted by the UK Government, but perhaps that is splitting hairs.

On amendment 53, I share Elaine Murray's pain and welcome the fact that Richard Lochhead has sought to address the anomaly at stage 3.

I echo the comments that John Scott made in support of Elaine Murray's amendment 55. Our concerns at stage 2 have been addressed, and it is welcome that she has successfully brought back the matter at stage 3.

Karen Gillon is dashing from the chamber—I had a similar effect at the Burns supper I was at last night. Her comments on her amendment 114 are welcome. I echo the concerns that the cabinet secretary expressed about the potential unintended consequences of the amendment. It may have achieved some consistency, but it is inappropriate. I am grateful for Karen Gillon's confirmation that she will not move it.

I also echo the comments that John Scott made about Robin Harper's amendments 115 and 59. I was slightly surprised to hear that the cabinet secretary supports those amendments. We see no reason not to support them and, on that basis, I hope that they will be agreed to.

I welcome the debate on this group of amendments and confirm that I will not press amendment 20.

Amendment 20, by agreement, withdrawn.

Section 59—Nature Conservation MPAs: additional requirements relating to designation

Amendments 50 and 51 moved—[Richard Lochhead]—and agreed to.

Amendment 52 moved—[Liam McArthur].

The Deputy Presiding Officer (Trish Godman): The question is, that amendment 52 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Foulkes, George (Lothians) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Henry, Hugh (Paisley South) (Lab)
 Hume, Jim (South of Scotland) (LD)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McArthur, Liam (Orkney) (LD)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McConnell, Jack (Motherwell and Wishaw) (Lab)
 McInnes, Alison (North East Scotland) (LD)
 McMahon, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Mulligan, Mary (Linlithgow) (Lab)
 Murray, Elaine (Dumfries) (Lab)
 O'Donnell, Hugh (Central Scotland) (LD)
 Oldfather, Irene (Cunninghame South) (Lab)
 Park, John (Mid Scotland and Fife) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stewart, David (Highlands and Islands) (Lab)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tolson, Jim (Dunfermline West) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Allan, Alasdair (Western Isles) (SNP)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Keith (Ochil) (SNP)
 Brownlee, Derek (South of Scotland) (Con)
 Campbell, Aileen (South of Scotland) (SNP)
 Carlaw, Jackson (West of Scotland) (Con)

Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 FitzPatrick, Joe (Dundee West) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West of Scotland) (SNP)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMillan, Stuart (West of Scotland) (SNP)
 Milne, Nanette (North East Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Paterson, Gil (West of Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Salmond, Alex (Gordon) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Somerville, Shirley-Anne (Lothians) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Deputy Presiding Officer: The result of the division is: For 59, Against 61, Abstentions 0.

Amendment 52 disagreed to.

Amendment 53 moved—[Richard Lochhead]—and agreed to.

Amendment 3 moved—[Peter Peacock]—and agreed to.

Amendment 54 not moved.

After section 60

Amendment 55 moved—[Elaine Murray]—and agreed to.

Section 63—Historic MPAs: additional requirements etc

Amendment 56 moved—[Richard Lochhead]—and agreed to.

Amendment 114 not moved.

Section 65—Publicity and consultation etc before designation

Amendment 57 moved—[Richard Lochhead]—and agreed to.

Amendment 4 moved—[Peter Peacock]—and agreed to.

Section 67—Urgent designation

Amendment 21 not moved.

Amendment 115 moved—[Robin Harper].

The Deputy Presiding Officer: The question is, that amendment 115 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Alexander, Ms Wendy (Paisley North) (Lab)
 Allan, Alasdair (Western Isles) (SNP)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Keith (Ochil) (SNP)
 Brown, Robert (Glasgow) (LD)
 Brownlee, Derek (South of Scotland) (Con)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Campbell, Aileen (South of Scotland) (SNP)
 Carlaw, Jackson (West of Scotland) (Con)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Helen (Dunfermline East) (Lab)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 FitzPatrick, Joe (Dundee West) (SNP)
 Foulkes, George (Lothians) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grahame, Christine (South of Scotland) (SNP)

Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Harper, Robin (Lothians) (Green)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hume, Jim (South of Scotland) (LD)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Johnstone, Alex (North East Scotland) (Con)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West of Scotland) (SNP)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McConnell, Jack (Motherwell and Wishaw) (Lab)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McInnes, Alison (North East Scotland) (LD)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McMillan, Stuart (West of Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Nanette (North East Scotland) (Con)
 Mulligan, Mary (Linlithgow) (Lab)
 Murray, Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 O'Donnell, Hugh (Central Scotland) (LD)
 Oldfather, Irene (Cunninghame South) (Lab)
 Park, John (Mid Scotland and Fife) (Lab)
 Paterson, Gil (West of Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Robison, Shona (Dundee East) (SNP)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Russell, Michael (South of Scotland) (SNP)
 Salmond, Alex (Gordon) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Somerville, Shirley-Anne (Lothians) (SNP)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Tolson, Jim (Dunfermline West) (LD)
 Watt, Maureen (North East Scotland) (SNP)

Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

AGAINST

Pringle, Mike (Edinburgh South) (LD)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)

The Deputy Presiding Officer: The result of the division is: For 116, Against 2, Abstentions 0.

Amendment 115 agreed to.

Amendment 59 moved—[Robin Harper]—and agreed to.

Section 69—Advice etc by Scottish Natural Heritage as regards Nature Conservation MPAs and Demonstration and Research MPAs

Amendment 60 moved—[Liam McArthur].

The Deputy Presiding Officer: The question is, that amendment 60 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Foulkes, George (Lothians) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Henry, Hugh (Paisley South) (Lab)
 Hume, Jim (South of Scotland) (LD)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McArthur, Liam (Orkney) (LD)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McConnell, Jack (Motherwell and Wishaw) (Lab)
 McInnes, Alison (North East Scotland) (LD)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)

McNulty, Des (Clydebank and Milngavie) (Lab)
 Mulligan, Mary (Linlithgow) (Lab)
 Murray, Elaine (Dumfries) (Lab)
 O'Donnell, Hugh (Central Scotland) (LD)
 Oldfather, Irene (Cunninghame South) (Lab)
 Park, John (Mid Scotland and Fife) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stewart, David (Highlands and Islands) (Lab)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tolson, Jim (Dunfermline West) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Allan, Alasdair (Western Isles) (SNP)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Keith (Ochil) (SNP)
 Brownlee, Derek (South of Scotland) (Con)
 Campbell, Aileen (South of Scotland) (SNP)
 Carlaw, Jackson (West of Scotland) (Con)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 FitzPatrick, Joe (Dundee West) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West of Scotland) (SNP)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMillan, Stuart (West of Scotland) (SNP)
 Milne, Nanette (North East Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Paterson, Gil (West of Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Russell, Michael (South of Scotland) (SNP)

Salmond, Alex (Gordon) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Somerville, Shirley-Anne (Lothians) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Deputy Presiding Officer: The result of the division is: For 59, Against 61, Abstentions 0.

Amendment 60 disagreed to.

Section 71—Duties of public authorities in relation to marine protected areas etc

The Deputy Presiding Officer: We move to group 15. Amendment 61, in the name of the cabinet secretary, is grouped with amendments 62 to 65.

Richard Lochhead: Government amendments 61 and 63 relate to an amendment that Elaine Murray lodged at stage 2. Elaine Murray's amendment would have required public authorities to exercise their functions in ways best calculated to further the contribution of a nature conservation MPA to the MPA network. I accepted the principle at stage 2 but indicated that we would improve the text at stage 3. Amendment 61 removes Elaine Murray's original amendment and amendment 63 inserts the duty in a more suitable place, in section 71. The problem with its current position is that it splits paragraphs (a) and (b) of section 71(2), which are closely linked to each other.

Government amendments 62, 64 and 65 are minor drafting amendments that change incorrect references to "Scottish National Heritage" instead of Scottish Natural Heritage.

I move amendment 61.

Elaine Murray: I support the cabinet secretary's amendments 61 and 63, which, as he says, tidy up an amendment that was lodged at stage 2. It is always worth having the advice of the Government's draftspeople on such issues to ensure that provisions are placed appropriately in the bill.

I was amused to see amendments 62, 64 and 65, which replace "Scottish National Heritage" with Scottish Natural Heritage. I do not know what crossed the minds of the draftspeople when they were writing the bill, but it has been put right now.

Amendment 61 agreed to.

Amendments 62 to 64 moved—[Richard Lochhead]—and agreed to.

Section 72—Duties of public authorities in relation to certain decisions

Amendment 65 moved—[Richard Lochhead]—and agreed to.

Section 76—Procedure for marine conservation orders

The Deputy Presiding Officer: We move to group 16. Amendment 66, in the name of the cabinet secretary, is grouped with amendments 67, 116, 117 and 68.

Richard Lochhead: At stage 2, Liam McArthur lodged amendment 234, which required the Scottish ministers to provide a copy of the draft marine conservation order to the relevant planning authority if the order would apply to parts of land—for example, the intertidal area. That fine principle was agreed to by the Rural Affairs and Environment Committee, but the phrase “relevant planning authority” is not the accepted term in planning legislation. Amendment 66 remedies the situation by replacing that term with the phrase:

“planning authority in whose district the land is situated”.

Amendment 67 better defines the term “planning authority” in terms of the Town and Country Planning (Scotland) Act 1997.

I now speak to Karen Gillon’s amendments 116 and 117. Marine conservation orders will be used only where necessary to support MPA objectives. They will be used mainly to manage otherwise uncontrolled activities that pose a threat to a protected feature or asset. The bill provides ministers with powers to give any person—I repeat, any person—the opportunity to make representations. In that context, amendments 116 and 117 are unnecessary—in fact, they amount to an extra step in the process and would probably add to costs. They would allow people to make further representations over and above those that had already been made, and there is no provision for ministers to judge whether the representations amount to a significant interest. The provision could be used vexatiously to prevent nationally important features from being protected on the grounds of minor impacts to existing activities.

11:15

We have tried to create a marine bill that balances economic, social and environmental interests for the purpose of sustainable economic growth. Amendments 116 and 117 affect that balance and go against those principles. The provision that they would insert could be used vexatiously, and the only thing that they add is an extra layer of bureaucracy with attendant costs. I therefore urge Parliament to resist them and ask the member not to move them.

We think that there are good intentions behind Liam McArthur’s amendment 68, but we believe that it is unnecessary. It is very prescriptive and would be difficult to apply in practice. In practice, consideration would be given to the socioeconomic impacts arising from a marine conservation order, and I have already mentioned that those powers would be used only where necessary. We would also assess displacement effects, where possible, although in practice it can often be difficult to identify whether displacement is likely or where it is likely to take place. In our view, a requirement to do that in all instances before action is taken to protect the features of an MPA is not reasonable.

Amendment 68 could have several unintended consequences. First, it would remove the flexibility that Marine Scotland has to tailor its approach—including the allocation of resources—to the consideration of each individual MPA. Secondly, it could open the marine conservation order process to vexatious disputes. MCOs could be held up for years because of claims that Marine Scotland had not explored every possible effect that an MCO could have. Let us not make the process unworkable before it has even got under way.

Section 76 already includes a requirement on ministers to send a draft order to any persons who have an interest in, or who would be affected by, a marine conservation order. At that point, Marine Scotland, working with stakeholders, would assess the environmental, social and economic impacts and any displacement that could result. I provide a clear undertaking that those issues will be assessed where possible. For all those reasons, I urge Parliament to reject amendment 68.

I move amendment 66.

Karen Gillon: At stage 2, I lodged an amendment similar to amendment 116 that sought to ensure that there would be an opportunity for those who could demonstrate that their economic interests had been adversely affected to have their representations heard. The cabinet secretary resisted that amendment for a variety of reasons. In the process leading up to stage 3, we sought a compromise that would be acceptable to the Government, but that has clearly not been achieved. Nevertheless, it is only reasonable that, if a person can demonstrate *prima facie* that his or her economic interests would be materially affected by the exercise of any of the powers in the bill, he or she has a right to be heard. That is particularly important when the loss of the interest would not be subject to the payment of any compensation or any form of appeal.

In trying to reach a compromise, the Scottish Fishermen’s Federation, in particular, did not go so far as to say that the minister must take such representations into account in reaching his

decisions, only that he must listen to them. Amendment 116 aims to ensure, first, that the person who is making the representations has already made representations under section 76 and, secondly, that the procedure is not available in the case of an emergency MCO. We believed that amendment 116 was a compromise that would be accepted by the Government, and I intend to move both my amendments.

Liam McArthur: I welcome the cabinet secretary's comments on amendments 66 and 67. As he said, they arise from concerns that I raised at stage 2, and I am delighted that he has been able to address them at stage 3.

Like Karen Gillon's amendment 116, my amendment 68 is similar to one that I lodged but did not press to a vote at stage 2. Since then, I have worked closely with the Scottish Fishermen's Federation, Scottish Renewables and Scottish Environment LINK to address concerns that were raised by the cabinet secretary and Scottish Environment LINK at stage 2. The amendment satisfies the three bodies; therefore, notwithstanding the cabinet secretary's concerns, I intend to move it.

Displacement of activity in the marine environment is, at times, an inevitable consequence of marine spatial planning. Indeed, there is growing evidence that such displacement need be seen not as a threat but as something that could deliver economic as well as social and environmental benefits. However, in the interests of building trust and confidence among communities and those directly affected, we need to be as clear as we can about the likely extent and consequences of any displacement, whether it be fishing, recreation or some other activity.

Although I acknowledge what the cabinet secretary says about the limitations of what can be done to assess the impact on one area of prohibiting or restricting activities in another area, there is a good case for requiring such issues to be properly considered. Amendment 68 seeks to achieve just that, and I am grateful to the bodies that I mentioned for their assistance in arriving at a form of wording that is acceptable to them all.

Karen Gillon has taken on board the concerns that some of us had at stage 2, and her amendments 116 and 117 are acceptable to us.

Amendment 66 agreed to.

Amendment 67 moved—[Richard Lochhead]—and agreed to.

Section 79—Representations and hearings in relation to proposed marine conservation orders etc

Amendment 116 moved—[Karen Gillon].

The Deputy Presiding Officer: The question is, that amendment 116 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Foulkes, George (Lothians) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Henry, Hugh (Paisley South) (Lab)
 Hume, Jim (South of Scotland) (LD)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McArthur, Liam (Orkney) (LD)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McConnell, Jack (Motherwell and Wishaw) (Lab)
 McInnes, Alison (North East Scotland) (LD)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Mulligan, Mary (Linlithgow) (Lab)
 Murray, Elaine (Dumfries) (Lab)
 O'Donnell, Hugh (Central Scotland) (LD)
 Oldfather, Irene (Cunninghame South) (Lab)
 Park, John (Mid Scotland and Fife) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stewart, David (Highlands and Islands) (Lab)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tolson, Jim (Dunfermline West) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Allan, Alasdair (Western Isles) (SNP)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Keith (Ochil) (SNP)
 Brownlee, Derek (South of Scotland) (Con)
 Campbell, Aileen (South of Scotland) (SNP)
 Carlaw, Jackson (West of Scotland) (Con)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 FitzPatrick, Joe (Dundee West) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West of Scotland) (SNP)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMillan, Stuart (West of Scotland) (SNP)
 Milne, Nanette (North East Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Paterson, Gil (West of Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Salmond, Alex (Gordon) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Somerville, Shirley-Anne (Lothians) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Deputy Presiding Officer: The result of the division is: For 58, Against 61, Abstentions 0.

Amendment 116 disagreed to.

Amendment 117 moved—[Karen Gillon].

The Deputy Presiding Officer: The question is, that amendment 117 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Foulkes, George (Lothians) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Henry, Hugh (Paisley South) (Lab)
 Hume, Jim (South of Scotland) (LD)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McArthur, Liam (Orkney) (LD)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McConnell, Jack (Motherwell and Wishaw) (Lab)
 McInnes, Alison (North East Scotland) (LD)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Mulligan, Mary (Linlithgow) (Lab)
 Murray, Elaine (Dumfries) (Lab)
 O'Donnell, Hugh (Central Scotland) (LD)
 Oldfather, Irene (Cunninghame South) (Lab)
 Park, John (Mid Scotland and Fife) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stewart, David (Highlands and Islands) (Lab)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)

Allan, Alasdair (Western Isles) (SNP)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Keith (Ochil) (SNP)
 Brownlee, Derek (South of Scotland) (Con)
 Campbell, Aileen (South of Scotland) (SNP)
 Carlaw, Jackson (West of Scotland) (Con)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 FitzPatrick, Joe (Dundee West) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West of Scotland) (SNP)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMillan, Stuart (West of Scotland) (SNP)
 Neil, Alex (Central Scotland) (SNP)
 Paterson, Gil (West of Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Salmond, Alex (Gordon) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Somerville, Shirley-Anne (Lothians) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Deputy Presiding Officer: The result of the division is: For 56, Against 60, Abstentions 0.

Amendment 117 disagreed to.

After section 79

Amendment 68 moved—[Liam McArthur].

The Deputy Presiding Officer: The question is, that amendment 68 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Foulkes, George (Lothians) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Hume, Jim (South of Scotland) (LD)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McArthur, Liam (Orkney) (LD)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McConnell, Jack (Motherwell and Wishaw) (Lab)
 McInnes, Alison (North East Scotland) (LD)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Mulligan, Mary (Linlithgow) (Lab)
 Murray, Elaine (Dumfries) (Lab)
 O'Donnell, Hugh (Central Scotland) (LD)
 Oldfather, Irene (Cunninghame South) (Lab)
 Park, John (Mid Scotland and Fife) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stewart, David (Highlands and Islands) (Lab)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tolson, Jim (Dunfermline West) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Allan, Alasdair (Western Isles) (SNP)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)

Brown, Keith (Ochil) (SNP)
 Brownlee, Derek (South of Scotland) (Con)
 Campbell, Aileen (South of Scotland) (SNP)
 Carlaw, Jackson (West of Scotland) (Con)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 FitzPatrick, Joe (Dundee West) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Grahame, Christine (South of Scotland) (SNP)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West of Scotland) (SNP)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMillan, Stuart (West of Scotland) (SNP)
 Milne, Nanette (North East Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Paterson, Gil (West of Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Salmond, Alex (Gordon) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Somerville, Shirley-Anne (Lothians) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Deputy Presiding Officer: The result of the division is: For 60, Against 59, Abstentions 0.

Amendment 68 agreed to.

Section 85—Exceptions to offences under section 82, 83 or 84

The Deputy Presiding Officer: We move to group 17. Amendment 118 is in the name of Kenny Gibson.

Kenneth Gibson: It is important to have appropriate fines for people who cause damage in marine protected areas, regardless of who they

are or what their occupation is. I am concerned about the exemption for commercial fishermen in section 85(2), as are the Community of Arran Seabed Trust in my constituency and Scottish Environment LINK.

The sea provides livelihoods for people in many industries, from ports to tourism and from aquaculture to the oil industry, and all sectors should be treated equally. That is what my amendment seeks to do.

I move amendment 118.

Richard Lochhead: The bill provides an exemption from the offence of damaging an MPA where that happens as an unforeseen and incidental result of a lawful operation. In addition, there is a defence over and above that in respect of certain sea fisheries activities. The sea fishing defence has been thought necessary because of the requirements of the common fisheries policy. We do not wish to create an unequal playing field by creating offences that will apply to Scottish fishing boats but not to other European Union fishing boats. At stage 2, we lodged an amendment that would allow the defence of section 85(2) to be removed or restricted by order in future. Our intention is that the power will be used only where there is agreement at European level that would allow us to remove the fishermen's defence without discriminating against our fishermen as compared to those of other EU nations.

The bill's provisions on fishermen's defence are consistent with the UK Marine and Coastal Access Act 2009. The UK act applies to the offshore waters adjacent to Scotland and the Scottish ministers have certain responsibilities for that area under the 2009 act. There is a strong argument for keeping the legislation covering MPAs in inshore and offshore waters around Scotland as consistent as possible, so I ask Kenneth Gibson to consider withdrawing amendment 118.

Robin Harper: I congratulate Kenneth Gibson on lodging his amendment. There is an important philosophical point to be made here. The seas are a commons, which means either that they belong to nobody or that they belong to everybody. The attitude of people in general is beginning to change and fishermen, too, are enthusiastically, I hope, joining in efforts to conserve the fish stocks in our waters. I observe that it is perhaps the EU that should be changing its regulations rather than Scotland having to have regulations that do not protect our MPAs sufficiently. I congratulate Kenneth Gibson on raising the issue.

Karen Gillon: I oppose the amendment. The issue was fully debated by the committee during its consideration of the bill and it was clear to us that we did not want to put our fishermen at a

disadvantage compared to those from other countries who could come and fish in our waters.

When they lodge amendments it is important that members have regard to the evidence that committees have received. On this issue, it is important that members have regard to the disadvantage at which the amendment would put our fishermen, at a time when they are already hard pressed by aspects of the common fisheries policy.

Richard Lochhead: To give some comfort to Robin Harper, I say that he should bear it in mind that, with regard to the management schemes that are put in place following the conservation orders to help look after marine protected areas, there is always the option of using existing legislation, should certain activities need to be restricted in certain circumstances.

Kenneth Gibson: There is a delicate balance here. I listened to all the arguments that have been made, but I gave the most credence to Robin Harper's, because we need to think about the long-term health and safety of the seas if we are to have long-term sustainability. His argument is that, rather than moving towards what is being done in the EU, the EU should move towards a position in which it protects our seas a bit more.

11:30

The Deputy Presiding Officer: The question is, that amendment 118 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Gibson, Kenneth (Cunninghame North) (SNP)
Harper, Robin (Lothians) (Green)
Harvie, Patrick (Glasgow) (Green)
O'Donnell, Hugh (Central Scotland) (LD)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
Aitken, Bill (Glasgow) (Con)
Alexander, Ms Wendy (Paisley North) (Lab)
Allan, Alasdair (Western Isles) (SNP)
Baillie, Jackie (Dumbarton) (Lab)
Baker, Claire (Mid Scotland and Fife) (Lab)
Baker, Richard (North East Scotland) (Lab)
Boyack, Sarah (Edinburgh Central) (Lab)
Brankin, Rhona (Midlothian) (Lab)
Brocklebank, Ted (Mid Scotland and Fife) (Con)
Brown, Keith (Ochil) (SNP)
Brown, Robert (Glasgow) (LD)
Brownlee, Derek (South of Scotland) (Con)
Butler, Bill (Glasgow Anniesland) (Lab)
Campbell, Aileen (South of Scotland) (SNP)
Carlaw, Jackson (West of Scotland) (Con)
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
Coffey, Willie (Kilmarnock and Loudoun) (SNP)
Constance, Angela (Livingston) (SNP)

Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Crawford, Bruce (Stirling) (SNP)
Cunningham, Roseanna (Perth) (SNP)
Curran, Margaret (Glasgow Baillieston) (Lab)
Don, Nigel (North East Scotland) (SNP)
Doris, Bob (Glasgow) (SNP)
Eadie, Helen (Dunfermline East) (Lab)
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
Fabiani, Linda (Central Scotland) (SNP)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
Finnie, Ross (West of Scotland) (LD)
FitzPatrick, Joe (Dundee West) (SNP)
Foulkes, George (Lothians) (Lab)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Gibson, Rob (Highlands and Islands) (SNP)
Gillon, Karen (Clydesdale) (Lab)
Glen, Marlyn (North East Scotland) (Lab)
Gordon, Charlie (Glasgow Cathcart) (Lab)
Grahame, Christine (South of Scotland) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (East Lothian) (Lab)
Harvie, Christopher (Mid Scotland and Fife) (SNP)
Henry, Hugh (Paisley South) (Lab)
Hepburn, Jamie (Central Scotland) (SNP)
Hume, Jim (South of Scotland) (LD)
Hyslop, Fiona (Lothians) (SNP)
Ingram, Adam (South of Scotland) (SNP)
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
Johnstone, Alex (North East Scotland) (Con)
Kelly, James (Glasgow Rutherglen) (Lab)
Kerr, Andy (East Kilbride) (Lab)
Kidd, Bill (Glasgow) (SNP)
Lamont, Johann (Glasgow Pollok) (Lab)
Lamont, John (Roxburgh and Berwickshire) (Con)
Livingstone, Marilyn (Kirkcaldy) (Lab)
Lochhead, Richard (Moray) (SNP)
MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
Macdonald, Lewis (Aberdeen Central) (Lab)
Macintosh, Ken (Eastwood) (Lab)
Martin, Paul (Glasgow Springburn) (Lab)
Marwick, Tricia (Central Fife) (SNP)
Mather, Jim (Argyll and Bute) (SNP)
Matheson, Michael (Falkirk West) (SNP)
Maxwell, Stewart (West of Scotland) (SNP)
McArthur, Liam (Orkney) (LD)
McAveety, Mr Frank (Glasgow Shettleston) (Lab)
McConnell, Jack (Motherwell and Wishaw) (Lab)
McGrigor, Jamie (Highlands and Islands) (Con)
McInnes, Alison (North East Scotland) (LD)
McKee, Ian (Lothians) (SNP)
McKelvie, Christina (Central Scotland) (SNP)
McLaughlin, Anne (Glasgow) (SNP)
McLetchie, David (Edinburgh Pentlands) (Con)
McMahon, Michael (Hamilton North and Bellshill) (Lab)
McMillan, Stuart (West of Scotland) (SNP)
McNeil, Duncan (Greenock and Inverclyde) (Lab)
McNeill, Pauline (Glasgow Kelvin) (Lab)
McNulty, Des (Clydebank and Milngavie) (Lab)
Milne, Nanette (North East Scotland) (Con)
Mulligan, Mary (Linlithgow) (Lab)
Murray, Elaine (Dumfries) (Lab)
Neil, Alex (Central Scotland) (SNP)
Oldfather, Irene (Cunninghame South) (Lab)
Park, John (Mid Scotland and Fife) (Lab)
Paterson, Gil (West of Scotland) (SNP)
Peacock, Peter (Highlands and Islands) (Lab)
Peattie, Cathy (Falkirk East) (Lab)
Pringle, Mike (Edinburgh South) (LD)
Purvis, Jeremy (Tweeddale, Etrick and Lauderdale) (LD)
Robison, Shona (Dundee East) (SNP)
Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)

Russell, Michael (South of Scotland) (SNP)
 Salmond, Alex (Gordon) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Somerville, Shirley-Anne (Lothians) (SNP)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Stewart, David (Highlands and Islands) (Lab)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Tolson, Jim (Dunfermline West) (LD)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Deputy Presiding Officer: The result of the division is: For 4, Against 115, Abstentions 0.

Amendment 118 disagreed to.

Section 90—Directions as to making, amending or revocation of schemes

Amendment 69 moved—[Richard Lochhead]—and agreed to.

Section 91—Reports to Parliament

The Deputy Presiding Officer: Group 18 is on reports to Parliament on marine protected area designation. Amendment 70, in the name of Liam McArthur, is grouped with amendment 71.

Liam McArthur: The reward for our unexpectedly swift progress on the earlier groupings is that we get to the learning through doing provisions before lunch time. As the school pupils in the public gallery who have stuck with us throughout the votes this morning will certainly testify, there is much to be gained from the learning through doing process.

At stage 2, the cabinet secretary offered to consider how we might learn more from doing more than my amendments at that stage would have required him to do. I am grateful to him and his officials for assisting me in lodging amendments that will enable lessons to be learned by evaluating the management effectiveness of MPAs. Through constant revision and improvement, we can be more confident that the goals and objectives that underpin the MPAs are being met and will be met in the future. I urge Parliament to support amendments 70 and 71.

I move amendment 70.

Richard Lochhead: In our opinion, the amendments that Liam McArthur has lodged as a result of his philosophy of learning through doing are very useful. They amend section 91 so that reports must include information on any amendments to marine conservation orders, urgent continuation orders or marine management schemes, including those that are brought about as a result of monitoring. We are happy to support the amendments.

Amendment 70 agreed to.

Amendment 71 moved—[Liam McArthur]—and agreed to.

The Deputy Presiding Officer: The next group is particularly large, and there are many speakers and amendments to be moved. I suggest that we suspend until 11:40 and continue in the afternoon.

11:33

Meeting suspended.

11:40

On resuming—

Question Time

SCOTTISH EXECUTIVE

General Questions

Social Care (Procurement)

1. Malcolm Chisholm (Edinburgh North and Leith) (Lab): To ask the Scottish Executive, further to the answer to question S3W-28083 by Shona Robison on 29 October 2009, when it will issue its final guidance on social care procurement. (S3O-9363)

The Minister for Public Health and Sport (Shona Robison): The Scottish Government published draft guidance on social care procurement for consultation in January 2010 and the consultation period ends on 5 April. We will consider all responses to the consultation, along with any other available evidence, in preparing the final guidance for publication.

Malcolm Chisholm: Does the minister agree that the guidance cannot come too soon following the fiasco of the recent social care retendering in Edinburgh? The retendering completely ignored service users' wishes and has resulted in great human and financial costs, including nearly £100,000 for the damning Deloitte report that analyses the fiasco in detail. Will the minister pay careful attention to that report before issuing the final guidance? Will she also make it clear in the guidance that retendering is not obligatory if service providers are performing well and to the satisfaction of their clients?

Shona Robison: The procurement of social care services is ultimately the responsibility of local authorities and it would not be appropriate for ministers to intervene in that. However, the setting of guidance is clearly important. I certainly expect that the guidance will take account of all the experiences of local authorities in the processes that they have undertaken. I am sure that we will look at Edinburgh and its experience along with the experience of many other local authorities. However, I am sure that Malcolm Chisholm agrees that what is important is getting the guidance right for service users, which the Government is determined to do.

Domestic Abuse (Male Victims)

2. Nigel Don (North East Scotland) (SNP): To ask the Scottish Government what steps are being considered to increase support available to male

victims of domestic abuse and their children. (S3O-9413)

The Minister for Housing and Communities (Alex Neil): The Scottish Government is aware of the increase in the number of cases in which men report domestic abuse to the police. Whether domestic abuse is perpetrated by men or by women, it is never acceptable. Many professional agencies in Scotland offer services to victims of domestic abuse regardless of gender, including the police, NHS Scotland, Victim Support Scotland and local authority social work and housing services. Male victims can also access services within the Crown Office and Procurator Fiscal Service, such as victim information and advice, witness services and use of the vulnerable witness provisions where that is appropriate.

The primary issue is to ensure that male victims of domestic abuse and their children are aware of those services and able to access them. The Scottish Government is considering options for providing dedicated helpline support for male victims to enable them to access appropriate services. I will be in a position to provide more detailed information when discussions with the relevant external organisations have been concluded.

Nigel Don: The minister will be aware of the recent discussion on the matter at the Public Petitions Committee. Will he comment on developments elsewhere in the United Kingdom?

Alex Neil: In looking at practice elsewhere in the UK, we have been in touch specifically with the Welsh Assembly Government, which has fairly advanced provision for male victims of domestic abuse. My officials are in constant touch with our colleagues in Wales to see whether there are any particular lessons that we can learn from there.

The Presiding Officer (Alex Fergusson): A number of members wish to come in on this important topic. Please keep your questions and answers brief.

Mary Scanlon (Highlands and Islands) (Con): I have been working closely with the petitioners. I say to the minister that all the organisations that he mentioned refer male victims to a telephone helpline in the south of England. However, I thank him for his sensible response to date.

The Presiding Officer: Question, please.

Mary Scanlon: Does the minister agree that it is shameful that, in 10 years of the Parliament, there has not been recognition of male victims of domestic abuse and their children?

Alex Neil: I agree with the sentiments that Mary Scanlon expresses and congratulate her on her efforts to address the issue. As I said, I hope to be able to make an announcement fairly shortly in

respect of the establishment of a helpline in Scotland that is dedicated to male victims of domestic abuse in Scotland.

Jim Tolson (Dunfermline West) (LD): My constituent Jackie Walls has been closely involved with this issue and, indeed, recently took it to the Public Petitions Committee. Does the minister accept that males are excluded from seeking assistance from some women's charities and that, as a result, male victims of domestic abuse need separate help rather than just a helpline?

Alex Neil: With the gender-based analysis approach that we are taking to the issue of domestic abuse, a dedicated facility for the male victims of domestic abuse will be required. That is the strategy that I am working on.

Johann Lamont (Glasgow Pollok) (Lab): Does the minister recognise that the pattern shown in the figures is that domestic abuse is a crime that is overwhelmingly committed by men against women? Does he agree that if we are to eradicate domestic abuse we have to understand and challenge the attitudes that cause that pattern of behaviour? Will he confirm that in offering support to male victims of domestic abuse he remains committed to tackling the underlying gender nature of this crime?

Alex Neil: I think that I made clear in my previous response that our strategy is based on a gender-based analysis. I accept that the vast majority of incidents are male on female, but we are also trying to address the growing problem of male victims of domestic abuse. I hope that Johann Lamont and the Labour Party agree that that is the right thing to do.

Public Service Vehicles (Shared Fuel Depots and Management Systems)

3. Brian Adam (Aberdeen North) (SNP): To ask the Scottish Government whether it will consider encouraging users of public service vehicles to share fuel depots and fuel management systems to reduce costs and spills as part of its approach to achieving climate change targets and efficiency savings. (S3O-9408)

The Minister for Transport, Infrastructure and Climate Change (Stewart Stevenson): The Scottish Government welcomes and encourages any collaboration and shared services ventures that are undertaken across the public sector, including the use of shared depots and collaborative fuel procurement contracts by public service vehicle owners.

Brian Adam: The minister might well be aware of one public sector organisation that by taking such an approach has managed to recover its capital costs in one year. Will he take every possible step to encourage the police, fire and

ambulance services to adopt that approach, which can result in significant savings and improvements not only to the environment but to safety?

Stewart Stevenson: The member makes a very good point. I understand that one fire service has made what appear to be very substantial savings through taking a new approach, and I will raise the matter in the meetings that I have with public sector bodies.

With regard to the environment, road safety will be improved if the number of diesel spills is reduced, and I will take a close interest in any technology, form of collaboration or approach to depot sharing that helps to address that issue.

Minister for Housing and Communities (Discussions with Local Authorities)

4. Mary Mulligan (Linlithgow) (Lab): To ask the Scottish Executive what issues the Minister for Housing and Communities has discussed recently with local authorities. (S3O-9388)

The Minister for Housing and Communities (Alex Neil): I have recently discussed a range of housing and communities issues with local authorities and with the Convention of Scottish Local Authorities spokesperson for community wellbeing and safety.

Mary Mulligan: The minister will be aware that during the recent cold weather concerns were expressed not only about the plight of people sleeping rough but about local authority procedures for monitoring the provision of accommodation to and support for rough sleepers. Can he assure us that he will review the procedures and report to the Parliament any changes that might be needed to ensure that people do not have to sleep rough on our streets?

Alex Neil: The procedures that we are following were inherited from the previous Administration, but I am keeping under constant review whether any are not satisfactory. We are working closely with our local authority colleagues on all aspects of the problem.

Jamie McGrigor (Highlands and Islands) (Con): Has the minister urged local authorities that have not yet done so to consider housing stock transfer, which would wipe out their housing debt and improve local accountability?

Alex Neil: I am glad to say that earlier this week I, the Glasgow Housing Association and the Glasgow and West of Scotland Forum of Housing Associations announced the transfer of 16,500 houses from Glasgow Housing Association to community-based housing associations. That compares with the previous Administration's record of no second-stage transfers.

**Aberdeen City Council
(Single Outcome Agreements)**

5. Richard Baker (North East Scotland) (Lab):

To ask the Scottish Executive what dialogue it has had with Aberdeen City Council on delivery of its single outcome agreements. (S3O-9358)

The Cabinet Secretary for Finance and Sustainable Growth (John Swinney): There has been regular dialogue with Aberdeen City Council on the single outcome agreement for the city. The council is one of the partners in the Aberdeen city alliance, which drew up the agreement. I met representatives of the alliance to sign the latest agreement on 30 July 2009.

Richard Baker: The Scottish Government's budget has gone up this year, but the funding settlement for our local authorities means that Aberdeen and all councils face great challenges in meeting their single outcome agreements. Will the cabinet secretary clarify his view on a vexed issue that affects the situation in Aberdeen? Is it now the Scottish Government's position, as stated by its spokesman, that it will review the funding formula for local authorities only if there are major changes in Scotland's constitutional relationship with the United Kingdom?

John Swinney: When the current Government came to office, local authorities' share of the budget was declining. As a consequence of decisions that ministers have taken in this Administration, and of the agreement that we have secured with the Convention of Scottish Local Authorities, which is enshrined in the concordat, local authorities' share of the Scottish budget is now increasing. That is obviously of greater assistance to local authorities than would have been the case if we had carried on with the previous Administration's approach of reducing the share of the budget that goes to local government.

Mr Baker will be familiar with the fact that a review of distribution arrangements was carried out. I published that and accepted its conclusions recently. In that review, I set out the approach that the Government will take to keeping under consideration the factors in the calculation of the distribution formula. Those factors are all publicly available and we will continue to consider them in concert with our local authority partners.

Maureen Watt (North East Scotland) (SNP): Does the cabinet secretary believe that the increased thresholds in the small business bonus and the continued council tax freeze that was agreed in the Scottish budget yesterday will help Aberdeen City Council to meet its business-related and deprivation-related outcomes?

John Swinney: I agree with Maureen Watt. Parliament took the decision yesterday to support the budget, in the face of fierce opposition from

the Labour Party, which did not want to set a budget. Thankfully, Parliament agreed a budget, and we put in place the financial resources for local government. If we had taken the Labour Party's approach yesterday, we would not be in a position to put a finance order before Parliament next week to support local government services. Aberdeen City Council would therefore have been unable to get financial support if we had followed the foolish direction taken by the Labour Party yesterday. Maureen Watt is absolutely right that council tax payers and small businesses in Aberdeen will be relieved that the Government's budget has prevailed and that they will get the financial support to which they are entitled in these difficult times.

Nanette Milne (North East Scotland) (Con):

Despite the significant improvements that have been made since the damning Accounts Commission report of two years or so ago, is the cabinet secretary aware that Aberdeen City Council still faces extreme difficulties in making further progress, particularly in social work provision, under the current funding formula? What can the cabinet secretary do to help?

John Swinney: Dr Milne makes the fair point that great progress has been made in the city of Aberdeen since the Accounts Commission report, and I pay tribute to the leadership and chief executive of Aberdeen City Council for undertaking the necessary reform. Clearly, there are still major challenges, because the city lived beyond its means for a significant number of years, as I am sure Dr Milne accepts. The council's leadership are now taking steps to ensure that the city's finances are on a stable and sustainable footing, and the Scottish Government will support them in their efforts.

**Community Health Services
(Areas of Multiple Deprivation)**

6. John Scott (Ayr) (Con): To ask the Scottish Government what steps it is taking to increase access to community-based health services in areas of multiple deprivation. (S3O-9406)

The Minister for Public Health and Sport (Shona Robison): The Scottish Government is making wide-ranging investment to improve access to health services across Scotland, particularly in those areas of multiple deprivation where we see significant health inequalities. We are investing £82 million from 2009 to 2011 in the primary and community care premises modernisation programme, which will significantly improve the quality of and access to a range of health services in the community.

The new services that are being provided through the community pharmacy contract are improving access to national health service

services within local communities and are promoting collaborative working between community pharmacists and general practitioners to improve patient care further.

John Scott: There is no doubting that a clear link exists between health inequalities and issues such as unemployment and poverty. There is therefore an on-going need to increase access to high-quality health services in areas of multiple deprivation. Will the minister therefore consider favourably a proposal to trial NHS walk-in centres in Scotland? Will she give particular consideration to trialling such a centre in South Ayrshire, which, according to the most recent Scottish index of multiple deprivation, has 19 areas that are among the 15 per cent most deprived in Scotland?

Shona Robison: The evidence that we have considered carefully through the task force that produced the "Equally Well" report tells us that people who live in the most deprived communities are the least likely to access health services. I therefore suggest to John Scott that the approach in our keep well initiative, which involves proactively contacting people who are not using the health service, is the best way to deliver and to encourage people from deprived communities to use and access the health service. I am not convinced that the sort of walk-in centre that the member promotes would address health inequalities in the way that he suggests. We are always keen to develop new ideas in the health service to ensure that access is as wide as we can make it. However, the evidence shows that the keep well approach is the way in which to tackle health inequalities.

National Insurance Contributions (Scottish Budget Impact)

7. Kenneth Gibson (Cunninghame North) (SNP): To ask the Scottish Government what impact the Chancellor of the Exchequer's plans to increase national insurance contributions by 1 per cent from April 2011 at a cost of £104.3 million to the Scottish budget will have on jobs in local government, the national health service, the police and fire services. (S3O-9417)

The Cabinet Secretary for Finance and Sustainable Growth (John Swinney): As the member will be aware, we do not have certainty about our budgets for 2011-12 and beyond. We are obliged to wait and see what emerges from the next Westminster spending review, which is expected later this year. However, we know that respected institutions are predicting deep reductions in public spending in 2011-12 and in the medium term. We know that the chancellor's increase in national insurance contribution rates will make those cuts deeper by more than £100 million in Scotland alone in a single year.

The tax will be collected by the United Kingdom Government. If the £100 million additional burden was retained in Scotland, it could pay for 2,300 police officers or approximately 4,000 nurses each year.

Kenneth Gibson: Does the cabinet secretary agree that the £104.3 million that the chancellor will remove year on year from the Scottish block through his national insurance increases and which will go straight to the Treasury should be returned by the UK Government to Scotland? Will he therefore initiate discussions with the Treasury on that basis?

John Swinney: The issue is perhaps a perfect illustration of the limitations and constraints of the financial responsibilities of the Parliament as currently constituted. If we had a broader range of financial powers, we would be able to take a range of decisions that would allow us to guarantee the sustainability of the Scottish economy in the years to come. That would be a welcome step and it is one on which Mr Gibson and I entirely agree.

James Kelly (Glasgow Rutherglen) (Lab): I draw the cabinet secretary's attention to the recent Scottish Police Federation report that revealed that forces are suffering an £11 million shortfall in funding as a result of the introduction of the Scottish Government's concordat with local government. Does the cabinet secretary agree with the comments of Les Gray, chairman of the Strathclyde branch of the Scottish Police Federation, that the situation will lead to

"a drastic reduction in police numbers"

and that

"more people will become victims of crime as a result"?

John Swinney: The points in the newspaper report to which the member refers have absolutely nothing to do with the concordat and everything to do with the cuts that have been imposed on Scotland by the United Kingdom Government and that Government's financial mismanagement of the United Kingdom's public finances.

It is more than a little bit rich that Mr Kelly is complaining about the threat to police numbers, when he fought the 2007 election on a commitment to increase the number of police officers in Scotland by absolutely zero. If Mr Kelly's view had prevailed yesterday and the budget had not been agreed to, my goodness, police recruitment in Scotland would have been thwarted by the foolishness of the Labour Party.

First Minister's Question Time

12:00

Engagements

1. Iain Gray (East Lothian) (Lab): To ask the First Minister what engagements he has planned for the rest of the day. (S3F-2182)

The First Minister (Alex Salmond): Later today, I will have meetings to take forward the Government's programme for Scotland.

Iain Gray: Three weeks ago, the First Minister agreed with me that eradicating illiteracy should be a national priority in Scotland. He said that he would deliver it through his concordat with councils. Indeed, he said that his concordat would

"deliver all the other educational priorities and other vital priorities for this nation."—[*Official Report*, 14 January 2010; c 22774.]

Looking ahead to next week's debate on council budgets, does the First Minister stand by that promise?

The First Minister: The concordat is hugely valuable to the people of Scotland. It has been an innovation in the relationship between local and central Government in Scotland and is valued by local councils as much as it is by the Government.

I remind Iain Gray that, under the Labour-Liberal Executive, the percentage of funding to local authorities in Scotland was going down year by year. The last budget that it set had it at 33.39 per cent. Under John Swinney and the Scottish National Party, the percentage to local government has gone up year by year.

Iain Gray: It is true—[*Interruption.*]

The Presiding Officer (Alex Ferguson): Order.

Iain Gray: It is true: everyone knows that there is no such thing as a free lunch, especially when it comes to Alex Salmond. Priorities need resources. At the very moment that the First Minister was promising us that the concordat was the answer to Scotland's literacy problems, just up the road Edinburgh's SNP council was planning to cut 6.5 per cent from the budget that funds its literacy programmes on top of cuts of more than 30 per cent that it has already made to those programmes. In Holyrood, Alex Salmond supports literacy but, in Edinburgh, the SNP cuts it. Was the First Minister trying to get into the "Guinness Book of Records" for the fastest broken promise ever?

The First Minister: I think that Iain Gray said that it was true that the local government percentage of the budget in Scotland is going up year by year. I saw Andy Kerr shake his head and

mumble something there, so let us just nail the issue. In the last year for which Labour set the budget, the share of funding going to local government was 33.39 per cent; it then rose to 33.63 per cent, then 33.99 per cent and then 34.09 per cent. Andy Kerr's theory—which nobody else believes, of course—is that there have been no cuts in the Scottish Government budget. That is what he told us yesterday. Therefore, by definition, if local government is increasing its share year by year, it must follow that there are no cuts in local government budgets. The reality is that the Scottish Government and every local council in Scotland are struggling with the £800 million of cuts set on us by the Labour Party.

Iain Gray: I think that it was the First Minister who was struggling with that answer. He either does not know or does not care what is happening in communities around Scotland, but parents and pupils know. While he is playing "Celebrity Come Dine With Me", literacy programmes in Edinburgh are being cut, schools in South Ayrshire are being cut, education jobs in Renfrewshire are being cut and, throughout Scotland, 2,000 teachers and 1,000 classroom assistants have already gone. Surely protecting our schools is one of the

"vital priorities for this nation",—[*Official Report*, 14 January 2010; c 22774.]

so why is the First Minister failing so badly? [*Interruption.*]

The Presiding Officer: Order. Before I call the First Minister, may I have a cessation of loud conversations between other front-bench members?

The First Minister: I am strongly tempted to talk about burgergate as Iain Gray has opened up the issue, but I will stick to local government funding and the fact that, year by year, the percentage of funding for local authorities in Scotland has increased. Yes, there is pressure on budgets throughout Scotland; it is caused by Alistair Darling, the Chancellor of the Exchequer, whom Iain Gray used to advise.

A document from West Dunbartonshire Council has fallen into my hands. Perhaps it explains why the fall in teacher numbers is so concentrated among local authorities under the control of the Labour Party in Scotland. I have in my hands the budget proposals of the West Dunbartonshire Council Labour opposition. First, it does not like the idea of extra police. It seems that it does not like the idea—just as George Foulkes does not like it—because it might fulfil the SNP Government's target.

Members: Answer the question.

The Presiding Officer: Order. If the question includes local authority points in it, the First Minister is entitled to answer them.

The First Minister: I know that it must be upsetting to hear me read out Labour Party material from West Dunbartonshire Council, but I think that the Parliament deserves to know what the Labour Party there wants to do with the education budget. It wants to withdraw free school milk in primary schools from April 2010 because, it argues, the feedback from the parents shows that there is a lot of wastage. I remember what the Labour Party said about Margaret Thatcher when she was snatching the milk from children around the country. Those are the plans of the Labour Party in opposition. Thank goodness Labour is in government in so few local authorities across Scotland.

Iain Gray: The First Minister will say anything, promise anything and blame anyone just to get through First Minister's questions, but he will do nothing to protect front-line services and nothing to protect our children's future. If it is all Westminster's fault and all the councils' fault and there is nothing that he can do, here is the question that Scotland's parents and pupils will be asking: what is the First Minister for?

The First Minister: I am for a lot more than dealing with Iain Gray every First Minister's question time, which is not the hardest task in the world.

Iain Gray says that we must not allocate any responsibility to Alistair Darling. I have here a Scottish Parliament information centre report, which shows absolutely that, next year, £837 million less will be spent than was planned to be spent. It also shows in table 2 the thing that Andy Kerr tries to deny in each and every budget debate: the first real-terms decline in Scottish public spending since the Tory party was in office. If that was the end of the Labour plans, it would be bad enough, but the red book at Westminster shows progressive, year-on-year declines in revenue and capital spending in Scotland. That is exactly why this nation needs control of its resources and the economic powers to give us a different future to what will be meted out by the Labour Party at Westminster.

Secretary of State for Scotland (Meetings)

2. Annabel Goldie (West of Scotland) (Con): To ask the First Minister when he will next meet the Secretary of State for Scotland. (S3F-2183)

The First Minister (Alex Salmond): I have no immediate plans to meet the Secretary of State for Scotland.

Annabel Goldie: The people of Scotland are getting a raw deal on out-of-hours medical care.

Since the Labour Government at Westminster and the Lib-Lab coalition in Scotland introduced the new general practitioner contract in 2004, three telling facts have emerged: GP pay is up by 40 per cent; 95 per cent of GP practices opted out of out-of-hours care; and, meanwhile, out-of-hours ambulance call-outs have rocketed by 42 per cent. It is clear that the Scottish Ambulance Service, which is already under pressure, is filling the gap. Does the First Minister agree that the contract was mismanaged, has undermined patient confidence and could jeopardise patient care?

The First Minister: We did not initiate the change in GP contracts, as Annabel Goldie well knows. One of the best ways of testing the health service in Scotland and whether people are satisfied with the provision that they are getting is to look at the figures on public satisfaction. She will have noticed that public satisfaction with the Scottish health service has been rising and is the highest of anywhere in these islands. The people recognise the challenges in the health service, but they are extraordinarily grateful for the fantastic job that all people in the health service do for Scotland—and not just those in primary care.

Annabel Goldie: I would not dissent from the overall perception that the First Minister has conveyed, but I am talking about a particular aspect of the health service, which I know concerns a great many people the length and breadth of Scotland. Everyone in Scotland should have reliable access to urgent and primary care 24 hours a day, seven days a week. I accept that some general practices have extended their daytime hours, but that is not out-of-hours service, and we cannot rely on the Ambulance Service to plug the gap.

The GP contract is a United Kingdom contract, but the Scottish Government and the Scottish Parliament have a formal role in the process. A Conservative Government at Westminster would renegotiate the contract. Does the First Minister support a renegotiation of the UK GP contract in order to get a better deal for patients in Scotland?

The First Minister: We are always looking for improvements and open to suggestions, but health boards in Scotland are required to ensure satisfactory out-of-hours cover for every citizen of Scotland.

When it was introduced, NHS 24 attracted a number of concerns and criticisms from across Scotland, but satisfaction rates for NHS 24 are rising substantially. When it came to responding to the threat of a major flu pandemic, NHS 24 was an extraordinarily valuable resource, which rose to the challenge.

Constructive suggestions will always be considered constructively by this Administration—

as we have noted over the past few days. Annabel Goldie would not wish to give anything other than the impression that the health service in Scotland is rising to some considerable challenges, including budgetary challenges, and is overcoming them in a fashion that is held in great esteem by the Scottish people.

Cabinet (Meetings)

3. Tavish Scott (Shetland) (LD): To ask the First Minister what issues will be discussed at the next meeting of the Cabinet. (S3F-2184)

The First Minister (Alex Salmond): The Cabinet will discuss issues of importance to the people of Scotland.

Tavish Scott: Until today, only trained firearms officers in Scotland have been routinely equipped with Taser stun guns. Now Scotland's biggest police force, Strathclyde Police, is proposing to issue them to every patrolling officer in Cambuslang and Rutherglen. What is the policy position of Scottish ministers?

The First Minister: I know that Tavish Scott did not mean to suggest that the officers taking part in the pilot studies will not be trained. The officers will have the same training as those who use Tasers at present. Rather than theorising on what could or could not happen, the whole purpose of pilot studies is to examine the evidence and see whether it is appropriate to use the measure as part of the proper defence mechanisms that the police have in order to maintain public order.

I know that Tavish Scott would not minimise the issue, but I point out to him that we are all concerned about the number of assaults on the police, and we all want the police to have the appropriate mechanisms with regard to what they may deploy to do their job properly. The whole Parliament will wish to maintain that position.

Tavish Scott: I certainly agree with that last point, but what involvement have the Scottish ministers had in the decisions of Strathclyde Police so far? Has the Government changed the policy position to allow Tasers to be issued to police officers who are not specialist firearms officers? Will the Parliament be able to consider whether a trial is even necessary before it is rubber-stamped by ministers? Will we get to see the evidence? Will Parliament have a say?

When Tasers were put on trial in England, they were used 600 times in the first year—34 children were zapped with 50,000V. It is a slippery slope towards every officer in Strathclyde carrying a Taser gun. What active steps are ministers taking to ensure that what starts in one part of one city does not grow to take in the whole of Strathclyde and then the whole of Scotland?

The First Minister: The Parliament can obviously decide as it wishes. Currently, it is an operational matter for the chief constable of Strathclyde.

Members: Oh!

The First Minister: Yes, it is, I am afraid. I remember the same sort of rhetoric and concerns when Tasers were issued to firearms officers. The operation of them has proved to be highly satisfactory. I stress this again as, despite acknowledging my earlier point, Tavish Scott again seems to suggest that the officers who are being issued with Tasers in the pilot will not be trained. Let me repeat that they will have the same training as specialist firearms officers in the use of Tasers. It would be appropriate if we allowed the chief constable of Strathclyde Police to have his pilot studies and to analyse the results. Then we can come to an informed decision, as opposed to Tavish Scott's unwise speculation about what the results might be.

The Presiding Officer: I will take a constituency question from Willie Coffey.

Willie Coffey (Kilmarnock and Loudoun) (SNP): The First Minister no doubt shares my concern at the Rail Accident Investigation Branch's report into the rail crash last year in Stewarton, in my constituency. A catalogue of errors and missed opportunities over 20 years has put lives at risk. It was astonishing to learn that, although a maintenance train that went over the bridge three days before it collapsed detected clear signs of movement, nothing was done to address the corrosion of the girders in the bridge. Will the First Minister ask the Minister for Transport, Infrastructure and Climate Change to take up the matter with Network Rail and the United Kingdom Government and to seek assurances that the recommendations in the report will be actioned as speedily as possible, in the interests of public safety?

The First Minister: I share Willie Coffey's concerns about the findings of the RAIB report into the causes of the derailment of a freight train at Stewarton. The Scottish Government considers safety to be paramount in the management of the Scottish railway network. Of course, responsibility for rail safety is retained at Westminster.

The Minister for Transport, Infrastructure and Climate Change will write to the chairs of Network Rail and the Office of Rail Regulation to secure assurances that all lessons learned from the incident have been applied across Scotland.

The Presiding Officer: I will take a further constituency question from Marlyn Glen.

Marlyn Glen (North East Scotland) (Lab): To ask the First Minister, following the Minister for

Public Health and Sport's comment on Tuesday on the extension of the remit of the C difficile public inquiry, when she said that it is for Lord MacLean to decide how he wishes to progress the inquiry, whether he will confirm that Lord MacLean can now investigate the causes of the deaths in the outbreak at Ninewells hospital in Dundee.

The First Minister: Lord MacLean made the inquiry's terms of reference clear at its first public session. The Deputy First Minister would not have appointed somebody of his distinction unless he had the proper discretion that is accorded to chairs of such inquiries. Lord MacLean spelled out clearly at the first evidence session how he intended to proceed—I think that that was satisfactorily received by the people who attended.

2012 Olympic Games

4. Jamie Hepburn (Central Scotland) (SNP): To ask the First Minister how the Scottish Government responds to reports that only 17 of 2,806 bids from Scottish-based firms for contracts relating to the 2012 Olympic games have been successful. (S3F-2185)

The First Minister (Alex Salmond): It is disappointing that Scottish companies appear to be missing out on the promise by the United Kingdom Government that the London 2012 games would spread benefits across the country. It is also clear that the Olympic Delivery Authority and the UK Government could do more to ensure that contracts are marketed fairly. We will continue to fight for Scottish companies to be given their fair share and we are working hard with our partners and through initiatives such as business club Scotland to ensure that that is the case.

Jamie Hepburn: Does the First Minister agree that the situation is a further demonstration that the supposed benefits for Scotland of the 2012 Olympics are somewhat ethereal? Will he outline what steps the Government will take to redress the imbalance, particularly with regard to contracts that will be awarded for events in which the Government will have a more direct role, such as the 2014 Commonwealth games?

The First Minister: I do not know whether the benefits are ethereal, but they are certainly no substantial enough. That is clear from the figures. It might be useful to share the figures with members, because we have figures for the number of registrations and the number of contracts awarded. This is not a particularly Scottish issue. In north-east England there were more than 2,000 registrations and only 12 contracts awarded; in Yorkshire there were almost 5,000 registrations and 20 contracts awarded; in Northern Ireland there were more than 1,000 registrations and one contract awarded; in Wales there were 2,200 registrations and two contracts

awarded; and in Scotland there were 2,800 registrations and seven contracts awarded. In London there have been 29,000 registrations and a grand total of 236 contracts awarded.

There is the clearest imbalance across the country in companies' enthusiasm to register and compete and certainly in the contracts awarded. The member's concern is extremely legitimate, and everyone who cares about Scotland—I hope that that includes all members—will see that there is legitimate cause for concern. We should all try to put pressure on, to ensure that contracts are awarded fairly across the country as was promised, given that the whole country is paying for the Olympic games.

Jamie McGrigor (Highlands and Islands) (Con): Will the First Minister echo Scottish Enterprise's call for more Scottish companies to register and complete their profiles for the bidding process so that they have a chance of getting some of the multimillion-pound contracts that are still available?

The First Minister: I pointed out that 2,806 Scottish companies have registered. That is a significant number of registrations but, unfortunately, only seven contracts have been won. I agree that the more companies that register, the better, but the figures tend to indicate that the key problem is not only the number of registrations—which, incidentally, is greater here than in many other parts of the country—but the number of contracts awarded, which seems to show the most incredible concentration on the south-east of England and London. I would have thought that everyone would not only support the registration of more companies but want the distribution of contracts awarded throughout the country to be fair.

Andy Kerr (East Kilbride) (Lab): I agree with the First Minister that it is disappointing that Scottish companies have won so few contracts. Perhaps he would care to advise members about the largest contract in many years in Scotland—the Southern general hospital contract—which the Scottish National Party Government let to an Australian company. The fair share was no share—one contract; none awarded. Based on the First Minister's previous answers, will he guarantee that a Scottish company will win the Forth crossing contract?

The First Minister: Contracts will be awarded within the rules allowed. [*Laughter.*]

The Presiding Officer: Order.

The First Minister: Andy Kerr will find that the employment that is generated from the largest capital investment in the history of the national health service in Scotland will be extraordinarily greater than that from, for example, the much

smaller but disgracefully inflated Hairmyres public-private finance initiative contract in East Kilbride, which I remind him initially cost £68 million but will end up costing £664 million over its life cycle. Scottish companies and Scottish workers will get more benefit from the public sector than they ever would from Andy Kerr and his PFI hospitals.

Education (Local Authority Budgets)

5. Michael McMahon (Hamilton North and Bellshill) (Lab): To ask the First Minister what the Scottish Government's position is on reports that local authorities are considering cutting back education budgets in order to find savings of £270 million in 2010-11. (S3F-2196)

The First Minister (Alex Salmond): We are providing councils with increasing levels of funding and an increasing share of the total Scottish budget despite the £521 million funding cut imposed by Westminster. It is, of course, for local authorities to manage and prioritise their own budgets and the overall share that goes to schools. However, Michael McMahon will want to note that we now have the figures for 2009-10 education spending by local authorities, which is expected to be 4.1 per cent higher than in the previous year and is significantly in advance of inflation.

George Foulkes (Lothians) (Lab): It is a miracle. Now for the loaves and fishes.

The First Minister: I believe that Michael McMahon—and, lo, even Lord George Foulkes—will welcome that significant increase in the figures. I know that he will want to deal with facts as opposed to Labour Party fantasy.

Michael McMahon: I thank the First Minister for his bluster. Does he not recognise that the reality of what is happening in our local authorities is being exposed by councils such as Scottish National Party-led Dundee Council, which tells us in its provisional budget projection that, although it received £1.76 million as its share of the £70 million grant for the council tax freeze, it had to find an additional £5.8 million of cuts to achieve the freeze? Is he aware that each and every local authority in Scotland is having to reduce services to pensioners, children and vulnerable communities because of his Government's discredited concordat with the Convention of Scottish Local Authorities, which has resulted in the inadequate resourcing of our local councils? Will he now accept that responsibility for the £270 million cuts reported by *The Herald* lies squarely with his Government's concordat funding shortfall and its failure to provide adequate funding for the council tax freeze? Will he now take his historic concordat and consign it to the dustbin of history, or will he simply continue to bluster in the face of the reality facing our local communities?

The First Minister: Michael McMahon's questions are becoming even longer than Iain Gray's. I will talk about the facts again. The quoted cuts and decline in local authority spending are by exactly the percentage of the Westminster cut in the Scottish budget. As I am sure Michael McMahon will acknowledge, when council spending is rising as a percentage of the total Scottish budget year by year—that means that they are getting mair money as a percentage of the total, Michael—if cuts are taking place in councils throughout Scotland, that is because the total budget that is set by Westminster, which has a Labour Government, is declining.

Instead of condemning the Labour local authority spokesmen who believe in the concordat, perhaps Michael McMahon will join me and his Labour local government colleagues in calling on the chancellor not to cut Scotland's budget next year and to stop planning dramatic cuts in Scotland's revenue and capital budget in the next five years. That is not bluster but the facts that Michael McMahon will not face up to because of their implications for the Labour Party throughout Scotland.

Scottish Water (Structure and Ownership)

6. David McLetchie (Edinburgh Pentlands) (Con): To ask the First Minister whether the Scottish Futures Trust has commissioned consultants KPMG to produce a report as part of its review of the structure and ownership of Scottish Water and whether the terms of reference of the report specifically exclude consideration of models of ownership other than public ownership. (S3F-2195)

The First Minister (Alex Salmond): The terms of reference ask for options that are publicly acceptable and fundable and take Scottish Water's borrowing out of the Scottish Government's departmental expenditure limit. Scottish Water is a success story in the public sector—water charges in Scotland will fall by 5 per cent in real terms in the next five years and average household charges by 2015 are likely to be some 10 per cent cheaper than those under private provision in England and Wales—so it is fair to say that the phrase “publicly acceptable” rules out Mr McLetchie's option of privatisation and higher water charges for Scotland's companies and consumers.

David McLetchie: I am disappointed to hear that the First Minister has such a closed mind before he has even read the consultants' report. If he has such a closed mind on that report, how will he view the recommendations of the independent budget review group that the Cabinet Secretary for Finance and Sustainable Growth announced yesterday? Would the First Minister care to

confirm that that group will be able to look afresh at the issue and thereby achieve a saving of more than £150 million in the Scottish budget, which might well be necessary to meet the targets that have been set as a result of the Labour recession?

The First Minister: It is for the Government and the Parliament to decide on public expenditure. The Government's policy is that Scottish Water should be in the public sector. That is based not on prejudice but on performance. For example, the Centre for Public Policy for Regions has said:

"The Scottish Water model shows that it is possible to produce more for less and to improve quality at the same time."—[*Official Report, Finance Committee*, 15 September 2009; c 1480.]

I have tried to puzzle out why Mr McLetchie is so ideologically committed to privatising Scottish Water. It is clear that that has nothing to do with performance, because Scottish Water is performing well in comparison with the private companies south of the border under the Labour Party's tutelage.

I believe that Mr McLetchie thinks that a gold mine would exist on privatisation. I suggest that he looks at paragraph 8.4 of the Treasury's statement of funding policy, which concerns the possibility of privatising public assets. It says:

"In such circumstances Treasury Ministers reserve the right to reduce the grant to the devolved administration to reflect receipts."

Under privatisation, not only would we have higher water bills and less investment, but the Treasury in London—whether Labour or Tory—would take the receipts from the sale. In those circumstances, someone would have to be ideologically committed and unwilling to consider arguments at all to remain committed to the folly of water privatisation in Scotland.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): I listened carefully to the First Minister's reply. If the Scottish Water review is simply about the Scottish budgetary treatment of lending to Scottish Water and its impact on DEL, why cannot it be done by civil servants? Why is a consultative body—in effect, that is all that the Scottish Futures Trust is—hiring private sector consultants to do the work, and what will it cost?

The First Minister: The point about hiring the consultants is to have an examination in detail of whether it is possible to reduce the obligation on the public sector while maintaining Scottish Water in public ownership. That was stated in the SFT's business and corporate plan that was published on 19 November 2009, which I know Jeremy Purvis will have read. I quote:

"In collaboration with other interested parties, work-up, and assess options to increase the efficiency of funding for

Scottish Water, whilst retaining public ownership, that could be considered by Scottish Ministers".

When those conclusions come forward, I know that Jeremy Purvis will want to indicate that he does not stand shoulder to shoulder with David McLetchie in wanting to privatise one of Scotland's great natural assets.

12:30

Meeting suspended until 14:15.

14:15

On resuming—

Question Time

SCOTTISH EXECUTIVE

Europe, External Affairs and Culture

Commission on Scottish Devolution

1. Shirley-Anne Somerville (Lothians) (SNP):

To ask the Scottish Government whether it considers that proposals made by the Calman Commission on Scottish Devolution might still be implemented before the next United Kingdom general election. (S3O-9431)

The Minister for Culture and External Affairs

(Fiona Hyslop): The First Minister wrote to the Prime Minister on 24 November 2009 and again on 17 December 2009, setting out a timetable that would have allowed orders to be laid in this Parliament and at Westminster to transfer responsibilities to the Scottish Parliament before the UK general election.

The Parliament agreed to a motion on 9 December urging the UK Government to work with us to implement the relevant recommendations quickly. The deadline for laying orders passed on 15 January 2010. It is disappointing that we have missed the opportunity to transfer responsibility in important areas such as the regulation of air-guns, drink-driving limits and speed limits.

Shirley-Anne Somerville: I share the minister's disappointment that the Labour Government in London has refused to take forward the draft orders prepared by the Scottish Government, particularly with regard to air-guns. Does the minister agree that while the Scottish Government still stands ready to legislate on those important issues, the UK Government has done everything that it can to block and delay progress? Given that we have a particular problem with air-guns in Scotland, does she agree that holding back those powers from the Scottish Parliament for what appear to be purely partisan political reasons is unacceptable?

Fiona Hyslop: I agree with the member that the foot-dragging by the Labour Westminster Government is regrettable, bearing in mind that in 2008-09 air weapons accounted for 47 per cent of all offences involving firearms and 80 per cent of all acts of vandalism involving firearms, and that they were used in 66 per cent of offences of reckless conduct with firearms. That example alone makes it clear that in Scotland we should be

making policy for Scotland, not making work for Labour's Secretary of State for Scotland.

Dave Thompson (Highlands and Islands)

(SNP): The minister is aware that 79 per cent of those in Scotland who were questioned in recent research want the current drink-drive limit to be reduced from 80mg of alcohol per 100ml of blood to 50mg per 100ml. Given that all of Scotland's unionist parties supported the Calman commission, and that they all say they support the recommendation to transfer powers on drink driving, does the minister, like me, fail to understand why the powers to cut the drink-drive limit and save lives were not transferred to Scotland without delay?

Fiona Hyslop: Orders have been used in relation to freedom of information, railways and latterly the Somerville judgment, so it is clear that orders can be used on substantial areas of policy development. It is deeply disappointing that the delay means that progress on this vital proposal, which Dave Thompson has been championing for some time, and for which there is cross-party support, has been delayed by the current Labour Administration.

Royal Commission on the Ancient and Historical Monuments of Scotland

2. Linda Fabiani (Central Scotland) (SNP): To ask the Scottish Government what support it gives to the Royal Commission on the Ancient and Historical Monuments of Scotland. (S3O-9415)

The Minister for Culture and External Affairs

(Fiona Hyslop): According to the 2008-09 review of the commission's centenary year, the Scottish Government provided 75 per cent of the commission's total income as direct funding in that year. In addition, Historic Scotland provided approximately £221,000 in grants for specific projects as part of the remaining 25 per cent of the commission's income.

Linda Fabiani: Does the minister acknowledge the value and importance to Scotland of the work that has been done by RCAHMS over the past 100 years of collecting? Does she join me in congratulating the commissioners, staff and volunteers on the successful celebration of their centenary through the treasured places exhibition, and welcome the commission's future plans as the first port of call for anyone wanting to find out about Scotland's places?

Fiona Hyslop: Yes, I do. I understand that members have been sent the report from the commission's centenary year. We should recognise the initiatives that took place in that year and the on-going work that RCAHMS does for the benefit of Scotland. I urge people to engage

further to ensure that they understand the impact of RCAHMS in respect of places in Scotland.

Karen Whitefield (Airdrie and Shotts) (Lab): I was pleased to learn of the minister's support for RCAHMS. What progress is she making on providing the necessary funding for a new storage facility and headquarters for that highly regarded and supported organisation?

Fiona Hyslop: I acknowledge the member's continued interest in the area. Although I cannot provide any detail, the area is under active consideration. Obviously, RCAHMS has both office space and, as the member indicated, storage space, particularly for archive material that has to be dealt with sensitively. It is important to look at where co-operation can take place with other organisations and public bodies. I am pleased that RCAHMS is actively involved in that pursuit.

READ International Book Project

3. Mike Pringle (Edinburgh South) (LD): To ask the Scottish Executive whether it is aware of the work of the READ International book project in redistributing used school and university textbooks to support the local curriculum in Tanzania. (S3O-9445)

The Minister for Culture and External Affairs (Fiona Hyslop): Yes, we are aware of the good work of the READ International book project in supporting schools in Tanzania and Uganda and promoting global citizenship here through its awareness-raising work with Scottish schools. Since August 2009, 21 schools in south-east Scotland have been involved in the initiative, which across the UK has provided more than 500,000 quality, relevant textbooks for schools in both countries.

We are, of course, already supporting international education and global citizenship as key cross-cutting themes under the curriculum for excellence. Scottish schools have a long tradition of developing learning in an international context and many outstanding examples of current practice are detailed in HM Inspectorate of Education's new guide, "Learning Together: International education: responsible, global citizens", which was published earlier today.

Mike Pringle: I will be very interested to read the document to which the minister referred.

The READ International book project Edinburgh is not only the first of its kind in Scotland, but the first READ project to redistribute used textbooks in Uganda. The University of Edinburgh students who run the project have set themselves an ambitious target to ship over 25,000 used textbooks to Uganda this summer. Thus far, they have gathered more than 10,000 books, but they

are relying on further donations to achieve the target. I am delighted to hear of the Scottish Government's support for the READ International book project. Will the Government support me in continuing to support the project by encouraging bookshops, primary and secondary schools and individuals across Scotland to donate their used textbooks to help to achieve the 25,000 target?

Fiona Hyslop: I was very pleased to learn of the University of Edinburgh project. I congratulate the students and staff on what they have achieved thus far. The target is ambitious, but if more people get to know of the initiative and help to support it, we can ensure that Scotland again contributes as we should do to global citizenship and learning. We should ensure that the initiative is well publicised. I am more than happy to support the member in that regard.

Youth Music Initiative

4. Pauline McNeill (Glasgow Kelvin) (Lab): To ask the Scottish Executive whether it is committed to the youth music initiative and for what period it will fund the scheme. (S3O-9386)

The Minister for Culture and External Affairs (Fiona Hyslop): As Michael Russell explained to the member in written answer S3W-27995 on 27 October 2009 and to Ken Macintosh in oral questions on 29 October 2009, funding for the youth music initiative is committed until March 2011. Longer-term options for the initiative, as with all Government expenditure, will be considered in the next spending review.

Pauline McNeill: Does the minister agree that the youth music initiative is one of the most successful programmes and that music plays a vital role in the development of a young person in terms of learning and concentration? I record my support for the Government's continued support of the project, which it inherited from Labour.

Is the minister discussing with local authorities what, in addition to the youth music initiative, they are doing to ensure that musical tuition continues in their area? Is there a real-terms increase in the budget for the youth music initiative?

Fiona Hyslop: In the last four years of the previous Executive, £27.5 million was spent on the youth music initiative. In the three years to date of this Government, £30 million has been spent on the initiative.

In pursuing the issue of music tuition, the member may be interested to hear that the Scottish Government is holding a joint seminar with the Convention of Scottish Local Authorities and Creative Scotland to take forward culture in the wide sense. We will look at the relationships and how we can ensure that support is given, particularly in the education area. We want to

ensure that we drive forward some of the fantastic and successful achievements that, as the member knows, the youth music initiative and other initiatives have delivered. We need to ensure that we drive that forward even further.

Rob Gibson (Highlands and Islands) (SNP): I am sure that the Parliament will welcome the publication this month of the report of the traditional arts working group, after another successful Celtic Connections season. Will the minister ensure that Scottish traditional music and dance are part of the youth music initiative in every council area in Scotland?

Fiona Hyslop: I commend the traditional arts working group on its work to ensure that people are aware of the positive suggestions that have been made about the traditional arts in Scotland. There are specific challenges and opportunities. The report is practical and contains a number of key suggestions. We are already committed to providing mentoring and support for young artists, so that they can work with those who have expertise.

When presenting the traditional musician of the year award on Sunday night, I reflected on the important impact that traditional music and dance have on young people. The working group's report is partly about how we can improve and enhance the status of traditional arts. The youth music initiative is one way of achieving that, but there are many others. We will pursue the issue with COSLA in the seminar to which I referred in my answer to Pauline McNeill's question.

Rhona Brankin (Midlothian) (Lab): Is the minister aware of the wonderful musical education that is enjoyed by pupils in Midlothian, which is among the best in Scotland? Midlothian enjoys funding from the youth music initiative but, as my colleague Pauline McNeill said, many other youngsters experience music through local authorities' education budgets. Such budgets are constrained at the moment because of the poor local authority settlement. If music education is under threat in local authorities as a result of poor budgets, will the minister consider providing money to compensate for that?

Fiona Hyslop: I am sure that the member will not be backward in coming forward to speak to her Labour colleagues who run Midlothian Council about the priority that they give to music education. It is important to stress that £2 million out of the youth music initiative budget of £10 million is not delivered in more formal educational surroundings, thus providing an opportunity for more flexible and, perhaps, more innovative work to support youth music.

Lisbon Treaty

5. Willie Coffey (Kilmarnock and Loudoun) (SNP): To ask the Scottish Government what implications the Lisbon treaty will have for the Scottish Government's input into United Kingdom Government European policy. (S3O-9411)

The Minister for Culture and External Affairs (Fiona Hyslop): The Lisbon treaty has significant implications for Scotland. There are new areas of European Union competence and practice relevant to Scotland's devolved responsibilities—in energy, justice, agriculture and fisheries, among others. That underlines the importance of the Scottish Government's proactive approach to inputting into the UK's European policy, as well as engaging directly with EU institutions.

Willie Coffey: With Europe's growing impact in the area of freedom, security and justice, is the minister confident that current arrangements recognise the unique nature of Scots law? Has consultation take place on what will happen if Holyrood wants to opt into new European legislation from which Westminster wants to opt out?

Fiona Hyslop: I agree that Scotland, not Westminster, should take the lead on matters affecting Scots law. Over the past 10 years, there has not been a situation in which the Scottish Government has wanted to opt into European legislation and the UK has not. However, we must ensure that the Scottish Government is fully consulted before the UK position on all European policy that affects devolved matters is settled. We will continue to work in that way, following the procedures that are in place. At the joint ministerial committee on Europe, Scottish Government ministers have emphasised the importance of close consultation, especially on justice and home affairs matters, in respect of Lisbon treaty implementation.

Irene Oldfather (Cunninghame South) (Lab): The minister is aware that the European and External Relations Committee is conducting an inquiry into the implications of the Lisbon treaty for Scotland, to examine in detail precisely the matters that we are discussing. Does she agree that, given the increased role for regional and local authorities, the improved powers of co-decision for the European Parliament and the increased transparency in the Council of Ministers for which the Lisbon treaty provides, the United Kingdom Government was entirely right to sign up to the treaty, despite the controversy and opposition from some parties represented in the chamber?

Fiona Hyslop: I will focus my attention on how we can use the Lisbon treaty to our best advantage. I know that the work of the European and External Relations Committee will inform that

process. However, we fully acknowledge that it is the responsibility of the Parliament and the Presiding Officer to establish the terms on which they want to engage with the Government to ensure that the aspects of the treaty to which the member referred are taken forward. We stand ready to co-operate with the Parliament, but we respect the fact that it is the Parliament's role to do that. I discussed the issue with David Miliband at a recent meeting of the JMC on Europe. Working with the UK Government, we can ensure that the Scottish Government and, more important, the Scottish Parliament, are heard within that procedural context.

Jamie Hepburn (Central Scotland) (SNP): As the minister is aware, the Lisbon treaty sets out the subsidiarity principle—the idea that decisions should be made at the appropriate level—but there is no direction from the European Union on how the principle will work in each member state. How will the Scottish Government ensure that the UK Government will not overlook the Scottish Parliament and Government in the EU decision-making process?

Fiona Hyslop: That is a critical point about the operation of the Parliament and the Government. I am not sure that it is necessarily for the Scottish Government to ensure that parliamentary procedures are put into effect to ensure subsidiarity. I know that several members are impatient with progress on the issue. We can learn from how other nations are pursuing the issue. I understand that Irene Oldfather's European and External Relations Committee is examining best practice in other areas. If we are to be consulted in a short window of opportunity on subsidiarity and timescales, we need to get the processes in place. We stand ready to co-operate with the committee and the Parliament in that regard.

Haiti (Emergency Relief Effort)

6. Jim Hume (South of Scotland) (LD): To ask the Scottish Executive, further to the First Minister's comments in the chamber on 14 January 2010, what action the Scottish Government has taken to provide support to the emergency relief effort in Haiti. (S3O-9440)

The Minister for Culture and External Affairs (Fiona Hyslop): Immediately following the announcement of the Disasters Emergency Committee appeal, I met representatives from the main Scotland-based non-governmental organisations that were already operating in Haiti to be briefed on their experiences and activities. Following that meeting, I set out several ways in which the Scottish Government could support NGOs. I announced funding of at least £250,000 to assist Scotland-based NGOs with their humanitarian efforts. Officials are assessing the

bids that have been received and I will announce the outcome soon.

The Scottish Government will continue to provide support to Scottish NGOs through raising awareness and facilitating links between NGOs and Scotland's organisations, public agencies and public bodies. For example, we were able to link Scottish Water and Save the Children—working together, they will provide fresh water, which is a basic but vital requirement in Haiti.

Jim Hume: I am glad that so many members are wearing red for Haiti today.

One difficulty with the relief operation has been co-ordination between organisations and the logistics of getting aid to where it is needed. Communication was one of the main problems that were highlighted at last week's eyewitness account that Adil Husseini of Islamic Relief gave in the Parliament. Will the minister give further assurance that any help from the Government, once deployed, will be diverted immediately to areas of need? What discussions are taking place and are planned with the Disasters Emergency Committee?

Fiona Hyslop: We continue to have dialogue with DEC members. We will announce shortly our decision on the bids that have been received, but they are from NGOs, which have been able to assess the needs. The funding from the Scottish Government will reflect their assessment. As Jim Hume and I heard at the eyewitness account last week, communication is a key concern. As there is so much movement of people away from Port-au-Prince, we need to ensure that there is activity on support and communications elsewhere in Haiti. The member might be interested to know that somebody from Historic Scotland is in Haiti helping with map-reading in the distribution of aid. That helps with the logistics and communication issues to which the member referred.

Anne McLaughlin (Glasgow) (SNP): The minister will be aware that, in addition to Scottish Government support, more than 50 per cent of Scots donated to the Haiti appeal in the first two weeks after the earthquake. Does she agree that, particularly in the current economic climate, those are strong indications that the people of this country see disaster relief and international development not simply as an act of charity, but increasingly as our absolute duty as global citizens?

Fiona Hyslop: Indeed, I do. In answer to a previous question, I referred to the importance of global citizenship and our responsibility in Scotland. People's willingness to offer help and the overwhelming response of the Scottish public are to be congratulated, but we must maintain the momentum and the profile of the disaster to

ensure that people continue to donate and provide help as they can.

Joint European Resources for Micro to Medium Enterprises

7. Sandra White (Glasgow) (SNP): To ask the Scottish Government whether the Minister for Culture and External Affairs has raised or will raise at the joint ministerial committee on Europe the issue of apparent discrepancies between Wales and Scotland regarding applications for joint European resources for micro to medium enterprises—JEREMIE—funding. (S3O-9435)

The Minister for Culture and External Affairs (Fiona Hyslop): Discussions at the JMC on Europe cover a range of issues, including co-ordination between the United Kingdom Government and devolved Administrations. We raise matters in a variety of ways with the UK Government. The Cabinet Secretary for Finance and Sustainable Growth wrote to Her Majesty's Treasury on 16 December to express disappointment that the UK Government budgeting rules in effect prevented the establishment of a JEREMIE fund in Scotland. We have yet to receive a reply.

Sandra White: I hope that that reply will be speedily forthcoming. Does the minister agree that the UK Government's insistence that Scotland, unlike Wales, must set up a private company to obtain JEREMIE funding, which has meant that £69 million has been lost from the Scottish budget, is a direct attack on small businesses in and the economic recovery of Scotland?

Fiona Hyslop: Scotland is taking forward its own policy. The Scottish investment bank, which has been announced by the First Minister, currently holds about £150 million, which can be used to support business. Clearly, we will continue to have dialogue with other Administrations about their experiences in using their own initiatives.

Education and Lifelong Learning

Schools (Community Access)

1. Bill Kidd (Glasgow) (SNP): To ask the Scottish Government what measures are being taken to address the lack of community access to schools built under previous private finance initiatives. (S3O-9422)

The Cabinet Secretary for Education and Lifelong Learning (Michael Russell): The new school estate strategy, "Building Better Schools: Investing in Scotland's Future", recognises that schools are major public and community assets and should be open to serve their communities accordingly. That is shown in its ninth principle, which sets out that schools should best serve their

communities and which will be reflected in each of the 55 schools built under the new £1.25 billion school building programme.

It is, of course, for individual local authorities to manage their school estate in each community's best interests.

Bill Kidd: Can the cabinet secretary assure the Parliament that schools that will be built in partnership with the Scottish Futures Trust will address the issue of access and make it much easier for pupils and communities to use the schools outside school hours?

Michael Russell: I know that the Scottish Futures Trust is very concerned to ensure that communities get the schools that they think will best suit them. There is always a balance to be struck between the resource that is available and the facilities that can be provided. That is a perpetual tension in life when trying to purchase anything. However, I am absolutely certain that, within that construct, there will be an attempt to ensure that each community can be proud of, use and get the maximum flexibility from the school that is built in its area.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): The minister will know that Earlston high school in my constituency is a public-private partnership secondary school with fantastic community facilities, which were partly funded through the level playing field support that was provided by the previous Administration. Will the cabinet secretary be very clear about what the SFT has told local authorities, which is that if any schools that are built under the school building scheme that he has just referred to include community facilities that are outside what the SFT believes is appropriate, the funding will not come from the Scottish Futures Trust and it is for local authorities to pay more?

Michael Russell: There will, between each local authority and the Scottish Futures Trust, be a constructive and creative dialogue that will endeavour to secure the best building for the community. That dialogue should be entered into with enthusiasm and commitment on both sides, and with recognition of the envelope of resource that is available. That strikes me as being a sensible way to take the issue forward.

Skills (Unpaid Carers)

2. Cathy Peattie (Falkirk East) (Lab): To ask the Scottish Executive, given that education and lifelong learning for Scotland's 660,000 unpaid carers are not mentioned in "Skills for Scotland", what role agencies such as Skills Development Scotland have in supporting learning and training for, and addressing the particular needs of, unpaid carers. (S3O-9393)

The Minister for Skills and Lifelong Learning (Keith Brown): The planned refresh of the skills strategy offers the opportunity to consider further the learning and training needs of unpaid carers and older young carers with partners such as Skills Development Scotland and the Scottish Further and Higher Education Funding Council.

Cathy Peattie: Is the minister aware that, in accessing education, carers and young carers need flexible and accessible education and that, in some cases, there is a need for respite? How will the Government ensure that cross-cutting needs of carers are taken into account in the different portfolios and across Government?

Keith Brown: That will be part of the refresh of the skills strategy, which I mentioned. I appreciate that Cathy Peattie will have lodged her question before last week's debate on the skills strategy, in which that issue was raised, so I refer her to the response that I gave then. A substantial amount of work is being done through the Princess Royal Trust for Carers—the Scottish Government has given £200,000 for young carers.

Skills Development Scotland and Jobcentre Plus are working on giving personalised responses to people who are in that situation through information, advice and guidance. They are developing a much more responsive format and will continue to do so. That will be highlighted in the refresh of the skills strategy that will appear in the next few months, and which all members of the Parliament supported last week.

We also acknowledge that there are, in relation to Westminster benefits, some problems that cut across some of what we are trying to do. We will see how best we can address those, too.

School Exclusions

3. Stewart Maxwell (West of Scotland) (SNP): To ask the Scottish Government what action it has taken to tackle the number of exclusions in schools. (S3O-9425)

The Minister for Skills and Lifelong Learning (Keith Brown): The Scottish Government is helping to create the learning environments needed for positive behaviour with opportunities for more engagement, motivation and enjoyment. Curriculum for excellence provides opportunities for a broad, flexible and personalised curriculum to develop skills for life, learning and work. That contributes significantly to keeping all children and young people engaged and involved in their education.

I congratulate schools and local authorities on achieving significant reductions in exclusions—which fell by 24 per cent in the past two years—and on implementing longer-term and meaningful solutions to develop responsible citizens.

Stewart Maxwell: I thank the minister for that answer and join him in welcoming the hard work that has already been done. I am sure that the minister is aware that pupils who have additional support needs and who are in mainstream schools have a higher rate of exclusion than those who do not have an ASN in mainstream schools, and that the rate of exclusion for pupils who are declared as having a disability is considerably higher than it is among other pupils. Given those differences in exclusion rates, what plans are in place to tackle exclusion rates for school children who have additional support needs?

Keith Brown: I acknowledge the problem that Stewart Maxwell identifies. It is also true that additional support for pupils who are looked after has been provided to a greater extent than was the case in the past. There has been a drop in the number of exclusions for pupils in that category, although we recognise that there is substantial room for improvement.

Last week I had the chance to go to Lochend community high school in Glasgow, where exactly that type of work has been taking place. We intend to ensure that where best practice is happening in schools such as Lochend, we distribute it and promulgate it throughout the rest of the education sector in Scotland. We will encourage people to use the best practice that has achieved a 24 per cent drop in two years and we will apply it even more vigorously to areas where there are continuing problems.

Patricia Ferguson (Glasgow Maryhill) (Lab): I was very interested in the minister's wish to roll out good practice. Is he aware of the 98 per cent reduction in exclusions that has occurred in the past 15 months in John Paul academy in my constituency? Will he join me in congratulating the headteacher, Vincent Docherty, his staff and, of course, the pupils, who have contributed to that reduction? Will he look for examples of good practice from that school to roll out more widely?

Keith Brown: I would certainly wish to do that. That reduction in exclusions is a tremendous achievement. It underlines the fact that sometimes the solutions are complicated and take a long time to come to fruition. The scepticism that surrounded publication of the figures last week does no credit to the school or the headteacher that Patricia Ferguson mentioned, or to many other schools and headteachers throughout the country. There is a great deal of very good practice going on. I am happy to endorse what the member said.

Elizabeth Smith (Mid Scotland and Fife) (Con): It is very good news that the total number of exclusions has reduced, but it is not good news that there is a higher percentage of violent attacks on both pupils and staff. What is the Government doing to address that?

Keith Brown: It is certainly the case that any exclusion that results from violence, especially violence with weapons, is to be regretted and has to be a focus of activity. I am aware from schools that I have spoken to that that is happening. It was also highlighted in the report "Behaviour in Scottish Schools 2009", which Liz Smith will know about and which was published a few weeks ago. From that report, it is perfectly clear that teachers throughout Scotland feel that they now have at their disposal far more resources and training to deal with such situations. It is also true to say that we have to continue to focus on such behaviour, because physical violence against those who seek to teach our children is never right.

Skills Development Scotland (Number of Staff)

4. Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): To ask the Scottish Government what the staff head count was for Skills Development Scotland at 31 March 2009. (S3O-9446)

The Minister for Skills and Lifelong Learning (Keith Brown): The staff head count for Skills Development Scotland at 31 March 2009 was 1,542, or 1,438 full-time equivalents.

Jeremy Purvis: I thank the minister for his reply, which tallies with the annual report of Skills Development Scotland. Can the minister explain why, when the Cabinet Secretary for Finance and Sustainable Growth wrote to me on 26 October 2009, he said that the equivalent figure at the end of quarter 1 of 2009 was 1,560? Can the minister explain why there was a £4 million increase in the pay bill for that quarter? If it was to do with paying off staff, is it appropriate that that £4 million to pay off staff in Scotland's skills agency was being spent at the same time as the chief executive was receiving a 5 per cent increase in his salary and a 70 per cent increase in his pension entitlements?

Keith Brown: On the discrepancy that Jeremy Purvis has identified, it is quite correct that SDS had a head count of 1,542, or 1,430 full-time equivalents, as detailed in the SDS 2008-09 annual accounts, as at 31 March 2009. The public sector employment statistics for quarter 1 of 2009 show SDS staffing to be, as Jeremy Purvis said, 1,560, or 1,433 full-time equivalents. The SDS would have provided data in quarter 2 of 2008-09 in relation to those statistics. However, the accounts were laid before Parliament in December, following completion of Audit Scotland's scrutiny in quarter 3 of 2008-09. Given the time lag, the SDS annual accounts have been developed over a longer timescale, which has allowed its human resources systems to be updated, which would explain the slight discrepancy of 18 in head count and five in full-

time equivalent terms between the two sources of information.

On staffing, I am happy to take up the point that Jeremy Purvis has raised and to provide more information, although it is worth pointing out that the voluntary severance scheme that was implemented, with four organisations being brought into one, has resulted in substantial savings, which will stay with Skills Development Scotland during the process of the voluntary severance scheme. We have exempted front-line staff from that process—they are being kept there. The resources that have been made available through the savings from the voluntary severance scheme have stayed on front-line delivery. I will be happy to get back to Jeremy Purvis about the other points that he raised.

Murdo Fraser (Mid Scotland and Fife) (Con): The minister has just been talking about the voluntary severance scheme at Skills Development Scotland. Is he aware of the concerns that have been raised by the Scottish Training Federation that many of the experienced officials in SDS who were handling apprenticeship funding and organisation have left, and have been replaced by people whose backgrounds are in the careers service and who lack the necessary expertise? Can the minister address that matter when he next meets representatives of SDS?

Keith Brown: Those concerns have not been addressed to me by the Scottish Training Federation. The so-far superb performance of Skills Development Scotland in the hugely ambitious programme of apprenticeships take-up this year suggests that those staff have the resources and expertise to deal with the environment that they are in. The voluntary severance scheme was implemented, as I have mentioned, as four organisations were brought together into one, making services more efficient. Front-line staff were, as I said, exempted from that. It is up to Skills Development Scotland to ensure that it has the right expertise and resources at its disposal to do what we ask it to do. It seems to be managing to do that so far.

National Courses

5. Alison McInnes (North East Scotland) (LD): To ask the Scottish Executive what assessment it has made of the capacity of schools to timetable for pupils to study multiple national courses at secondary 4 level after their introduction in 2013. (S3O-9442)

The Cabinet Secretary for Education and Lifelong Learning (Michael Russell): As at present, the number and range of qualifications that are undertaken by young people will be for schools, education authorities, colleges, parents and young people themselves to decide. The new

qualifications will be designed to build on prior learning and will be flexible enough to be timetabled in many different ways. Our aim is to raise the level of achievement and to ensure continued breadth in the S4 to S6 senior phase. We expect young people to have the opportunity to study up to eight qualifications from S4.

Under this Government, work is being done at national and local levels on appropriate structures and to build schools capacity in order to offer a range of qualifications and other opportunities for personal achievement in the senior phase. I know that that is supported by members across the Parliament.

Alison McInnes: Last week, the Scottish Secondary Teachers' Association claimed that the new national courses will lead to "timetable chaos" unless pupils drop some subjects. Currently, as the cabinet secretary has said, many pupils sit eight subjects over two years, but one year's study is more suited to five subjects. If pupils are obliged to reduce the number of subject areas, surely that runs counter to the curriculum for excellence agenda.

Given the conflicting responses that we have heard—from the Scottish Government's director of schools last week, advising that the courses should be started in S3, and from the minister today—will he agree to meet representatives of the SSTA, the Educational Institute of Scotland and parents to explore the concerns that have been raised so as to ensure that young people are not forced to restrict their subject choices when the new courses are introduced?

Michael Russell: I can do much better than that. I met the SSTA recently and spoke about the issue that Alison McInnes has raised and other issues, and I met the EIS last week. I continue to have a useful and detailed dialogue with a range of bodies on curriculum for excellence and how we can engage the whole Scottish education community in ensuring that it is the best it can be. That dialogue is not helped by artificial divisions.

What will help is our ensuring that we are all going in the same direction and contributing positively—I stress "positively"—to the shaping and development of curriculum for excellence. The quality of what we get at the end of the process will be directly proportional to the input that we have from all teachers and teaching organisations, everybody in education and parents. We are going in that direction; I want us all to go in that direction. Everyone will find me very willing to work with them if we are working in a positive manner.

Ken Macintosh (Eastwood) (Lab): Does the cabinet secretary envisage any pupils sitting national courses in their third year, rather than

their fourth year? If so, how many pupils will do that?

Michael Russell: I envisage a continuing discussion about what is best for each young person. If Mr Macintosh wants to be part of that process—I hope that he does—let us engage on whether his suggestion would be useful or sensible for the young people involved.

I hope that last week we witnessed the end of the type of spat that does not help curriculum for excellence, in which it is suggested that decisions are being made secretly or perversely. There is a management board: I am listening to the management board. The management board consists of representatives of the trade unions, the management side and education organisations, and it is keen to take part. Parents are welcome to contribute, too. Last week I launched a parental toolkit. I want more parental involvement.

I repeat this point because it is so important: the reality is that if there is positive input on development of curriculum for excellence, day by day, week by week and month by month, and if we honestly and openly debate how curriculum for excellence is to be implemented, we will have what we are meant to have: a wonderful new system for the 21st century. Some people think that it could be the best in the world; it will be the best in the world only if we all put our energy and imagination into it, rather than carp about it.

School Closures (North Lanarkshire)

6. John Wilson (Central Scotland) (SNP): To ask the Scottish Executive what impact the primary school closures proposed by North Lanarkshire Council will have on service delivery for pupils in the areas concerned. (S3O-9401)

The Cabinet Secretary for Education and Lifelong Learning (Michael Russell): I am sure that the member knows that the proposed closure of primary schools in North Lanarkshire or anywhere else is entirely a matter for the council concerned. Local authorities are under a statutory duty to ensure adequate and efficient provision of school education in their area and, in that context, they may review their school stock and how the location and condition of their schools reflect population patterns and meet educational needs. There is, of course, a legislative framework. New legislation on school closures will come into effect on 5 April.

John Wilson: I seek clarification on the rights of parents and pupils who oppose school closures and have expressed concern that the local authority has produced misleading information to justify the closures. What is the role of the cabinet secretary's department in ensuring that decisions

to close schools can be justified by the local authority?

Michael Russell: The member knows that I have been on record for many years and in many campaigns to ensure that good and accurate information is provided to parents, and to ensure that if flawed information is provided, the process of closure by an authority does not go ahead. I was a member of the Parliament's Education, Culture and Sport Committee when it conducted an inquiry—in 2002, I think—for which Cathy Peattie was a reporter, on provision of flawed information to parents. The legislation that is due to come into effect in April focuses on the quality of consultation in order to ensure that consultation is open, transparent and honest.

Without commenting on the specifics of the case that John Wilson raised, I urge any local authority to ensure that if it has a closure proposal, it acts in the clear light of day, ensures that all the information is available and argues the case in terms of its commitment to good education in the area. Anything else will breed suspicion and will ultimately fail.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): The cabinet secretary will be aware that I have corresponded with his department on the issue. Parents and politicians are concerned about the issue that Mr Wilson has raised about the quality and accuracy of the consultation document—

The Presiding Officer (Alex Fergusson): Question, please.

Cathie Craigie: North Lanarkshire Council has indicated that it is using the new legislation during the consultation process. Does that enable the cabinet secretary to intervene in any way or to ask the council to delay its decision until the legislation has taken effect?

Michael Russell: The brief answer to that is no. I know that time is pressing, Presiding Officer, but may I make a brief additional comment? I encourage all councils to treat closures at this stage as if they were taking place under the new legislation, which makes it clear that the quality of the consultation and the information that is provided are central to getting the process right. Schools close—that is regrettable, but it happens—and parents must be taken along through the process, confident that their elected representatives are telling them the truth. I want that to happen in every part of Scotland.

Marine (Scotland) Bill: Stage 3

Resumed debate.

14:56

The Deputy Presiding Officer (Trish Godman): The next item of business is the continuation of stage 3 proceedings on the Marine (Scotland) Bill. I remind members that, when dealing with amendments, they should have the bill as amended at stage 2—that is, SP Bill 25A. They should also have the marshalled list, which was revised on Tuesday—that is, SP Bill 25A-ML (Revised)—and the groupings, which the Presiding Officers have agreed.

I also remind members that, as with this morning, the division bell will sound and proceedings will be suspended for five minutes for the first division. The voting period for the first division will be 30 seconds. Thereafter, I will allow a voting period of one minute for the first division after a debate. All other divisions will be 30 seconds.

Section 98—Seal licences

The Deputy Presiding Officer: We come to group 19. Amendment 72, in the name of Elaine Murray, is grouped with amendments 120, 121, 73 to 78, 122, 81 and 82.

Elaine Murray: As a member of the Parliament who represents a rural constituency, I understand that predator behaviour and, in some cases, numbers must be controlled. Seals are predators. They are also intelligent animals, and a seal that chances upon a large concentration of salmon in a fishery or fish farm will be attracted to what appears to be a captive food source.

Thirty-six per cent of the world's grey seal population lives in UK waters and 90 per cent of those are in the Scottish marine area; 7 per cent of the world's common seal population lives in UK waters, with 85 per cent of those in Scottish waters. The Scottish marine area is clearly important to those species. Moreover, seals are one of Scotland's iconic native species. On the other hand, aquaculture and salmon fishing are important contributors to the Scottish economy. Equally important, fish farming provides a source of nutritious, quality local food.

Seals and fish farms need to co-exist in Scotland's marine area, but the Conservation of Seals Act 1970, which was passed before fish farming became important to Scotland, is not appropriate; neither is the act's title a correct description of the legislation that it contains. Seals can be shot without reason outwith the close season and, in the close season, the netsmen's

defence can be invoked as legal protection if someone is caught shooting seals. Therefore, the provisions in the Marine (Scotland) Bill were widely welcomed. They were improved at stage 2 and, I believe, will be further improved today.

Amendment 72 is a variant of an amendment that I lodged at stage 2. Labour members firmly believe that lethal methods of controlling seals should be a last resort when other methods, such as anti-predator nets and acoustic devices, have been tried and failed. [*Interruption.*]

The Deputy Presiding Officer: One moment, Ms Murray. There is far too much noise. If members have a conversation that needs to take place, they should take it outside.

Elaine Murray: Thank you, Presiding Officer.

Amendment 72 would require ministers, before they issue a licence to kill seals, to consider the damage that the animals had done to a fishery or fish farm, or to a similar facility in the vicinity. They would also have to consider the effectiveness of non-lethal methods of deterrence at that farm or fishery or at a similar facility in the vicinity. The amendment would also permit ministers to require the applicant to supply information so that, in determining the licence application, they would be able to judge whether any non-lethal alternative was possible before they issued a licence.

15:00

My amendments 77 and 122 are alternatives to Robin Harper's amendment 120. My colleagues and I have carefully considered amendment 120 and we are sympathetic to the policy intention behind it. The taking or killing of a seal that is at an advanced stage of pregnancy or has dependent pups, which would starve to death, is highly undesirable and should be permissible only in extreme circumstances—for example, when a mass escape of farmed fish would pose a significant threat to the environment and could be prevented by no means other than taking or killing the seal concerned.

The provisions in amendment 120 are broad. It could set in the bill a period of seven months when seals could not be taken or killed. Section 100(3) permits but does not require the species of seal to be specified on a seal licence, so some licences that are issued might apply to grey and common seals. If amendment 120 were agreed to, such licences would be inoperable for seven months each year. Moreover, determining which species of seal is threatening a fish farm can be difficult when the seal is in the water. We therefore feel—with great regret and after much reflection—unable to support amendment 120.

My alternative—amendment 77—would enable ministers to include as a condition of a seal licence any period when seals could not be taken or killed but would not specify those periods in primary legislation. Such a period would be appropriate to the licence and the circumstances of the application.

The Deputy Presiding Officer: Order. I am sorry to interrupt again, Ms Murray. The amendments are about important provisions in the bill and it would serve members well to listen.

Elaine Murray: Thank you, Presiding Officer.

Scottish ministers would decide—on the advice of Marine Scotland and other bodies such as the sea mammal research unit and the Natural Environment Research Council—what conditions on close seasons were appropriate for a licence.

Amendment 122 would enable exemptions from any period of prohibition to be applied for if no other way of preventing an escape that would seriously damage the environment, for example, was satisfactory.

I warmly welcome the amendments in the cabinet secretary's name. At stage 2, I lodged amendments that would have required seal licences to specify the marksmanship skills that were required to avoid unnecessary suffering, the type of firearm that was to be used, the proximity to the seal before it could be shot and the appropriate weather conditions, and to prohibit shooting from an unstable platform. I also lodged amendments on carcass recovery and on the regular reporting of numbers of seals that were taken under licence. I did not press those amendments, because the cabinet secretary felt that they could be improved. He agreed to revise them and to bring them back at stage 3. I am delighted that he has done that in amendments 73 to 76, 78, 81 and 82.

I have considerable sympathy for the policy intention behind Robin Harper's amendment 121. It is difficult to imagine why an application would be lodged to locate a fish farm close to a seal haul-out site. Apart from placing temptation in the way of seals, I imagine that such proximity would cause stress to the fish. However, I understand that some fish farms are located in such places.

I have two problems with amendment 121. What does the phrase

“a site important to seals”

mean? I appreciate that the amendment requires ministers to consult NERC, but that phrase is not defined and could be open to wide interpretation.

I am concerned about the consequences of amendment 121 in practice. For example, a fish farm might be located close to a haul-out site for

common seals. Common seals are smaller, have less powerful jaws and can be more easily deterred by anti-predator nets. The fish farm and the common seals might happily exist side by side, but what would happen if a rogue grey seal that could not be deterred by any non-lethal methods targeted the fish farm? The amendment would prevent the fish farm from applying for a seal licence. For that reason, I feel—again with great regret—unable to support Robin Harper's amendment 121.

I move amendment 72.

Robin Harper: The arguments for amendment 120 have been well rehearsed. I am sure that members have received many e-mails on the subject, as I have. I pay tribute to Advocates for Animals and the Seal Protection Action Group for their energy.

Amendment 120 is almost identical to a stage 2 amendment that I lodged. After listening to the concerns of the Rural Affairs and Environment Committee and the cabinet secretary, I altered the amendment to allow an exception to the close season rule in extraordinary circumstances, such as the threat of a large-scale escape from a fish farm.

I still hold that we now run the risk of taking a retrograde step in how we deal with seal management. Currently, section 2 of the Conservation of Seals Act 1970 at least allows for close seasons in principle. Only around a dozen close season licences are granted each year. Removing close seasons completely through the bill while also bringing fish farms into the licensing regime is, in my opinion, a pretty poor step backwards for seal conservation.

Seal pups, of both species, are entirely dependent for their survival on their mother's fatty and protein-rich milk. If the pups lose their mother before the natural weaning process has taken place, they will slowly starve to death, not to mention suffer stress and increased susceptibility to pneumonia or septicaemia. To draw a parallel that I have drawn before, we would not do the same to any of our tame farm animals. I and the vast majority of the public find the prospect of shooting pregnant or nursing seals quite barbaric. Such a cruel practice is not tolerated on land. Why should it be any different for animals in the marine environment?

However, I hope that members will vote for the alternative Labour amendments, which are at least something of a step forward, although they do not go nearly as far as I would like.

On amendment 121, let me once more take the opportunity to try to persuade Elaine Murray to change her mind. Again, amendment 121 is similar to an amendment that was lodged at stage

2. The amendment seeks to prevent a seal licence from being granted to any new fish farm or other fishery installation that chooses to set up beside a site that is recognised by the Natural Environment Research Council and Scottish ministers as being important for seals. The wording "important for seals" is a careful definition that will allow the scientists to decide on the matter. On the basis of the scientific evidence—which is the basis on which we wish the provisions in the bill to progress at every stage—the Government can decide whether an area is important for seals and, therefore, whether a licence would fall within the terms of the bill as amended by amendment 121.

Seals are habitual in their practices. They haul out and breed at the same sites for many years. People should not be surprised if seals become interested in the new hypermarket that has been created if someone chooses to place a new fish farm next to a haul-out site. Seals eat fish—that is what they do. People should not then ask for a licence to shoot the seals in an attempt to alter the natural environment so that it is more to their liking. That might seem like a commonsense approach, both from a welfare angle and from a commercial angle, but members would be surprised. An on-going case in Lewis involves a proposal for a new fish farm at Broad Bay right next to the aptly named seals' cave, which is famed as the breeding cave of seals in Lewis. Another case in the Sound of Harris is also causing considerable concern. No doubt the seals are flapping around the beaches there saying, "Here comes breakfast, lunch and tea." The best way to avoid such conflict is simply to keep the species apart by ensuring that seal licences are granted to new fish farms only if they are responsibly sited.

I remind members that assistance is available to fish farms for capital investment, including for non-lethal anti-predator measures such as tensioned nets and the new acoustic seal scarers that I will refer to later. That makes it easier for fish farms to ensure that they have sufficient alternative methods in place so that the need to kill seals should very seldom arise.

Richard Lochhead: I will speak first to Scottish Government amendments 73 to 76, 78, 81 and 82, which deal with seal licences.

The Government amendments provide for a number of things, including: minimising unnecessary suffering; licence conditions on firearm type, weather conditions, safe distances, stable platforms and recovery of carcasses for research; the need for ministers to be satisfied as to marksmanship skills; and a review of the licence system every five years. Many of those licence conditions already operate in the successful Moray Firth seal management pilot and it was always

intended that such conditions should be part of the seal licence system. However, at stage 2, it was felt that the conditions should be specifically acknowledged in the bill and I made a commitment to the committee to do so. The Government amendments deliver on that commitment. They also reflect the concerns of animal welfare groups.

Amendment 72 was lodged by Elaine Murray, who, as we all recognise, has taken a close interest in seal conservation matters throughout the bill process. It provides that Scottish ministers must have regard to previous damage and/or the effectiveness of non-lethal measures in fisheries or at fish farms before they grant a seal licence. Again, it was always intended that such information would be taken into account before a licence was granted. I resisted the stage 2 amendments on the ground that they were too prescriptive, but I consider that amendment 72 provides a suitable context for putting greater emphasis on non-lethal measures in preference to lethal options, so I am content to accept it.

Robin Harper's amendment 121 provides that Scottish ministers may not grant a seal licence to any fishery or fish farm

"adjacent to a site important to seals",

but it provides no definition of sites "important to seals". Such a definition would be needed for the provision to operate satisfactorily.

I understand the desire to limit potential conflict between seals and fisheries and fish farms, but I have difficulty with amendment 121, as it fails to recognise that a significant number of sites might be considered "important to seals". Such sites could encompass large parts of the Scottish coast and surrounding waters, and would be subject to change, sometimes over short timescales, as seals moved around the coast.

In essence, amendment 121 proposes exclusion zones around sites "important to seals", the number of which could be large. In such zones, fisheries and fish farms would be unable to protect themselves or their fish stocks. That would be the case even when non-lethal measures were ineffective or when management of grey seals was necessary near a common seal site.

The exclusion of fish farms or fisheries from locations

"adjacent to a site important to seals"

might also have important implications for marine renewables, which present similar potential challenges. Surely it is more appropriate for the issue to be addressed through the wider marine planning process when genuine conflicts exist. In that way, decisions on the most appropriate location for any developments in the marine area will take into account a wide range of factors.

Scottish Natural Heritage is already a statutory consultee on fish farm sites and often raises the issue of potential conflicts. For those reasons, I join Elaine Murray in urging members to resist amendment 121.

I turn to Elaine Murray's amendments 77 and 122 and Robin Harper's amendment 120. I appreciate from recent campaigns that the possibility of pregnant or nursing seals being killed is a highly emotive issue, but I must record that many of those campaigns are based on inaccurate information. The proposals in the bill will increase protection for pregnant and nursing seals. They will remove the so-called netmen's defence, which has been exploited by some people to engage in unregulated killing of seals, including seal pups, during close seasons. The bill provides that all seal management will be carried out under licence and so will be properly regulated.

It was recognised during committee consideration that a complete ban on killing all seals during large portions of the year would leave fisheries and fish farms unable to defend themselves from seal predation. That is why I resisted the amendments that were lodged at stage 2. However, I appreciate that there is genuine concern about the possibility of pregnant and nursing seals being killed, so I am happy to restate the commitment that I made at stage 2 to monitor the new seal licence system closely and, if the monitoring suggests that there is a significant problem, to consider the introduction of close season restrictions. I am therefore content to accept amendment 77, which clarifies the relevant power in the bill.

Amendment 120 would prohibit the taking or killing of seals for any reason for three months of each year for common seals and for four months of each year for grey seals. It proposes an exception to that prohibition through what amounts to a shadow seal licence system, which will presumably duplicate the existing system and incorporate additional conditions. In effect, it would mean the development of two seal licence systems, one for the close season and one for the remaining period. I hope that members agree that that could result only in confusion and duplication for administrators, consultees, stakeholders and other people who had to use or monitor the new system.

I understand the intention behind amendment 120, which tries to protect pregnant and nursing females, but although its aim is entirely laudable, it could have important unforeseen consequences. It would seriously hinder the ability of the Scottish Government to meet its obligations to kill or take seals in an emergency—for example, to preserve public health or public safety, to prevent the spread of disease, to conserve natural habitats or

species, or for other imperative reasons of overriding public interest—for significant parts of the year.

Amendment 120 would also hinder vital scientific research, including seal tagging and DNA sampling, during significant and particularly important parts of each year. Again, that could interfere with research that is vital to securing the future of Scotland's iconic seal populations. The amendment would significantly increase the bureaucracy and costs involved in any seal licence system by providing for the two parallel systems to which I have referred. That would be likely to result in either separate or more complex application forms, consultations, assessments, reports and monitoring. The new seal licence system will be complex enough without that extra layer of complexity. For those reasons, I urge members to resist amendment 120.

15:15

Amendment 122, in the name of Elaine Murray, seeks to provide an exemption to a seal licence condition under her amendment 77, which specifies periods during which seals may not be killed or taken—that is, close seasons. However, she fails to propose the necessary consequential amendments that would allow that exemption to offer a defence against the offence under section 95. For that reason, I ask her not to move amendment 122.

Liam McArthur: This group of amendments is one of the few that do not contain an amendment of mine.

The Liberal Democrats welcome and support all the amendments in the group that were lodged by Dr Murray and the cabinet secretary. Together, the proposed changes represent a marked improvement in the protection of seals. They focus on introducing more stringent licensing and reporting requirements while recognising that it may still be necessary, as a last resort and under strict conditions, to take or shoot a seal that cannot be deterred from attacking nets.

Unfortunately, despite his significant efforts to try to accommodate the concerns that I and other committee members had at stage 2, Robin Harper has not been able to go far enough. His amendments 120 and 121 leave open too many potential pitfalls, which Dr Murray and the cabinet secretary have articulated. I understand that, as things currently stand, SNH can, through the planning process, enter concerns or objections about the potential location of a fish farm. Perhaps the cabinet secretary can reflect on whether there is scope, through working directly with the Natural Environment Research Council, to establish whether more can be done to identify potential

problems with particular locations and haul-out sites.

John Scott: I welcome Elaine Murray's amendments 72 and 77 and the Government's amendments in the group. A balance must be struck in protecting the welfare of seals and farmed fish, and, together, those amendments achieve that.

Amendment 72 reasonably requires all possible information to be available about damage being done and preventive deterrent action being taken before a licence is granted. Amendment 77 is also welcome in going some way towards protecting seal pups.

The Government's amendments 73, 74, 76 and 78 will tighten up the conditions under which seals may be shot, and they put in place an enhanced reporting system. That is, of course, to be welcomed. Amendment 82 will create wide-ranging five-year reviews of the seal licensing regime, and is also to be welcomed.

I have concerns about Robin Harper's amendments 120 and 121. I understand what he is seeking to achieve, but believe that his amendments would produce a seven-month close season. I agree with Elaine Murray's comments on that. It is regrettable that amendment 121 is too non-specific, and I am afraid that the proposals are impossible to define in law, particularly the phrase

"a site important to seals",

notwithstanding Robin Harper's claim that such sites can be successfully defined scientifically.

As I have said, a balance must be struck between the welfare of farmed fish and that of wild seals. Taken in conjunction with Elaine Murray's amendments 72 and 77, the Government's amendments achieve that balance. Far greater protection of seals will result from them, and I welcome the cabinet secretary's commitment to reviewing matters further in future if that is necessary.

Elaine Murray: I will say one or two things that result from what Robin Harper said. As a result of an amendment that I lodged being disagreed to this morning, fish farms will not come within the marine licensing system; they will remain within the terrestrial planning system. Therefore, will the cabinet secretary consider issuing guidance to planners on the siting of fish farms to overcome issues relating to the potential for fish farms to be sited in the vicinity of haul-out sites or other sites?

Robin Harper's amendment 120 allows—as my amendment 122 attempts to allow—for the shooting of seals in extremis when severe environmental concerns surround a possible escape of fish. Although it is clearly undesirable to

shoot a pregnant seal or a seal with young pups, we do not have a close season for foxes, which can be shot during the breeding season even if they have young pups that are left without food. We behave in that way towards other predators on land, and I do not think that we should treat seals differently. I note that the cabinet secretary will review the situation. We will be interested in the results of that review and how the bill works in practice.

The cabinet secretary says that I have failed to lodge the amendments that would be required as a consequence of amendment 122 being agreed to. Amendment 122 was intended to supply a degree of comfort to the aquaculture industry in that, if an extreme situation arose in which a seal attacked a fish farm within a prescribed period, an application could be made for the prohibition to be lifted to deal with the situation before there was a mass escape of fish, for example.

I am pleased that the cabinet secretary has accepted my amendment 77. I hope that, when the prohibition conditions are being laid on a licence, some thought will be given to how things will be managed should an extreme situation arise in which the prohibition may no longer be appropriate. For example, a fish farm could be attacked by a rogue seal during the breeding season, with possible environmental consequences. The Scottish aquaculture industry has had great success in driving down the number of escapes over the years. There are far fewer escapes than there used to be, and we do not want the unintended consequence of any legislation to be an increase in the number of escapes from fish farms in the future.

Amendment 72 agreed to.

Amendment 120 moved—[Robin Harper].

The Deputy Presiding Officer: The question is, that amendment 120 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division. As it is the first division this afternoon, I suspend the meeting for five minutes.

15:22

Meeting suspended.

15:28

On resuming—

The Deputy Presiding Officer: We will proceed with the division on amendment 120.

FOR

Harper, Robin (Lothians) (Green)
Harvie, Patrick (Glasgow) (Green)
MacDonald, Margo (Lothians) (Ind)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
Aitken, Bill (Glasgow) (Con)
Alexander, Ms Wendy (Paisley North) (Lab)
Allan, Alasdair (Western Isles) (SNP)
Baillie, Jackie (Dumbarton) (Lab)
Baker, Claire (Mid Scotland and Fife) (Lab)
Baker, Richard (North East Scotland) (Lab)
Boyack, Sarah (Edinburgh Central) (Lab)
Brankin, Rhona (Midlothian) (Lab)
Brocklebank, Ted (Mid Scotland and Fife) (Con)
Brown, Gavin (Lothians) (Con)
Brown, Keith (Ochil) (SNP)
Brown, Robert (Glasgow) (LD)
Brownlee, Derek (South of Scotland) (Con)
Butler, Bill (Glasgow Anniesland) (Lab)
Campbell, Aileen (South of Scotland) (SNP)
Carlaw, Jackson (West of Scotland) (Con)
Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
Coffey, Willie (Kilmarnock and Loudoun) (SNP)
Constance, Angela (Livingston) (SNP)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Crawford, Bruce (Stirling) (SNP)
Cunningham, Roseanna (Perth) (SNP)
Curran, Margaret (Glasgow Baillieston) (Lab)
Don, Nigel (North East Scotland) (SNP)
Doris, Bob (Glasgow) (SNP)
Eadie, Helen (Dunfermline East) (Lab)
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
Fabiani, Linda (Central Scotland) (SNP)
Ferguson, Patricia (Glasgow Maryhill) (Lab)
Finnie, Ross (West of Scotland) (LD)
FitzPatrick, Joe (Dundee West) (SNP)
Foulkes, George (Lothians) (Lab)
Fraser, Murdo (Mid Scotland and Fife) (Con)
Gibson, Kenneth (Cunninghame North) (SNP)
Gibson, Rob (Highlands and Islands) (SNP)
Gillon, Karen (Clydesdale) (Lab)
Glen, Marlyn (North East Scotland) (Lab)
Goldie, Annabel (West of Scotland) (Con)
Gordon, Charlie (Glasgow Cathcart) (Lab)
Grahame, Christine (South of Scotland) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (East Lothian) (Lab)
Harvie, Christopher (Mid Scotland and Fife) (SNP)
Henry, Hugh (Paisley South) (Lab)
Hepburn, Jamie (Central Scotland) (SNP)
Hume, Jim (South of Scotland) (LD)
Hyslop, Fiona (Lothians) (SNP)
Ingram, Adam (South of Scotland) (SNP)
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
Johnstone, Alex (North East Scotland) (Con)
Kelly, James (Glasgow Rutherglen) (Lab)
Kerr, Andy (East Kilbride) (Lab)
Kidd, Bill (Glasgow) (SNP)
Lamont, Johann (Glasgow Pollok) (Lab)
Lamont, John (Roxburgh and Berwickshire) (Con)
Livingstone, Marilyn (Kirkcaldy) (Lab)
Lochhead, Richard (Moray) (SNP)
MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
Macdonald, Lewis (Aberdeen Central) (Lab)
Macintosh, Ken (Eastwood) (Lab)
Martin, Paul (Glasgow Springburn) (Lab)
Marwick, Tricia (Central Fife) (SNP)
Mather, Jim (Argyll and Bute) (SNP)
Matheson, Michael (Falkirk West) (SNP)

Maxwell, Stewart (West of Scotland) (SNP)
 McArthur, Liam (Orkney) (LD)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McConnell, Jack (Motherwell and Wishaw) (Lab)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McInnes, Alison (North East Scotland) (LD)
 McKee, Ian (Lothians) (SNP)
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 McLaughlin, Anne (Glasgow) (SNP)
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 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McMillan, Stuart (West of Scotland) (SNP)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Mulligan, Mary (Linlithgow) (Lab)
 Murray, Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 O'Donnell, Hugh (Central Scotland) (LD)
 Oldfather, Irene (Cunninghame South) (Lab)
 Paterson, Gil (West of Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Robison, Shona (Dundee East) (SNP)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Russell, Michael (South of Scotland) (SNP)
 Salmond, Alex (Gordon) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Somerville, Shirley-Anne (Lothians) (SNP)
 Stephen, Nicol (Aberdeen South) (LD)
 Stevenson, Stewart (Banff and Buchan) (SNP)
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 Tolson, Jim (Dunfermline West) (LD)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Deputy Presiding Officer: The result of the division is: For 3, Against 120, Abstentions 0.

Amendment 120 disagreed to.

Amendment 121 moved—[Robin Harper].

The Deputy Presiding Officer: The question is, that amendment 121 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 MacDonald, Margo (Lothians) (Ind)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
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 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Henry, Hugh (Paisley South) (Lab)
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 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Deputy Presiding Officer: The result of the division is: For 3, Against 121, Abstentions 0.

Amendment 121 disagreed to.

Section 99—Methods of killing or taking seals under seal licence

Amendment 73 moved—[Richard Lochhead]—and agreed to.

Section 100—Seal licence conditions

Amendments 74 to 76 moved—[Richard Lochhead]—and agreed to.

Amendment 77 moved—[Elaine Murray]—and agreed to.

After Section 100

Amendment 78 moved—[Richard Lochhead]—and agreed to.

Amendment 122 not moved.

After section 103

15:30

The Deputy Presiding Officer: Group 20 is on harassment of seals at haul-out sites. Amendment 79, in the name of Elaine Murray, is grouped with amendments 80 and 83.

Elaine Murray: At stage 1, the Rural Affairs and Environment Committee invited the cabinet secretary to consider the inclusion in the bill of an offence of intentionally or recklessly harassing seals. Other species are currently protected from disturbance and harassment: the list of European protected species includes citations for other marine animals such as sturgeon; dolphins, porpoises and otters are protected under the Conservation (Natural Habitats, &c) Regulations 1994; and section 9 of the Wildlife and Countryside Act 1981 makes the disturbance of specific animals an offence. Seals are not currently protected in that way.

I lodged an amendment at stage 2 on the offence of disturbance and harassment. The committee was concerned, however, that the interpretation of disturbance could be too wide, and might include people or their dogs who inadvertently disturbed seal colonies while walking on the beach and thereby committed an offence. I therefore did not press that amendment. Instead, I lodged amendment 79. It refers only to "harassment", which is a better-defined term, and it states that the harassment must be done

"intentionally or recklessly ... at a haul-out site".

The term "haul-out site" is widely recognised by those who are cognisant of seals and their behaviour. Haul-out sites are areas on land that seals use for breeding, pupping or resting. When seals perceive a threat, they race into the water, which can result in mothers and pups becoming separated and aggressive behaviour among mothers when trying to return to their pups. However, "haul-out site" requires to be defined in a legal sense, so the amendment defines it as a place that is designated as such by the Scottish

ministers consequent on consultation with the Natural Environment Research Council.

Amendment 79 would not prevent the use of any non-lethal method of deterring seals, which was another of the committee's concerns at stage 2. The committee was concerned that the use of acoustic devices, for example, might be considered as harassment of seals. However, amendment 79 would not cause the use of such devices to be considered to be harassment because it refers only to haul-out sites and not to parts of the marine area around fisheries or fish farms.

Amendments 80 and 83 are consequential to amendment 79.

I move amendment 79.

John Scott: I welcome amendments 79, 80 and 83, which will make the harassment of seals at haul-out sites an offence, but the issue will have to be intelligently addressed when orders are made. If grey seal numbers continue to expand, areas that have not been used as haul-out sites may be used as such by the expanding seal population, which could pose a new threat to fish farms.

There is a fine line between scaring off potential predators, which is a legitimate thing to do, and harassment of the same animals. I hope that when orders are made, the legitimate right of fish farmers to protect their fish from predation and fear of predation will be taken into account.

Richard Lochhead: Amendments 79, 80 and 83 will introduce a new offence of intentionally or recklessly harassing a seal at a designated haul-out site. They set the penalty for anyone who is found guilty of that new offence at up to six months' imprisonment or a level 5 fine, and they allow for the new offence to be enforced by marine enforcement officers.

I resisted the more general amendments on disturbance and harassment offences that were lodged at stage 2, because they carried the risk of effectively preventing the use of non-lethal deterrent measures against seals as an alternative to shooting, which could result in unintended consequences for wildlife tourism, public access and leisure activities. I appreciate, however, that there are genuine issues around the harassment of seals at their most important haul-out sites.

I consider that amendment 79 and consequential amendments 80 and 83 will provide seals with a suitable and proportionate measure of protection from harassment when they are at their most vulnerable. I am therefore content to accept amendments 79, 80 and 83.

The Deputy Presiding Officer: I call Mr McArthur, but I ask him to press his button quicker next time.

Liam McArthur: It is not a red-letter day in the McArthur household.

I expressed concern at stages 1 and 2 about suggestions that we might legislate to outlaw the disturbance of seals. That was only partly due to a concern on my part to avoid making a rod for my own back and that of my boisterous, but ultimately harmless, black Labrador. I was also concerned to avoid, as the cabinet secretary said, implications for the non-lethal deterrence methods that I think we all support as a way of avoiding the need to take or shoot seals.

I am pleased that Dr Murray has been able to take on board those concerns. Her amendments focus very sensibly on the need to clamp down on deliberate and reckless harassment of seals at known haul-out sites. The amendments will help to enhance the protection of seals under the bill, so they command my support and that of my Liberal Democrat colleagues.

I give the Presiding Officer advance warning that I may also speak on the next group.

The Deputy Presiding Officer: I ask Elaine Murray to wind-up and to press or withdraw her amendment.

Elaine Murray: I will respond briefly. I recognise the situation that John Scott describes; it is the case that, although common seal numbers are in decline, grey seal numbers are fairly constant in Scottish waters, and worldwide they are increasing.

Amendment 79 specifically refers to established haul-out sites. Those sites would be designated with reference to the advice of NERC and would not, for example, be designated at the whim of the minister. I think that if, for example, seals were attempting to create a haul-out site near an existing fish farm, deterring them from doing so would not be interpreted as intentional or reckless harassment, because the site was not already established. However, there are opportunities through the dialogue between ministers and NERC to keep that issue under review and to establish whether it causes problems.

I am grateful to colleagues for their indications of support for my amendments.

Amendment 79 agreed to.

Section 114—Penalties

Amendment 80 moved—[Elaine Murray]—and agreed to.

Amendment 81 moved—[Richard Lochhead]—and agreed to.

After section 114

Amendment 82 moved—[Richard Lochhead]—and agreed to.

Section 117—Enforcement of marine protection and nature conservation legislation

Amendment 83 moved—[Elaine Murray]—and agreed to.

Section 125—Powers of seizure, etc

Amendment 84 moved—[Richard Lochhead]—and agreed to.

Section 132—Power to direct vessel or marine installation to port

The Deputy Presiding Officer: We move to group 21. Amendment 7, in the name of Liam McArthur, is grouped with amendments 85 and 86.

Liam McArthur: Committee colleagues will recall that I lodged a series of amendments at stage 2 reflecting concerns in the port industry in Scotland, including Orkney Harbours, about the implications of the use of the enforcement powers in the bill. Although I am pleased to say that some of the concerns have been addressed, legitimate concerns remain that there is no requirement on enforcement officers to communicate with or seek the views of a port authority prior to taking a decision to direct a vessel to that port.

I accept that, as the cabinet secretary suggested at stage 2, in practice such exchanges take place in most instances. However, I am concerned that enforcement officers could make decisions that are expedient for them in discharging their duties but which do not reflect the best interests of the affected port, other users of the port and even, conceivably, the environment. It would clearly not be acceptable for ports to refuse to accept a vessel without compelling reasons, but a policy on the part of enforcement officers of “don’t ask, don’t tell” does not appear to be satisfactory either.

Before deciding whether to press amendment 7, I will be interested to hear the steps that the cabinet secretary feels he might be able to take to address this underlying concern.

I move amendment 7.

Richard Lochhead: First, I will address amendment 7, in the name of Liam McArthur. The power to direct a vessel to port is not new. It exists, for example, for investigating and enforcement officers under the Food and Environment Protection Act 1985, for wildlife officers under the Offshore Marine Conservation (Natural Habitats &c) Regulations 2007 and for British sea-fishery officers under the Sea Fisheries Act 1968.

I recognise Liam McArthur’s good intentions in lodging amendment 7. However, our compliance officers believe that it could introduce considerable difficulties for them. Importantly, they believe that it would seriously hinder their ability properly to enforce marine legislation. When a ship is directed to port, I believe that the convention is for those on the marine protection vessel to contact the port concerned and make the appropriate arrangements. However, I am advised that it is not possible to share enforcement policy instructions.

I am happy to write to Liam McArthur to set out our approach. With that in mind, I ask him to seek leave to withdraw amendment 7.

Government amendment 85 provides clarity concerning to whom evidence needs to be shown when enforcement officers are exercising powers under part 6. Section 136 was amended at stage 2 by a non-Government amendment in the name of Stuart McMillan. Prior to that amendment, there was a duty to produce evidence of authorisation on request before exercising any power under part 6. Mr McMillan’s amendment brought about the change that marine enforcement officers must produce such evidence, regardless of whether or not they are asked to do so. That raised the question to whom the evidence must be shown and what would happen when no relevant person was present. Amendment 85 clarifies those matters.

Amendment 86 disapplies sections 136 and 137 in relation to the entry of marine enforcement officers into dwellings for the purpose of exercising enforcement powers under part 6. That is required because entry into dwellings by officers is covered by section 122, which requires that a warrant is needed for such entry. Paragraph 9 of schedule 3 has its own rules on production for evidence in this situation.

Liam McArthur: I hear what the cabinet secretary says about my amendment 7, but it was expressed to me that enforcement officers are having kittens over this—although the person put it in rather more measured terms.

I appreciate the cabinet secretary’s offer to write to me with an explanation. However, given the concerns that have been expressed to me and the underlying problems that many in the port industry perceive in this regard, I will press amendment 7.

The Deputy Presiding Officer: The question is, that amendment 7 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
Baillie, Jackie (Dumbarton) (Lab)

Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
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AGAINST

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 Maxwell, Stewart (West of Scotland) (SNP)
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 McKelvie, Christina (Central Scotland) (SNP)
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 Thompson, Dave (Highlands and Islands) (SNP)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Deputy Presiding Officer: The result of the division is: For 57, Against 62, Abstentions 0.

Amendment 7 disagreed to.

Section 136—Duty to provide evidence of authority

Amendment 85 moved—[Richard Lochhead] and agreed to.

After section 137

Amendment 86 moved—[Richard Lochhead]—and agreed to.

Section 141B—Modification of section 22A of Sea Fish (Conservation) Act 1967

The Deputy Presiding Officer: We move to group 22. Amendment 87, in the name of the

cabinet secretary, is grouped with amendments 88, 89, 89A, 89B, 89C, 89D, 99 and 100.

Richard Lochhead: The Scottish Government sought leave to withdraw a number of our stage 2 amendments in response to the concerns of members of the Rural Affairs and Environment Committee. In the intervening period, further consideration has been given to those amendments and their impact. As a result, amendments have been lodged to the Scottish Government's amendment 89. Those are amendments 89A, 89B, 89C and 89D and I will speak to them shortly.

I remain convinced that the Scottish Government's amendments are necessary and appropriate, and I am of the view that concerns are unfounded. The Government's amendments will improve sea fisheries legislation without having a detrimental impact on fishermen and are appropriate in a Scottish context. They address a particular possible future difficulty with granting regulating and several orders under the Sea Fisheries (Shellfish) Act 1967. They also amend the long title of the bill and, at the same time, help to align the bill with the UK Marine and Coastal Access Act 2009.

15:45

Amendment 87 makes technical modifications to the Sea Fish (Conservation) Act 1967 that are required as a result of the insertion of section 141B at stage 2. Amendment 88 modifies the Sea Fisheries (Shellfish) Act 1967 in several ways. First, it removes the requirement for ministers to obtain the consent of the Crown Estate commissioners before granting a several or regulating order and replaces it with an obligation to have regard to the powers and duties of the Crown Estate. Secondly, it provides ministers with powers to vary or modify several or regulating orders to enable a development to take place. Thirdly, it enables ministers to make provision for the owner of an affected area to pay compensation to the grantee of a several order. Finally, it imposes on ministers an obligation to have regard to the powers and duties of the Crown Estate.

Amendment 89 modifies the Sea Fisheries (Shellfish) Act 1967 also. First, it enables moneys that are collected by way of tolls or royalties by the grantee of a several or regulating order to be used for purposes that are connected with the regulation of the fishery and not just for the cultivation of the fishery. Secondly, it extends liability for an offence under section 3 of the Sea Fisheries (Shellfish) Act 1967 to include the master, owner and charterer of a sea fishing boat. Thirdly, it enables restrictions and regulations that are made by the grantee of a fishery to be

enforced by the relevant enforcement agency; in Scotland, that is Marine Scotland compliance.

Fourthly, the amendment requires the grantee of a regulating order to keep and make available a register of licence holders, and extends the current protection of private oyster beds to all privately owned shellfish beds. Fifthly, it gives ministers extended powers to specify in an order the type of fishing implements that can be used in areas covered by an order. Sixthly, it removes the obligation on ministers to appoint an inspector to carry out an inquiry into a proposed order and instead provides ministers with discretion as to whether to appoint an inspector to hold an inquiry. Finally, it applies an increased maximum fine level of £50,000 on summary conviction for offences relating to several or regulating orders under section 7 of the Sea Fisheries (Shellfish) Act 1967.

The modification that provides ministers with discretion as to whether to appoint an inspector is designed to avoid situations in which an expensive and time-consuming inquiry is triggered unnecessarily. However, I anticipate that in most cases an inquiry would take place. For example, the regulating orders in Shetland and on the Solway would be handled in exactly the same way under the new provisions as they were previously, as would the Highland regulating order application that was unsuccessful.

Amendment 89A, in the name of Karen Gillon, would remove the ability of a regulating order grantee to impose restrictions, to make regulations or to have those enforced by Marine Scotland compliance. Unfortunately, the amendment would result in such orders being unworkable. For that reason, I ask Karen Gillon not to move it.

Amendment 89B, also in the name of Karen Gillon, would retain the current obligation in the Sea Fisheries (Shellfish) Act 1967 to appoint an inspector to hold an inquiry in all circumstances where an objection is considered neither frivolous nor irrelevant. That could result in time-consuming and expensive inquiries being triggered unnecessarily. For that reason, I ask Karen Gillon not to move the amendment.

Amendment 89C, in the name of Liam McArthur, seeks to provide a statutory defence for a master, charterer or owner of a fishing boat that is used in an offence on the basis that they did not know or had no reason to suspect that the boat would be used in an offence. However, subsection (1)(b) of the new section created by Scottish Government amendment 89 creates a strict liability offence. That approach is commonly used in fisheries enforcement, because it is often difficult to show intent. Enforcement officers rarely observe an offence taking place, so they need to rely on strict liability attaching to persons where it can be shown that there has been a material breach of a

rule. Liam McArthur's amendment could not extend to a master, who is responsible for what a vessel does and what happens on board, and is therefore unworkable. On that basis, I ask Liam McArthur not to move it.

Amendment 89D, also in the name of Liam McArthur qualifies the ministerial discretion that is provided by Government amendment 89 by providing that an inspector will be appointed to hold an inquiry where an objection raises a material concern. On the basis that the amendment describes what will happen in practice, we are willing to accept it.

Amendment 100 will simply add the words

"and regulation of sea fisheries"

to the long title. Amendment 99 will delete the word "and" from the long title, as it is misplaced as a result of amendment 100.

The purpose of the Scottish Government amendments in this group is primarily to address concerns relating to the granting of several and regulating orders in Scotland. The amendments have the support of those who operate regulating orders at present. In addition, the opportunity is being taken to make fisheries legislation in Scotland consistent, as appropriate, with that in the rest of the UK. The amendments will bring about improvements to fisheries management, they are appropriate in a Scottish context and they will not impact adversely on fishing.

I move amendment 87.

Karen Gillon: The Labour Party is happy to support amendments 87 to 89, 89D, 99 and 100. However, we cannot support amendment 89C in the name of Liam McArthur.

My amendments 89A and 89B seek to gain further information from the cabinet secretary in relation to amendment 89. There was considerable concern in the committee at stage 2 about the late introduction of the proposals. There is concern that section 15(3) of the Sea Fisheries Act 1968 permits the grantees of a regulating order to impose restrictions in regulations, which would be enforceable at the hands of Marine Scotland compliance and prosecutable in the criminal courts of Scotland. The only safeguard that the public would have against the introduction of such criminal offences would be that the prior consent of the appropriate minister would have to be obtained. Parliament would have no part in that, as it has no part in the making of such orders or the approval of such regulations.

It has been argued that protection is available in England and Wales in relation to the granting of regulating orders. As that is not the case in Scotland, there is concern that we will be left at a disadvantage. I welcome the cabinet secretary's

comments on the issue, but perhaps in his summing up he will provide further clarification and detail.

On amendment 89B, I seek further clarification from the cabinet secretary. Recently, a group of people attempted to obtain a regulating order to manage the stocks of all permitted species of shellfish within the full extent of the coastal waters of Highland Council. Not only did the minister not reject the proposal, he adopted it, drafting and promoting the order. There was then an inquiry, which found against the order. We need clarity on how that kind of order will be handled. If the cabinet secretary cannot comment fully on that in the chamber, perhaps he will undertake to write to the Rural Affairs and Environment Committee to outline the procedure in more detail.

If I receive the assurances that I seek, I might be persuaded not to move my amendments.

Liam McArthur: I hope that I have redeemed myself by pressing my request-to-speak button in good time, Presiding Officer.

I am happy to accept the cabinet secretary's rationale for modifying the Sea Fisheries (Shellfish) Act 1967 and the Sea Fish (Conservation) Act 1967 and to support the substantive amendments in the group, which are 88 and 89. However, like Karen Gillon, I share some of the concerns that have been expressed by the Scottish Fishermen's Federation about a small number of important implications, although I am not persuaded of the need to go as far as Karen Gillon proposes in her amendments 89A and 89B, which would remove entirely subsections of Government amendment 89. I believe that changes in the provisions in relation to vicarious liability and appeals rights are necessary, or should at least be exposed to debate.

It is fair to say that seeking to amend the Government's amendment 89 has not been straightforward, but I hope that what my amendments 89C and 89D lack in elegance they make up for in addressing the substance of the fishing industry's concerns. As the cabinet secretary said, amendment 89C seeks to make it clear that a vessel owner cannot be held legally accountable for the illegal actions of a skipper or master where he or she did not know, nor had reason to suspect, that an offence was being committed. It is perhaps unlikely that a procurator fiscal would pursue an owner in such circumstances. In light of the cabinet secretary's comments, I am disinclined to move that amendment.

On amendment 89D, we debated this morning whether and how we might allow for new rights of appeal or rights to be heard. In this case, my concern is that the effect of the Government's

amendment to section 214 of the Sea Fisheries (Shellfish) Act 1967 risks removing an existing right of appeal. That seems neither sensible nor desirable, although I accept that it is in no one's interest to allow vexatious or frivolous appeals to clog up the system. In that spirit, amendment 89D seeks to require material objections to be heard while allowing ministers the opportunity to filter out those that are deemed vexatious. That is a more proportionate response, and I am grateful for the cabinet secretary's indication of his support for the amendment.

Richard Lochhead: We are dealing with a complex issue, and I appreciate the helpful and understanding way in which members have approached the amendments.

I reiterate that amendments 87 to 89 are designed to ensure that existing fisheries legislation works more smoothly and to ensure that the organisations that run regulating orders can carry out their duties. Indeed, many of the changes have been proposed at the behest of those organisations.

I take on board Karen Gillon's request for clarity on the Highland regulating order that was unsuccessful. I am happy to look into that and the points that she raised and, as she requests, to write to the committee with that clarification.

Amendment 87 agreed to.

After section 141B

Amendment 88 moved—[Richard Lochhead]—and agreed to.

Amendment 89 moved—[Richard Lochhead].

The Deputy Presiding Officer: The question is, that amendment 89 be agreed to. Are we agreed?

Members: Yes.

Amendments 89A, 89B and 89C not moved.

Amendment 89D moved—[Liam McArthur]—and agreed to.

The Deputy Presiding Officer: The question is—I have already done this one. You agreed to amendment 89 earlier, didn't you?

Members: Yes.

The Deputy Presiding Officer: I am informed that the question is on the amendment as amended. It does not say that on my script, though.

The question is, that amendment 89, as amended, be agreed to. Are we agreed?

Members: Yes

Amendment 89, as amended, agreed to.

The Deputy Presiding Officer: I have an idiot's guide, and it ain't working. *[Laughter.]*

Section 145—Orders and regulations

Amendment 90 moved—[Liam McArthur].

The Deputy Presiding Officer: The question is, that amendment 90 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Foulkes, George (Lothians) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marlyn (North East Scotland) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Henry, Hugh (Paisley South) (Lab)
 Hume, Jim (South of Scotland) (LD)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McArthur, Liam (Orkney) (LD)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McInnes, Alison (North East Scotland) (LD)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Mulligan, Mary (Linlithgow) (Lab)
 Murray, Elaine (Dumfries) (Lab)
 O'Donnell, Hugh (Central Scotland) (LD)
 Oldfather, Irene (Cunninghame South) (Lab)
 Park, John (Mid Scotland and Fife) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stewart, David (Highlands and Islands) (Lab)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)

Tolson, Jim (Dunfermline West) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Allan, Alasdair (Western Isles) (SNP)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brown, Keith (Ochil) (SNP)
 Brownlee, Derek (South of Scotland) (Con)
 Campbell, Aileen (South of Scotland) (SNP)
 Carlaw, Jackson (West of Scotland) (Con)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 FitzPatrick, Joe (Dundee West) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harper, Robin (Lothians) (Green)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West of Scotland) (SNP)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMillan, Stuart (West of Scotland) (SNP)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Paterson, Gil (West of Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Somerville, Shirley-Anne (Lothians) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Deputy Presiding Officer: The result of the division is: For 57, Against 63, Abstentions 0.

Amendment 90 disagreed to.

Schedule 1

PREPARATION, ADOPTION ETC OF MARINE PLANS OR ANY AMENDMENT

Amendments 91 and 92 moved—[Richard Lochhead]—and agreed to.

Schedule 2

FURTHER PROVISION ABOUT CIVIL SANCTIONS UNDER PART 3 (MARINE LICENSING)

Amendments 93 to 98 moved—[Richard Lochhead]—and agreed to.

16:00

Long title

Amendment 5 moved—[Peter Peacock].

The Deputy Presiding Officer: The question is, that amendment 5 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)
 Butler, Bill (Glasgow Anniesland) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Margaret (Glasgow Baillieston) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Ferguson, Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Gillon, Karen (Clydesdale) (Lab)
 Glen, Marilyn (North East Scotland) (Lab)
 Gordon, Charlie (Glasgow Cathcart) (Lab)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Harper, Robin (Lothians) (Green)
 Harvie, Patrick (Glasgow) (Green)
 Henry, Hugh (Paisley South) (Lab)
 Hume, Jim (South of Scotland) (LD)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Kelly, James (Glasgow Rutherglen) (Lab)
 Kerr, Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Ken (Eastwood) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McArthur, Liam (Orkney) (LD)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McInnes, Alison (North East Scotland) (LD)
 McMahan, Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)

Mulligan, Mary (Linlithgow) (Lab)
 Murray, Elaine (Dumfries) (Lab)
 O'Donnell, Hugh (Central Scotland) (LD)
 Oldfather, Irene (Cunninghame South) (Lab)
 Park, John (Mid Scotland and Fife) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Pringle, Mike (Edinburgh South) (LD)
 Purvis, Jeremy (Tweeddale, Ettrick and Lauderdale) (LD)
 Rumbles, Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Mid Scotland and Fife) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North East Fife) (LD)
 Smith, Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stewart, David (Highlands and Islands) (Lab)
 Stone, Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Tolson, Jim (Dunfermline West) (LD)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Whitton, David (Strathkelvin and Bearsden) (Lab)

AGAINST

Adam, Brian (Aberdeen North) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Allan, Alasdair (Western Isles) (SNP)
 Brocklebank, Ted (Mid Scotland and Fife) (Con)
 Brown, Gavin (Lothians) (Con)
 Brown, Keith (Ochil) (SNP)
 Brownlee, Derek (South of Scotland) (Con)
 Campbell, Aileen (South of Scotland) (SNP)
 Carlaw, Jackson (West of Scotland) (Con)
 Coffey, Willie (Kilmarnock and Loudoun) (SNP)
 Constance, Angela (Livingston) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Don, Nigel (North East Scotland) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 FitzPatrick, Joe (Dundee West) (SNP)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Highlands and Islands) (SNP)
 Goldie, Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Harvie, Christopher (Mid Scotland and Fife) (SNP)
 Hepburn, Jamie (Central Scotland) (SNP)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Adam (South of Scotland) (SNP)
 Johnstone, Alex (North East Scotland) (Con)
 Kidd, Bill (Glasgow) (SNP)
 Lamont, John (Roxburgh and Berwickshire) (Con)
 Lochhead, Richard (Moray) (SNP)
 MacAskill, Kenny (Edinburgh East and Musselburgh) (SNP)
 Marwick, Tricia (Central Fife) (SNP)
 Mather, Jim (Argyll and Bute) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West of Scotland) (SNP)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McKee, Ian (Lothians) (SNP)
 McKelvie, Christina (Central Scotland) (SNP)
 McLaughlin, Anne (Glasgow) (SNP)
 McLetchie, David (Edinburgh Pentlands) (Con)
 McMillan, Stuart (West of Scotland) (SNP)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Paterson, Gil (West of Scotland) (SNP)
 Robison, Shona (Dundee East) (SNP)
 Russell, Michael (South of Scotland) (SNP)

Scanlon, Mary (Highlands and Islands) (Con)
 Scott, John (Ayr) (Con)
 Smith, Elizabeth (Mid Scotland and Fife) (Con)
 Somerville, Shirley-Anne (Lothians) (SNP)
 Stevenson, Stewart (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow Govan) (SNP)
 Swinney, John (North Tayside) (SNP)
 Thompson, Dave (Highlands and Islands) (SNP)
 Watt, Maureen (North East Scotland) (SNP)
 Welsh, Andrew (Angus) (SNP)
 White, Sandra (Glasgow) (SNP)
 Wilson, Bill (West of Scotland) (SNP)
 Wilson, John (Central Scotland) (SNP)

The Deputy Presiding Officer: The result of the division is: For 58, Against 61, Abstentions 0.

Amendment 5 disagreed to.

Amendments 99 and 100 moved—[Richard Lochhead]—and agreed to.

The Deputy Presiding Officer: That ends consideration of amendments.

Marine (Scotland) Bill

The Deputy Presiding Officer (Alasdair Morgan): The next item of business is a debate on motion S3M-5559, in the name of Richard Lochhead, on the Marine (Scotland) Bill.

16:02

The Cabinet Secretary for Rural Affairs and the Environment (Richard Lochhead): I am delighted to open the debate on Scotland's first ever marine bill. This is truly a historic day for Scotland, our seas and the people of Scotland who want our seas to be protected and managed properly for future generations.

Scotland's first marine bill is crucial legislation that is designed to protect and enhance our world-class marine area. We are all well aware of the importance of Scotland's spectacular seas—our dolphins, basking sharks, coral reefs and seabirds, such as puffins, are already internationally renowned and acknowledged. I have already taken action this year to ban the barbaric practice of shark finning in Scottish waters, in order to provide more protection for that endangered species.

Much of what we do is underpinned by Scotland's fantastic marine science resource and the bill will also be underpinned by that expertise. The marine protected areas will be driven by science and they will now also take into account, and where appropriate have regard to, socioeconomic factors. We have a proud history in marine science. More than 100 years ago, Scotland was the world leader in oceanographic and marine research. The marine laboratory at Aberdeen, which is now a core part of Marine Scotland, has records that go back more than 100 years. As we move forward, science will become even more important.

Let us not forget that the nation of Scotland has a history that is intimately connected to the sea. The seas have played a huge role in defining who we are as Scots and how we view the world. Our spectacular, resource-rich seas have shaped our nation. They have driven both our economy and social change, from the rise of the city of Glasgow and shipbuilding, through to Peterhead, one of Europe's major white-fish ports, and the oil and gas capital of Aberdeen.

Our island communities are shaped and largely defined by their relationship with our marine environment. Our island representatives in the Parliament are particularly well aware that the marine environment is the life blood of many communities in Scotland. From the largest communities to the single crofter on the shores of

a loch, Scots interact with the seas on a daily basis.

Of course, new times require new approaches to harness the tremendous potential of our seas while delivering protection and enhancement. In a routine survey of the dredge-spoil disposal site in the Sound of Canna, Marine Scotland recently discovered and took video footage of dozens of fanshells. Fanshells are Scotland's biggest shells; they grow to about 0.5m. In this case, they were found at depths of 175m. That discovery massively expands the known population of that amazing species. The previous estimate of the live population around the United Kingdom was 14, of which three were in Scotland. Fanshells are amazing creatures that filter and improve the water in the sea areas where they live. I intend that those fanshells, and the other fantastic and unique species and habitats in our waters should be protected, and that they should benefit from the Marine (Scotland) Bill, which I hope we will pass this afternoon.

The bill delivers a step change in our approach to the marine environment. It delivers enhanced protection, ensuring that the marine environment will be safe for our children, their children and generations beyond. The bill ensures that we have the tools safely to exploit the full resource potential of the seas. The renewables industry is a case in point. The bill provides us with the tools potentially to deliver 12GW from Scotland's seas by 2020, taking into account the offshore wind, wave and tidal projects that are proposed. Development on that scale would well exceed Scotland's renewable energy target of 50 per cent of electricity demand by 2020. That is one way in which our seas are helping Scotland and the world to tackle climate change.

The bill heralds a new era for Scotland's marine environment. It is trail blazing. In time, the passing of the bill will prove to be one of the Parliament's proudest moments. It has been possible only because of the effort and contributions of so many people and organisations. There was a huge response to the consultation. We have held workshops and meetings with stakeholders over the past couple of years that have allowed us to listen and learn from those with an interest in and expert knowledge of the marine environment. As well as the major organisational stakeholders—Scottish Environment LINK and the Scottish Fishermen's Federation to name but two—there has been a major input from thousands of Scots, who have wanted to make their views known on the future of Scotland's marine environment. Every sector and age group has engaged throughout the process. Letters about the bill came to the Government from primary school pupils in Ullapool. I worked with the Scottish Wildlife Trust, which worked with those children and wrote to us

about its concerns and aspirations for Scotland's marine environment.

Turning to the Parliament, I thank members of the Finance Committee, the Subordinate Legislation Committee and, in particular, the Rural Affairs and Environment Committee. The bill has benefited from the detailed interest and scrutiny of that committee's members, and we have a stronger and better bill as a result of the parliamentary process.

I put on record our thanks to the committee clerks, who have worked extremely hard to support the committees' work. I thank my officials, who have been up many an evening burning the midnight oil to ensure that the Scottish Government continued to work closely with Parliament and with others with an interest in the bill to make it a bill of which the Parliament can be proud.

The bill reflects the aspirations of the people of Scotland and members of the Parliament. Scotland's first ever marine bill is the start of a journey, a journey that will bring prosperity to Scotland and protect our wonderful marine environment. The bill allows the development of a national marine plan and the setting up of Scottish marine regions. The national marine plan will be a key document in setting out our aspirations for Scotland's seas. The marine regions will be key to involving stakeholders all around our coasts in the future of the seas. Marine planning will provide better information and greater certainty on which to base investment decisions, and the new statutory marine planning system will ensure sustainable economic growth in the seas around Scotland.

The bill provides vital tools to protect and conserve our marine flora and fauna and historic assets, allowing the designation of marine protected areas. We will work closely with Scottish Natural Heritage and the Joint Nature Conservation Committee to develop the MPA network, and we will involve stakeholders closely in that project.

We will also develop a new licensing and reporting system for seals, and we will improve their protection. I have heard a lot said about what the bill does for seal protection, and there have been many misunderstandings. Let us all be clear: the bill is a major step forward in protecting our seal populations and it provides a system that is fit for the 21st century and which will help us to conserve our iconic seal species.

Peter Peacock (Highlands and Islands) (Lab): Robin Harper made a point about haul-out sites, which Elaine Murray picked up on when summing up on the group of amendments in question. Elaine Murray referred to the possibility of

guidance being issued, either by the cabinet secretary or by the planning minister, so as to minimise the number of occasions on which there might be a conflict between a haul-out site and a fish farm. The cabinet secretary was able to nod in agreement with that, but I give him the opportunity to put it on the record now that he will consider the issue and that he will potentially issue guidance.

Richard Lochhead: I am happy to put it on record that we will work with all the relevant authorities to ensure that appropriate guidance is in place on the identification of haul-out sites of our iconic seal populations around Scotland's coasts.

The bill will make it easier for Scotland to address climate change and develop the huge renewable energy potential in our seas. It will deliver faster economic growth while ensuring that the seas continue to provide services for future generations of Scots. It will also help us to care for and safeguard the interests of what lies beneath the waves in our precious marine environment.

For the purposes of rule 9.11 of the standing orders of the Scottish Parliament, I advise the Parliament that Her Majesty, having been informed of the purport of the Marine (Scotland) Bill, has consented to place her prerogative and interests, in so far as they are affected by the bill, at the disposal of the Parliament, for the purposes of the bill. I am delighted to move,

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

16:10

Elaine Murray (Dumfries) (Lab): The Marine (Scotland) Bill is vital and its significance should not be underestimated. The marine area is essential to biodiversity, to food supply, to energy generation and to sequestering carbon—the seas dissolve CO₂, so they are an extremely important carbon sink. It is no exaggeration to say that the health of the marine environment is essential to the future of our planet. It is our duty to ensure that future generations inherit a marine environment that is biodiverse, that continues to supply healthy local food, whose power can be harnessed to supply renewable energy, and which continues to act as a carbon sink—if it is to do that, its temperature and pH must be retained.

It is a great pity that the most recent exposé in the saga of our Westminster colleagues' expenses will doubtless ensure that the media today pay little attention to the passage of the bill. It is unfortunate that the repercussions of the shenanigans of a few Westminster MPs are much more interesting to the national media than the passage of important legislation in the Scottish Parliament.

I thank everyone who was involved in the evolution of the bill, from drafting and scrutiny to amendment. That includes the cabinet secretary and his bill team, as well as his predecessor ministers Sarah Boyack and Rhona Brankin, who worked on defining the scope of the bill. Thanks are due, as ever, to the Rural Affairs and Environment Committee clerks, who worked beyond the call of duty on hundreds of amendments and what must have been about 16 hours of stage 1 consideration.

On behalf of Labour members, I also thank the witnesses and representative organisations who submitted evidence. I also thank Scottish Environment LINK, the Scottish Fishermen's Federation, the Scottish Salmon Producers Organisation, Advocates for Animals, Scottish Renewables, ScottishPower Renewables, the Convention of Scottish Local Authorities and the bill team, who all made efforts to meet me and colleagues prior to stage 3 to discuss our amendments. I am grateful to them for that.

In the course of the bill's progress through Parliament we have made considerable improvements to what was already a good bill. That is not to say that every consultee or contributor will have achieved everything that they wanted to achieve. That would not be possible. Marine planning partnership will necessarily mean compromise. It will be necessary to understand partners' concerns and aspirations. There are many and varied interests in the marine environment and the challenges of working in partnership will remain when the bill is on the statute book. Nevertheless, I have been encouraged by the way in which the bill progressed, which bodes well for marine partnership working. The vast majority of contributors to the scrutiny process approached the issues in a spirit of consensus and partnership. I hope that such an attitude will be replicated when the regional marine planning partnerships are established, because it is essential to the successful implementation of the bill.

I am pleased that marine planning partnerships will not be able to consist of a single public authority and must at least include a representative of the Scottish ministers, as a result of my amendment 24. I remain sorry that the intention behind my amendments 41 and 22 was misunderstood, particularly by Tavish Scott, and I suspect that John Scott and I will be proved right in time, as joint fish farming and renewables projects are rolled out. Of course, there can still be amendment in that regard, if necessary.

I am very pleased that amendments in the names of Peter Peacock and Liam McArthur on climate change adaptation and mitigation were agreed to, because they have strengthened the

bill. I am pleased that amendments that I and Peter Peacock lodged on the protection and enhancement of the marine area and the linking of planning and marine protection in regional plans were agreed to.

I am also delighted by the progress that has been made on the welfare of seals. I know that those who lobbied us to prevent any killing or taking of seals will be disappointed, but we have come a long way from the current situation, in which seals can be used almost as target practice. When the bill is enacted, the killing and taking of seals will be permitted only as a last resort, when all other forms of deterrent do not work. Moreover, any seal licence will contain strict conditions to minimise suffering should a seal have to be taken or killed. Peter Peacock reiterated my request to the cabinet secretary that guidance on the siting of fish farms should be supplied to planning authorities, and I am pleased that the cabinet secretary will consider that.

The bill came to the Rural Affairs and Environment Committee last summer, and following its passage has been an interesting experience, which has included a number of visits to different parts of the country. I am lucky to live near the banks of the Solway, which is an extremely important marine area. As the Presiding Officer knows, it is well known for its habitats, wildlife, recreation, angling, fishing and potential renewable energy. The Solway Firth Partnership has provided one model for the way in which marine planning partnerships can work together. Indeed, it has a good record of working within the Solway Firth area in Scotland as well as across the border with representative organisations in Cumbria. I am pleased that the bill, and the memorandum of understanding with the UK and its bill, will continue to allow that.

I agree with the cabinet secretary that today is one of the Parliament's proudest moments. It ranks alongside the passing of the Climate Change (Scotland) Bill and I find it an honour to have been involved with the Marine (Scotland) Bill.

16:16

John Scott (Ayr) (Con): I begin, like others, by thanking all those who have contributed to the creation of the Marine (Scotland) Bill. In particular, I thank our clerks, who have worked so hard to get us to where we are today. We are also indebted to all those who gave evidence to the committee and the Government prior to the drafting of the bill, and we are particularly grateful to organisations such as the Scottish Fishermen's Federation, the Scottish Salmon Producers Organisation, Advocates for Animals, Scottish Environment LINK, and Scottish Renewables for all their lobbying and input.

Today we have made a bill of which our Parliament can be justifiably proud. The bill seeks to develop marine planning in a sustainable way, as well as to focus where possible and practicable on restoring and enhancing our marine environment. Of course, our fishermen, who have made their living from the seas since time immemorial, and those who will seek to exploit our seas in the future, have to be and have been our primary consideration in the passage of the bill, but those interests now also have properly to take greater account of environmental considerations, and to rebuild and restore our unique marine environment and habitats.

For all who were closely involved in the process, which, I am happy to say, has not been party political, trying to reconcile the needs, aspirations and ambitions of all current and future users of our seas has been a balancing act. Time will tell and history will judge whether we have created a worthwhile bill, but I share the view of the cabinet secretary and Elaine Murray that we have done that. I am certain that what we have delivered is better than what existed before. Marine Scotland now has a huge task ahead of it to implement the bill. An ecosystem approach to the development of national marine plans will take a huge amount of studying and information-gathering, and I wish Marine Scotland well in that task.

We have also dealt specifically with fish-farming and seal protection in section 5, and I hope that we achieved a compromise that allows and encourages the development of aquaculture, while protecting our internationally important seal colonies. My only regret is that the Government did not have the courage of its convictions and transfer planning control for aquaculture to Marine Scotland, and that inconsistency is and will remain a weakness in the bill. I share Elaine Murray's views on that, and her surprise at Tavish Scott's apparent, but memorable, misunderstanding of what was being proposed.

We have sought to look into the future by placing climate change mitigation at the heart of the bill, and it is self-evident that the future health and wellbeing of our seas will depend on how climate change and temperature changes affect all the species contained therein.

We have also sought to make the bill compatible with the Marine and Coastal Access Act 2009, which is important to delivering a consistent UK-wide approach to the use and protection of our seas.

I thank again all those who have helped to create the bill. The Scottish Conservatives look forward to its passing into law.

16:20

Liam McArthur (Orkney) (LD): This day has been a long time coming. Our bill has enjoyed a lengthy gestation, but it is important that it has throughout that period enjoyed widespread support in the Parliament and beyond. Like Elaine Murray, I pay tribute to a colleague—Ross Finnie—who did much to establish the platform and principles that underpin the bill that we are about to pass. I also acknowledge the considerable efforts of the cabinet secretary and his officials in building successfully on that work.

We offer our sincere thanks to all those who gave evidence on the bill. Their expertise, patience and, as Elaine Murray said, willingness to compromise when necessary have been enormously helpful. I acknowledge the efforts of Scottish Environment LINK, Scottish Renewables, the Scottish Fishermen's Federation and Advocates for Animals. I am indebted to the committee clerks and the Scottish Parliament information centre, which rose to the challenge of turning our policy intentions into workable changes to this historic bill. I am also grateful for the good-natured collaboration of committee colleagues.

As I said at stage 1, my interest in the bill is more than academic. Economically, socially, culturally and environmentally—in every way imaginable—Orkney's past, present and future are forged in the seas around our archipelago. For Scotland and the UK, our seas help to define us as nations.

The economic benefits that traditionally derive from sea fisheries, aquaculture and oil and gas; the potential of our renewable energy sector; the growth of wildlife tourism; and submerged archaeology highlight the extent of the resource on our doorstep and the pressures in managing the sometimes competing demands for access to that resource.

The bill will help us to balance those demands when necessary. I very much welcome the duties that ministers and public authorities will have to protect and enhance Scotland's marine environment. In relation to that, I acknowledge the role of Peter Peacock and Elaine Murray in lodging amendments. We have achieved a sensible compromise about the relative importance that is attached to economic, social and climate mitigation considerations.

In the limited time that remains, I will touch on a few issues that emerged in the debate today. I am delighted that attempts to bring responsibility for fish-farm licensing under the control of Marine Scotland were resisted and that my foreboding was misplaced. As I have said throughout the process, the proposed changes were unnecessary and would have introduced a presumption in

favour of centralisation, in the interests of administrative neatness. COSLA and a number of people in the industry—notably in Shetland—highlighted the risks of a loss of efficiency, of local accountability and of financial certainty in business planning. Parliament has listened to the evidence and sent a clear signal about our confidence in councils, several of which have invested time and resources in developing expertise in the subject.

I am pleased that members agreed to support moves to establish a framework for what local plans might look like. The provisions do not go as far as I would like, but they will give useful guidance about what is expected to those who are charged with developing marine plans, particularly at the regional level. That will be done in a way that does not compromise the necessary flexibility.

I thank the Government and the other parties for their support for several of my amendments to remove uncertainties and increased risks for our developing renewables industry. Marine renewables could deliver more than 30GW of power from offshore wind, wave and tidal sources in the next decade, so the contribution that they can make to cutting harmful emissions and meeting our energy needs deserves our full support. The sector can also play a major role in conserving our seas and helping to address issues such as acidification.

Likewise, I am grateful to those who supported my calls for attention to be paid to the impact of displacement effects as a result of marine spatial planning. That might not be an exact science, but we now have a framework in which such issues can at least be assessed.

Like others, I think that we have made progress on seal protection, today and at earlier stages, on which I pay tribute to Elaine Murray for her efforts. I acknowledge that some will be disappointed that we did not go further, but I hope that they, like Robin Harper, at least concede that progress has been made. The bill puts in place a licensing regime that makes it clear that taking or shooting a seal is a last resort. The bill will require all non-lethal deterrents to be exhausted and will place strict limits on the conditions in which any seal can be killed. The important reporting requirements will ensure more transparency and—I hope—public confidence.

Through our collective efforts, we have arrived at a bill that meets the aspirations of the many thousands of people who contributed to the various consultations and calls for evidence. The bill demonstrates the benefits of a consistent approach from successive Governments in Scotland and of collaboration between the Governments north and south of the border.

I congratulate the cabinet secretary and his team again and confirm that Scottish Liberal Democrats will of course support the bill at decision time.

The Deputy Presiding Officer: We move to the open debate. If members stick to their time limits, we will get everyone in.

16:25

Bill Wilson (West of Scotland) (SNP): I am delighted that the Marine (Scotland) Bill is well on its way to success. Indeed, I might venture to say that nobody examining the bill could accuse the Parliament of being all at sea concerning matters marine. I am sure that I speak for my Scottish National Party colleagues on the Rural Affairs and Environment Committee in acknowledging the considerable debt owed to both the committee clerks and the bill team, who are a patient group of human beings indeed. I will not list all the other organisations that contributed, as Elaine Murray and Liam McArthur have already done that, so let me simply agree with what they said.

I am particularly delighted that the cabinet secretary accepted the need for an ecologically coherent network of marine protected areas and that section 68A now requires Scottish ministers to designate MPAs in such a way as to form a network of conservation sites that contributes to the conservation or improvement of the marine environment in the United Kingdom. The committee has been assured that science will remain the primary consideration when identifying MPAs for inclusion in the network and that socioeconomics will be taken into account only when choosing between locations that would make an equivalent contribution to the network. I believe that that is an important assurance. In the final analysis, if the science is not correct and if the conservation measures are not correct, long-term economic stability will be unobtainable.

For the MPAs to be accepted and for them to work, they must have local support. Those who might be affected need to understand clearly why an area has been designated as an MPA and what activities are prohibited. Such prohibitions should be made on the basis of their conflicting with the aims of the MPA. If fishing or other economic activity does not impact negatively on the aims of the designation, such activities should be permissible. At stage 2, I lodged three amendments to make that clear. I was happy not to press them on the assurance—which the cabinet secretary subsequently confirmed in writing—that the Government would provide guidance on the process of designation and the information to be published with the designation orders and that the information would give an indication of possible damaging activities.

It is vital that MPAs are properly monitored to check whether their objectives are being met. Climate change might well change ecological communities, so it might be necessary to move MPAs in order to achieve their aims. As an example of the impact of global warming, the Sir Alister Hardy Foundation for Ocean Science announced in 2008 that, since 1960, there had been a 70 per cent reduction in the biomass of zooplankton in the north-east Atlantic. The cold water zooplankton *Calanus finmarchicus* is progressively being replaced by the warmer-water species *Calanus helgolandicus*. Therefore, I welcome the Government's acceptance of the need to assess the extent to which the stated conservation objectives of any nature conservation MPA have been achieved.

As a result of Peter Peacock's amendment 101, the bill requires that the Government and public bodies

"must act in the way best calculated to further the achievement of sustainable development, including the protection and, where appropriate, enhancement of the health of that area, so far as is consistent with the proper exercise of that function."

The need for enhancement of health is clear when examining the Clyde, which has an appalling history of overexploitation. I have referred to this before, but it bears retelling. The Inshore Fishing (Scotland) Act 1984 repealed most of the remaining protective legislation and allowed fishing by all methods within the 3-mile limit. Since then, there has been a significant decline in biodiversity. Some 20 species of fish are at the point of commercial, if not ecological, extinction. The decision to agree to amendment 101 is a positive step that should ensure that we do not see any other ecosystem collapsing into a monofishery. It will, I hope, foster the recovery of the Clyde.

Having welcomed amendment 101, I remain of the view that, when we consider the health of the sea, we should take into account the resilience of the ecosystem. The word "health" may be ambiguous. Would seas be considered healthy only if there were no economic use—clearly, that would be unacceptable to our many communities that rely on the sea—or only if the economic use were considered "sustainable"? The latter definition may appear appealing, but it has its own problems. Obviously, I would argue that the Clyde estuary is not a healthy ecosystem, but its nephrops fishery is sustainable. Therefore, under the second definition, the Clyde could be regarded as being healthy.

On several occasions, I met officials from the Scottish Government's marine bill team to discuss improvements to the bill. At my last meeting, I suggested a definition of "health" that would

incorporate ecosystem resilience. That would not only solve the definition problems that I have discussed but would, in effect, account for chemical alteration of the sea, because the chemical balance of the sea can affect ecosystem resilience.

The Deputy Presiding Officer: Wind up, please.

Bill Wilson: Understood.

I hope that the cabinet secretary will consider that suggestion when he comes to consider the definition of the "health" of the seas.

16:29

Karen Gillon (Clydesdale) (Lab): I am delighted to be able to participate in this, the final stage of the Marine (Scotland) Bill. Its long process, which began in the previous parliamentary session, has now finally come to a conclusion.

The fact that the amended bill is stronger than the one that we began with is down to many people, in both Parliament and civic Scotland. Other members have named them; I simply add my thanks for their advice, information and support in scrutinising and seeking to amend the bill. In particular, I put on record my thanks to the clerks to the Rural Affairs and Environment Committee, especially Peter McGrath and Roz Wheeler, who worked round the clock to ensure that the stage 3 amendments were properly drafted and did what we intended them to do, even if we sometimes did not really know what that was. When I received my final daily list at 1 o'clock in the morning on Saturday, I thought that they had gone above and beyond the call of duty in their provision of support.

Unlike other members of the committee, as MSP for Clydesdale, I represent a constituency that has no coastline—it is probably one of the largest land-locked constituencies in Scotland—so, in many ways, I was at the mercy of those who gave evidence to the committee. That had its advantages, as I was able to consider the evidence and to seek a balance without having any particular constituency interest.

I am pleased that I was able successfully to amend the bill to ensure that present or future ministers can take into account the socioeconomic consequences of the designation of nature conservation MPAs. I believe that the relevant provision gives ministers the necessary flexibility, although I agree that it should be used only in exceptional circumstances—in that regard, I welcome the clarification that the minister gave in his letter to the committee. I am also delighted that even though they argued against the exclusion of

fishing from the licensing provisions, SNP members decided, at the 11th hour, to vote with the Labour Party. That conversion is to be welcomed.

There are some issues that I want to draw to the minister's attention and on which he might be able to provide further evidence in his concluding remarks. The first is the transfer of section 36 consent functions from the Scottish Government's energy consents unit to Marine Scotland. It is felt that the expertise that currently exists in the energy consents unit needs to be retained and that, to avoid delays and barriers to renewable developments in the marine environment, clarity on the transitional arrangements would be welcome. On land, it has taken some time for us to build up such expertise and the process has now become a bit quicker. There is concern in the renewables sector that if that expertise is not transferred, we risk making the process slightly longer than is necessary. Perhaps the cabinet secretary could look at that.

The second issue is that of historic MPAs, which I raised during the consideration of amendments. I understand that the Scottish Government seeks to develop an interim spatial plan for the Pentland Firth with a view to facilitating marine renewable developments, and that it wants to work positively with all parties. It would be helpful if, when that marine spatial plan is available, it could be presented to the committee, so that we could be fully informed of all the complex areas relating to its development. In all such matters, a balance needs to be struck between fishing, marine interests, renewables and conservation. It will be helpful for the committee to look at the spatial plan as it develops to assess whether we are getting the balance right. The bill includes a five-year recall clause, so we will be able to assess how it has developed over the five years.

The Deputy Presiding Officer: Wind up, please.

Karen Gillon: Finally, I welcome the progress that has been made on the emotive issue of seals. I think that at stage 3 we have managed to get the balance right and, in time, members will welcome that.

16:33

Robin Harper (Lothians) (Green): We are about to pass our first Scottish marine bill and it has been a long time in coming. It is not quite the bill that Green ministers would have written—many opportunities have been missed or passed by—but, that said, the bill has been improved by the passing of a number of amendments, including Green amendments, and many positive ministerial commitments have been gained, in the generous

spirit that the cabinet secretary promised in his opening remarks.

However, the bill is framework legislation so, just like with the Climate Change (Scotland) Act 2009, the hard work starts after 5 o'clock today, when we begin to put it into action. I congratulate the cabinet secretary on the commitments that he made in his speech, especially his commitment that his approach will be driven by science and scientific evidence. We must invest more in scientific research and ensure that proper funding is available for monitoring and enforcement of the bill's provisions. Without that, the bill will be in danger of failing; with it, the returns on the investment could be tremendous.

There is pressure on all the political parties to make commitments in their manifestos to taking forward the issues after 2011. The momentum must be maintained. All successive Governments must not only conserve our marine environment, but actively enhance it using the full extent of the possibilities that present themselves.

I welcome Bill Wilson's speech and the minister's commitment to the benthic environment. The minister mentioned fanshells. We must recognise that the most important organisms in the marine environment are not the predators at the top of the food chain—dolphins, whales and seals, for example—or even the mid-sea fish; rather, they are phytoplankton, zooplankton and the thousands of species of bottom-living organisms. There is a prime example of what can happen right on our doorstep: the Forth. The collapse of the Forth oyster fishery is the most spectacular example from our history of what can happen. In 1800, some 30 million oysters a year were harvested; by 1880, the fishery had collapsed. That was entirely due to overfishing. The Forth is just beginning to show a spark of recovery after decades of lying completely fallow. If they are given the right support and protection, ecosystems can recover. The experiences of Lundy island down south and other places around the world, particularly in New Zealand, where no-take zones have been set up, prove that.

I would like the legislation to deliver a programme for the creation of an ecologically coherent network of MPAs, which should be in place within a year. The first of the MPAs should be in place within two years. A plan of enhancement could include a rolling programme of designations, and consideration should be given to the idea that all MPAs should contain at least one no-take zone, however small that may be. After the legislation receives royal assent, there must be robust policing and enforcement of it and the designated areas that it will create, and the potentially positive relationships between environmental protection, harvestable biomass

enhancement and marine renewables should be investigated. That has already been mentioned in at least two speeches. Further action should be taken against the random shooting of seals, and advantage should be taken of the huge possibilities that are afforded by the new closed rearing system for salmon farming that is being trialled in Norway. That system is sea lice and seal proof and will obviate the need for any seals at all to be shot. I hope that we employ it in Scotland.

Furthermore, the urgent deployment of the new and effective cetacean-friendly acoustic seal deterrent on all Scottish fish farms should make the shooting of seals a thing of the past. Will the cabinet secretary consider sponsoring that development as soon as possible? Science must guide us and good practice must inform us. That will pay huge dividends even in the short term.

The Marine (Scotland) Bill must be seen as a bill that has been designed to begin to guide us in the long run. I congratulate the cabinet secretary and everybody who has worked on it. What we need now is vision, will and execution. Let us hope that they will all be there.

16:38

Peter Peacock (Highlands and Islands) (Lab):

This is a watershed moment in the management of our marine environment. For too many generations, what was out of sight in a large part of our marine environment was out of mind. That can no longer be the case with the new provisions.

Of course, the bill has highlighted a range of complex issues, complex and competing uses of the sea, and the interaction between those uses, whether they are for industrial purposes, such as oil and gas exploration, shipping cargo, fishing and shellfish growing, or for leisure, such as kayaking, sailing, surfing and diving.

The sea is home to many and varied species, including whales and dolphins, and there is a huge bird population around the Scottish coastline that is vital in European terms. Beneath the waves, there are reefs, corals and vegetation. The cabinet secretary has referred to those in the past and has done so again today. Therefore, the sea is hugely important. Many things compete in it and there are competing interests.

At the heart of the bill is a mechanism for reconciling those competing interests through regional partnerships, regional plans and the national plan. There is still much to do on the boundaries and the precise make-up of organisations, and I look forward to further consultation on those in due course. However, a good, if complex, piece of legislation has been produced and I urge the cabinet secretary to do a lot in the coming months to explain to all the

stakeholders in our marine environment what the legislation requires of them. As I say, it is complex, and many people will have a lot to learn.

One of the central provisions in the bill is the ability to create marine protected areas for research, historic or conservation reasons. That is hugely important. Science must be at the heart of that, and research to back up that science must be given a prominent role in the new Marine Scotland activities. I, too, welcome the letter of clarification from the minister on when he will use the new powers that he has in respect of socioeconomic matters. That helps to square the circle—if that is the right way to put it—of that particular set of different competing interests. In designating marine protected areas, I make a plea for us to try to take communities with us as far as possible, explaining the purpose of and reasons for MPAs. In particular, we must be sensitive to local people's interest in the management of MPAs.

I am pleased that the bill also contains measures to mitigate climate change, where appropriate, and gives the minister—and future ministers—the power to balance those considerations when thinking about making designations.

At the outset of the bill, it seemed that seals could be a hugely contentious question for all of us. Indeed, they could have been a show stopper for parts of the bill. I pay tribute to the parliamentary process, which has allowed members to interact with the lobbyists around the Parliament. The bill is a good example of how we can reach reconciliation on potentially hugely contentious issues and come out with a much stronger position than we could have imagined at the start. There is a presumption against the shooting of seals, which is right—it should be a last resort when other methods have failed or are not workable. It is now a licensed activity and the conditions of the licences are clearly set out and are tough. For example, the harassment of seals, if not controlled, will be an offence. There is now much tighter control, which should be welcomed.

The bill provides a sound framework, but its implementation will be vital. It is a big task and I wish all those who are involved in it the best.

16:41

Jim Hume (South of Scotland) (LD): The Liberal Democrats welcome the Marine (Scotland) Bill, which will create a framework for the management of Scotland's seas. We have had a constructive debate with fairly consensual agreement on the amendments.

In contrast to the well-developed terrestrial planning system in the UK, no framework has existed for planning the use of our seas. Instead,

more than 80 different acts of Parliament and regulations have regulated the many different activities in Scottish seas. As a result, marine wildlife has struggled to cope with the pressure of the increasing demands on our seas. In introducing marine spatial planning, the bill will help to protect important wildlife by providing greater certainty about where and how developments should take place. The marine planning provisions are vital, and it is key that the bill provides a clear direction and purpose for the planning system.

During the committee's first evidence session, there was a recognition that the bill was unclear about what marine plans would look like and what they would contain. Of course, there is a desire for flexibility within the planning system; however, the system has needed clarity and more certainty. At stage 2, the cabinet secretary stated:

"A marine plan is not a vehicle for delivering freestanding programmes or a series of actions."—[*Official Report, Rural Affairs and Environment Committee*, 18 November 2009; c 2124.]

However, section 9 of the Water Environment and Water Services (Scotland) Act 2003 requires the Scottish Environment Protection Agency to prepare a programme of measures to achieve objectives for the purposes of the river basin management plan for a river basin district. In addition, section 27 of the Flood Risk Management (Scotland) Act 2009 requires SEPA to identify other measures.

Nevertheless, the measures are simply tools for achieving plan objectives. We believe that the plan should set out what is going to be done and who is responsible for doing it. The Liberal Democrats' position is, therefore, consistent with the foregoing acts, which provide a clear, simple and flexible outline as to what marine plans should contain as a minimum.

Members will have received hundreds of e-mails on the bill from their constituents, particularly regarding the protection of seals and the enhancement of our Scottish seas. The key for the future of our seas is to have not only protection and conservation, but measures that will develop that natural resource in a sensible way.

The bill has given us an opportunity to strengthen the legal position by placing a duty on Scottish ministers and all relevant public authorities to act in the best way to protect and enhance the health of the Scottish marine area. The cabinet secretary has argued that the duty might require the enhancement of marine health even in pristine areas—the addition of "where appropriate" addresses that. The duty also reflects Scotland's obligations under the marine strategy framework directive in primary legislation.

However, Liberal Democrats do not wish any control to be taken from local decision making by local authorities, as councils have the necessary expertise. That has been made clear this afternoon.

The public has been deeply interested in our deliberations on the bill and, as of 1 February, around 6,500 letters and e-mails had been sent to MSPs in the run-up to stage 3. With amendments, those provided an opportunity to translate into law the unanimous support of the committee, which was reflected by members of all political parties in the stage 1 debate, for the principle of protection and enhancement of the Scottish marine area.

Liberal Democrats broadly welcome the bill in most of its amended form. We believe that it will enhance the marine environment, the health of our seas and the sustainable future of our fishing industry. I look forward to supporting it at decision time.

16:45

Nanette Milne (North East Scotland) (Con): I am delighted that this long-awaited and extremely important bill has reached the final stages of its passage through Parliament. Following close on the heels of the UK Marine and Coastal Access Act 2009, the Marine (Scotland) Bill continues the process of securing the future wellbeing of the marine environment, which extends from the Scottish coastline to 12 miles beyond.

My involvement with the passage of the bill has been minimal, but I am aware of the enormous effort that has gone into it, not least the effort of the members and clerks of the Rural Affairs and Environment Committee and the many organisations and individuals who have made their opinions known to us and have contributed to the various stages of the bill's progress through Parliament. All who have been involved are to be commended for bringing the bill to the point at which it can finally be approved by Parliament, undoubtedly strengthened and improved by the parliamentary process. Hopefully, once the bill becomes part of the law of the land, it will prove to be fit for purpose and will result in the development of a sustainable future for our marine environment.

There are many competing demands on our seas. As indicated in the policy memorandum, it has become important to find a means of managing the growing and competing demands for marine resources in order to maximise economic growth within sustainable environmental limits.

Scotland's marine environment is world class, but it is at risk of overexploitation, and the legislation that governs the competing activities

has become overly complex and fragmented, so my party welcomes the Marine (Scotland) Bill, which should simplify legislation and reduce bureaucracy.

For a long time, the Conservatives have supported calls for an overarching strategic spatial plan for the marine environment and for the establishment of a devolved marine management organisation for Scottish waters, hence our support for Marine Scotland as a means of enabling the implementation of the provisions that are proposed in the bill.

If the diverse activities in the marine environment are to be given fair treatment, marine planning is essential. Likewise, a network of protected areas will be essential to the conservation of marine biodiversity.

As the Wildlife Trusts' excellent "Living Seas" document indicates, after centuries of taking the sea's riches for granted and taking too much with too little care, the forthcoming Scottish legislation, coupled with the UK Marine and Coastal Access Act 2009 and the Northern Ireland legislation that should follow in 2012, presents an unprecedented opportunity to bring back our living seas, dramatically boosting protection for marine wildlife and improving the management of activities at sea.

The key areas of the legislation—joined-up planning of marine industry, leisure and conservation; improved arrangements for licensing industrial activity at sea; new authorities and powers to manage inshore fishing; a new network of marine protected areas; and management bodies, such as Marine Scotland, that will be charged with developing marine plans—should give us a unique opportunity to restore our marine biodiversity and secure its future while allowing the economic, industrial and recreational activities that we rely on the sea to support to progress in a sustainable way.

Not everyone will be happy with what has been achieved today, most notably those who wish for a total ban on killing seals. However, in this instance, I think that every effort has been made to strike a fair balance between the interests of the aquaculture industry and the welfare of seals. I hope that sufficient overall provision has been made in the interests of conservation to allow our seabirds and mammals and our fish and other marine creatures to survive and thrive far into the future.

As has been said, time will tell how effective the legislation will be in achieving all its intended results, and enforcing it will be key to securing real change. However, a good start has been made, and that has to be warmly welcomed.

16:49

Sarah Boyack (Edinburgh Central) (Lab): I agree with colleagues that the bill is landmark legislation. It has been a long time in coming, and a tremendous amount of work has been done not only by members and by parliamentary and Scottish Government staff but by all the national and local organisations that have given important expertise and given their time to participate in discussions to ensure that the bill is a decent piece of legislation.

The Labour Party's key objective was to ensure that we came out of the process with a robust bill that would help to promote healthy seas. That is fundamental, as we have the responsibility for stewarding an incredibly complex set of ecosystems. I believe that the bill will help future generations to benefit from our seas.

In previous discussions on the subject, we have talked about the fact that the bill must encompass around 80 previous pieces of marine legislation. I congratulate colleagues on taking a mature and hard-working approach to the bill, which is all the better for it.

Massive opportunities will come from the bill, including the opportunity for joined-up thinking on interests that can sometimes conflict but which add to the health of our economy, such as fishing, leisure, shipping, renewables and wildlife interpretation. Those all have their place in our marine environment, but the key thing is that we act in a transparent and sensible manner.

Liam McArthur mentioned the massive expansion in the new generation of renewables. I hope that the bill will help that process in a logical, joined-up way that puts sustainable development at the heart of it. I hope that we now have a coherent approach to marine planning and marine conservation, and I look forward to the network of marine protected areas being designated and put in place.

There have been major changes to the bill that was initially proposed, which have resulted in the bill that is before us today. That is testament to the hard work not only of parliamentarians but of people who have lobbied us from outside. Labour members have seen the opportunity to strengthen the bill, and we have been keen to work constructively with stakeholders throughout Scotland. We have also been keen to work with other parties and colleagues on all sides of the chamber and in the committee. We may not always have agreed with one another, but we have teased out some of the difficult and complex issues very well.

I hope that we can now consider the implementation of the bill. I remember being struck at a meeting last year by how much we do not yet

know about the marine environment around our country. Much of the work in relation to research needs to be pushed higher up the agenda.

Like Karen Gillon, I will enjoy reading the *Official Report* of today's debate, in which we can relive the moment when Richard Lochhead gave a speech in favour of one position and then minutes later voted entirely the opposite way. There have been some light-hearted moments today, and some interesting choreography around the chamber.

The key thing, however, is that we have improved our marine environment. A raft of amendments have been made to the bill today, and I pay tribute to my colleague Elaine Murray for her hard graft in ensuring that we get better protection for seals. I also thank the cabinet secretary and Robin Harper for making us debate the issue in detail at stage 3; I would like to have done that earlier, but we have at least done our jobs of scrutinising the legislation.

I hope that the licensing powers will be used sparingly and transparently as a last resort, and I note the clause that states that we will review the measures within the next five years. That is crucial to the effectiveness of the bill, as everybody needs to know that the Parliament will be watching to see how the legislation is implemented.

We look to the future, and to the implementation of the bill. Labour members are very keen now to talk about marine and coastal national parks. That was one of the issues that we logged with previous ministers—we got a commitment from Mike Russell that, once we had passed the bill, we could move on to consider marine and coastal national parks, which we want to do very swiftly.

We also want to help to promote the work of the regional partnerships throughout the country, which have done fantastic work to promote nature conservation, tourism and local economic development opportunities. The bill gives us a platform and a fantastic framework in which to do that.

I hope that we can all unite and support the bill tonight. There have been many disagreements along the way, but we will now have fantastic legislation that will join up with legislation across the UK, and we should all welcome that today. The hard work has been done to put the legislation in place, but the next bit is crucial. As with the Climate Change (Scotland) Act 2009, we need to put the legislation into effect, and I hope that we will all work hard to do that.

16:54

Richard Lochhead: I thank all members for their contribution to the debate on the bill. There

have been many positive contributions; we have heard members speak of their pride on this momentous day and describe the bill as a “landmark” and a “watershed”. Those are highly appropriate words to associate with the bill that I hope we will pass at decision time.

The role of the Scottish Parliament is to improve the lives of the people of Scotland and I believe that we now have a bill—Scotland's first marine bill—that will make a significant and lasting difference to the way in which we manage our spectacular seas for the people and communities of Scotland.

More than ever before, people are interested in the marine environment. Let us not forget that Scotland's seas generate more than £2.2 billion of marine-related industry—not including oil and gas—and that Scotland's seas provide around 50,000 jobs. We have two thirds of the UK's seas, a fifth of European Union waters and 100 ports. Under the waves of our seas, we have 6,500 species of plants and animals that we know we are obliged to look after.

Thankfully, we also have the breakthrough of executive devolution, which puts this Parliament in the driving seat out to 200 nautical miles for the first time and in the driving seat for planning legislation and nature conservation in all of Scotland's waters.

As members have rightly pointed out, there will be many competing demands on Scotland's seas in the 21st century. The bill is about balancing the various competing demands, because our seas can meet so many of Scotland's needs in the 21st century.

The offshore renewables sector is about to blossom, creating thousands of new jobs and helping Scotland to meet her climate change targets. Even today, I notice that Highlands and Islands Enterprise has put out a statement about the number of communities that may benefit from construction opportunities for offshore renewables. Nigg, Arnish, Machrihanish, Ardersier and Kishorn in Wester Ross have been picked out, and six locations outwith the Highlands and Islands are also set to benefit.

There is huge potential for Scotland's seas to help to meet our energy needs, tackle climate change and create thousands of new jobs at the same time. I assure Karen Gillon that we will use the renewables expertise that currently exists in Marine Scotland as we take the bill forward.

Of course, our seas also provide food for the nation. An issue that will become even more of a priority in the 21st century is where we get our food from. If we look after them, our seas can continue to provide healthy, tasty food. Indeed, I had some good Scots mackerel in the Scottish Parliament

canteen today, which reminded me of how great our seas are when it comes to providing fantastic food.

In relation to tackling climate change, carbon storage is another benefit, in addition to the renewables sector, that we may be able to enjoy from our seas.

As many members have said, the people of Scotland are becoming increasingly fascinated by their marine environment. When I was in Tiree for my holidays last summer, it was spectacular seeing the marine wildlife off the shores. At one point, I watched gannets diving for fish while the basking sharks were circling and the dolphins were dancing on the horizon. That is spectacular, it is in Scottish waters and we must look after it.

As many of us know, in the waters off our constituencies around Scotland, marine wildlife tourism—[*Interruption.*]

The Presiding Officer (Alex Fergusson): Order. Members who are talking are missing a fascinating geographical talk.

Richard Lochhead: There is also spectacular marine wildlife off the coast of Galloway and Upper Nithsdale.

As we know, marine wildlife tourism is another opportunity that Scotland's seas provide for our local economies in the future. In the past, to far too great an extent, it has been a case of out of sight, out of mind. However, as human knowledge about what lies beneath the waves expands and Scotland's marine research expertise shines a light on what we have in Scotland's marine environment, more and more people than ever before are aware that we have to safeguard and look after Scotland's precious marine environment. Only a couple of weeks ago, I was lucky enough to open Oceanlab II in Newburgh, in the First Minister's constituency; fascinating research into our ocean floors is taking place in that facility, which is run by the University of Aberdeen.

As an SNP minister and as a member of this Parliament, I am proud to be associated with Scotland's first marine bill. Every single member of the Scottish Parliament should be proud today to support the bill, as I hope they are about to do shortly. Not only should the Scottish Parliament be proud, but we should be proud of what it achieves for Scotland's seas and for our marine environment and for what it will achieve for the people of Scotland, many of whose livelihoods depend on maintaining healthy seas, which is what the bill is all about.

I urge Parliament to support the bill and make history today.

Points of Order

17:00

Paul Martin (Glasgow Springburn) (Lab): On a point of order, Presiding Officer. Throughout the day, concern has been raised about a report in *The Herald* today that the First Minister raised £9,000 for the Scottish National Party by auctioning a lunch with himself in the Parliament's restaurant. That raises serious questions about the abuse of the resources of the Parliament and, indeed, the office of the First Minister. Those questions must be answered.

In the interest of maintaining the standards that the people of Scotland expect of us, will you, on behalf of the chamber, ask the First Minister to make an emergency statement to clear up the matter as a matter of urgency?

The Presiding Officer (Alex Fergusson): I thank the member for the prior notification of his point of order. Under rule 13.2, where a member of the Scottish Executive wishes to make a statement to a meeting of the Parliament, notice shall be given to the Presiding Officer. It is therefore not for me to ask the First Minister to make such a statement.

The First Minister (Alex Salmond): On a point of order and procedure, Presiding Officer. Given that the Labour leader had a full and fair opportunity to raise the matter at First Minister's question time today, but failed to do so, on a point of parliamentary courtesy and order, this gives me the opportunity to say that, given that no lunch has taken place, there cannot possibly have been a breach. Why was the matter not raised at First Minister's question time today? In expanding the point of courtesy, I point out that today is the day on which every other party leader had to repay expenses to Thomas Legg, including Gordon Brown, who had to repay £13,723, while I was given the all-clear—

The Presiding Officer: First Minister, I must press you to raise a point of order. You have not yet done so.

The First Minister: The point of order is why, given that there cannot possibly have been a breach, the matter was not raised at First Minister's question time today. Is it not a courtesy to the member to explain the matter?

Finally, in terms of the procedures of this place—[*Interruption.*]

The Presiding Officer: Order.

The First Minister: We should be very careful not to get ourselves into the position where no charity, no auction—[*Interruption.*]

The Presiding Officer: First Minister, I have to stop you there. I think that you are fully aware that that is not a point of order for me to discuss.

Jack McConnell (Motherwell and Wishaw) (Lab): On a point of order, Presiding Officer. In an effort to be helpful, can I suggest that if any further information about the allegation should come to light over the weekend, it would be appropriate for the Parliamentary Bureau to discuss the matter on Tuesday? Surely the bureau could do that with a view to seeing whether it is appropriate to deal with the matter in the parliamentary timetable next week.

The Presiding Officer: No. The matter is nothing to do with the proceedings of the Parliament, so that is not a legitimate point of order for me to discuss.

Parliamentary Bureau Motion

17:03

The Presiding Officer (Alex Fergusson): The next item of business is consideration of motion S3M-5638, in the name of Richard Lochhead, on the Flood and Water Management Bill, which is United Kingdom legislation.

Motion moved,

That the Parliament agrees that the relevant provisions of the Flood and Water Management Bill, introduced in the House of Commons on 19 November 2009, relating to reservoirs that sit on the border between Scotland and England, so far as these matters fall within the legislative competence of the Scottish Parliament, should be considered by the UK Parliament.—[*Richard Lochhead.*]

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

Decision Time

17:03

The Presiding Officer (Alex Fergusson): There are two questions to be put as a result of today's business. The first question is, that motion S3M-5559, in the name of Richard Lochhead, on the Marine (Scotland) Bill, be agreed to.

Motion agreed to,

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

The Presiding Officer: The second question is, that motion S3M-5638, in the name of Richard Lochhead, on the Flood and Water Management Bill, which is United Kingdom legislation, be agreed to.

Motion agreed to,

That the Parliament agrees that the relevant provisions of the Flood and Water Management Bill, introduced in the House of Commons on 19 November 2009, relating to reservoirs that sit on the border between Scotland and England, so far as these matters fall within the legislative competence of the Scottish Parliament, should be considered by the UK Parliament.

Scottish Railway Museum

The Deputy Presiding Officer (Trish Godman): The final item of business is a members' business debate on motion S3M-5490, in the name of Christopher Harvie, on the Scottish railway museum at Bo'ness. The debate will be concluded without any question being put.

Motion debated,

That the Parliament pays tribute to the Scottish Railway Museum at Bo'ness, one of Europe's major transport collections and a leading Scottish tourist attraction, and to its founder, the late John Burnie, and also commends John Burnie's ambition to see the Scottish Railway Museum play its part in inspiring and training the new generation of engineers needed for infrastructure and manufacturing in the entire Forth basin.

17:05

Christopher Harvie (Mid Scotland and Fife) (SNP): If I cast my mind back—to longer ago than I care to do—I recall being in the big classical building that used to stand outside Glasgow Queen Street station, which was, regrettably, smashed a few years later, and hearing someone remark, "This place looks like a museum." They were looking at the booking office, where one could still get tickets in a paper wrapper that was printed in 1842, for the opening of the first Edinburgh to Glasgow railway. They were beautiful, standard Edmondson card tickets that were just ready to be issued—someone could have been conned into believing that it was possible to travel to Edinburgh with one of them, but they came from a railway that had not been a railway in Scotland for more than 100 years.

The tickets that I have described were one of the things that those of us who set up the Scottish Railway Preservation Society in 1961 happened across. To some extent, the railway was itself a museum piece. Its Victorian infrastructure had survived, largely because of the disruption of the two world wars. In the first, the heavy industries of the Clyde valley, adapted to munitions production, shifted the balance of the war of attrition on the western front in favour of the allies—something about which the Kaiser had not really thought. However, the result was that in the 1920s the Scots economy collapsed; it stayed depressed until the rearmament programme after 1935. As a result, in the 1950s much of the railway system still looked as it had in 1914, with the same engines, the same stations, the same carriages and the same delivery of coal and general freight to hundreds of traditional goods stations all over the country. By 1970, little of that remarkable heritage survived. For many of us, it was everywhere in danger; that is why the SRPS was founded in 1961.

We were finding our way, and some of us had a steep learning curve, not least because we were not engineers by training. That changed when John Burnie—whose death we mourn, along with his wife Ann and his family—turned up from Strathclyde University, just on time. From the start, John concentrated on a different sort of preservation from other schemes, which were mainly about getting railway lines functioning—he wanted to give a picture of the transport system that was embedded in the history of Scotland's industrialisation and urbanisation. Visitors to Bo'ness station, which was more or less a hole in the ground in 1970, get to see the coaches, wagons, pug engines, tanks, stations, bothies and sheds; 75,000 people visit every year.

For nearly the next half century, during which John Burnie headed up the Bo'ness project, Scotland's manufacturing capability tended to dwindle. Much inventiveness, skill and talent was literally offshored to the North Sea and, later, to other rigs in other oceans. As a result, our production of engineers declined to the point at which we now produce only about a fifth of the technologists produced by the German economy—I tend to cite that example, but I stayed there for 30 years. Even in sophisticated industrial societies, most technical instruction is bound to the workplace. As workplaces have closed down, competence has gone with them. Ron Hill, one of the stalwarts of the SRPS at Bo'ness, says that when he joined Motherwell College in the 1970s it had 170 lecturers in mechanical engineering; the number is now down to single figures.

In contemporary Scotland, we have a past that we ought to treasure and maintain, because it is the structure of the industry that created us and the way in which we live now. The great promise of financial services and housing booms has been evanescent in comparison. Now, we need wind, wave and current generators and carbon capture schemes—in fact John Burnie was shift manager at Longannet power station, which has become our centre for that technology. In conversations with John over the past year, he told me about his thoughts that Bo'ness's contribution to engineering and education could be balanced by building workshops that preserve the museum stock but enable people to be trained under practical conditions.

We will have to go back to the era of heavy engineering, not least that of the expansion of the Scottish railway system. That is important, because we need low-carbon transportation systems. Within 15 or 20 years at most, we will have hit peak oil and will possibly be coping with oil prices of anything up to \$300 a barrel. Remember that, in the 1970s, they were practically giving it away free. Oil everywhere is running out and becoming harder to exploit. Many

of our hopes for new and renewable energy industries are clustered in the Forth industrial basin, from Grangemouth to Leven. Bo'ness, in the middle of it, could be a training centre linked with Scottish universities and colleges to provide an important impulse for retechnologising the Forth basin.

Bo'ness museum would benefit from some tender loving care from the Scottish Government. I have certain reactions when I hear about large paintings belonging to an aristocrat who is possibly not best known for favouring Scottish crofters in the past being bought for several million pounds, when we would budget about 400 quid to get a coach. The first cheque that I signed was for the royal saloon of the Great North of Scotland Railway, which Edward VII would use to take his lady friends for runs into the country—"Darling, I think we've run out of steam." The fact that it costs £400 for a royal saloon gives a sense of proportion.

I also make a miniature plea. Recently, I discovered in the Beveridge park in Fife a little-used but still usable miniature railway. The SRPS could go into partnership with local schools to get kids interested in practical engineering by running their own railway. God knows what health and safety would say but, nonetheless, that could be tried. Oddly enough, I have just the man for that—a retired Black Watch officer who taught me how to drive a steam engine, which I never knew how to do until about three years ago. He has a splendid steam engine called—what else?—Black Watch. It would be good if the SRPS moved in and expanded the tourism industry around the Forth, as it is doing with its circular trains.

We will live somewhat different lives in future. We will have to be more dependent on the localities where we live. We will need to keep them accessible and have places for family excursions and holidays. Our railway heritage can help with that. It can also generate a lot of local technology input and output. The preservation movement is a way of making the transition efficient and enjoyable. So, John Burnie, thanks.

17:13

Cathy Peattie (Falkirk East) (Lab): I thank the dozens of members who signed the motions that have been lodged on John Burnie and the Bo'ness railway museum. I congratulate Chris Harvie on securing the debate and thank him for the opportunity to highlight John Burnie's contribution and legacy, and the potential for development that he sought for the museum.

I met John soon after being elected and we continued to meet regularly. Subsequently, I persuaded the previous culture minister to come

and see for himself the national treasure in Bo'ness. John Burnie's passion shone through and he won people over with his vision. His enthusiasm rubbed off on those around him and drew people of all ages into the projects that he supported.

As Chris Harvie has told us, John was an active volunteer in the early days of the SRPS, when it was based in a disused transit shed in Grahamston. Indeed, I visited there with my family—it seems a long time ago. He was also instrumental in the decision to move to Bo'ness, the subsequent construction of the branch line, and the creation of the museum as a centre for our railway engineering heritage.

John had ambitious plans, but he was always very realistic and practical. I am sure that he would have continued to drive forward the development of the railway and the museum, and there can be no more fitting legacy than ensuring that his vision becomes a reality. The Bo'ness museum complements that of York as an exhibition, but the Bo'ness collection surpasses York in the range of its industrial locomotives and other exhibits.

John wanted the Bo'ness museum to be recognised as a Scottish national museum. Historically, industrial museums have tended to be less valued than their counterparts, particularly when they rely heavily on volunteers rather than paid staff. I therefore welcome the think-tank that Mike Russell set up to look at museum funding. I hope that it will create a level playing field for all museums. I would be grateful if the minister could tell us what progress the think-tank has made and when it is expected to report.

John Burnie sought to establish a training school to develop a new generation of engineers. That would need capital and revenue investment, but I am sure that it would be money well spent.

The railway has achieved year-on-year growth in visitor numbers. The revenue from that covers the basic operation, but there are obstacles to be overcome if the activities are to be expanded. There is a need for more accommodation to protect projects and exhibits from the ravages of the weather, and there are costs in maintaining eight A-listed buildings. Better facilities and more modern workshops are needed, while support is required for volunteering within the museum, to encourage younger folk to get involved and sustain the number of committed volunteers. I seek assurance that the think-tank will consider those issues, raised by John Burnie and his colleagues, and take them fully on board in any recommendations.

Following a meeting last summer with John Burnie and other SRPS committee members, I agreed to sponsor the recent exhibition by the

railway museum. I also agreed to lodge a motion for debate. Sadly, this is not the kind of debate that we envisaged. John Hume, who chaired the SRPS for a number of years, told me that John Burnie was a thoroughly good man, and I know that members in the chamber and visitors in the public gallery would agree.

17:18

Jackson Carlaw (West of Scotland) (Con): In introducing my brief contribution, I will explain why I am standing here tonight. I have admired Mr Harvie in the years that I have been in the Parliament. He is an independent thinker, which sometimes makes him a slightly uncomfortable commodity to those who sit several rows in front of him. He also has a reputation for being what some time ago we used to call a snappy dresser.

For those reasons, when I saw the motion that Mr Harvie had lodged, as someone who comes from a career in the transport industry I had a certain sympathy with it. I thought that it seemed like a worthwhile motion and therefore I lent it my support. Somewhat to my astonishment, David McLetchie thought that that meant I was eminently qualified to contribute to the debate, but I admit that I have never visited the museum—although I can assure members that my peroration will be a commitment on my behalf that my family and I will do so.

Cathy Peattie: If the member has never visited, he should please be my guest and come to Bo'ness.

Jackson Carlaw: Cathy Peattie can rest assured that that is the point on which I will conclude.

I have a tremendous empathy with the concept of industrial museums, which Cathy Peattie talked about, and museums related to the transport industry. My background is in the motor retail industry, and our business was very keen and happy to renovate derelict vehicles that were recovered, many of which have gone into community museums. As I travel round the United Kingdom as a tourist, I often visit those local museums, because they are a worthwhile source of tourism. They invariably have a tremendous appeal to children in particular, who get quite caught up in the romance of the subject. They are a vital local asset in relation to bringing in tourism.

I thought that the romance of the train could now be celebrated only by doing something slightly more expensive. I have to say that I forked out for a trip on the Orient Express. One might say that the journey was typical of railways, in the sense that there was a strike at the French end, which meant that we were hopelessly delayed. It also meant that, in order to catch up, the train had to

travel at such a speed that it was impossible both to eat the meal and—as I discovered subsequently—to stay in the bunk during the evening. My wife was also somewhat distressed to discover when she was getting dressed the next morning that we had pulled into a busy commuter station somewhere in the Alps, where everyone was viewing whatever it was that she was engaged in at that moment.

I now realise that our money need not have been spent in that way. In the Bo'ness museum and line, we have an enterprise that has been conceived to capture the spirit and romance of not just a stationary carriage but the infrastructure—the stations, sheds, bridges and everything that people associate with the romance of rail.

I read with interest that the Birkhill end has as its station a building that I will look forward to seeing again as it featured in the garden exhibition that was held in Glasgow in 1988. In preparing, briefly, for tonight's debate, I asked how all that came about and what was its inspiration. Invariably, whenever I have visited such museums, I have found that what has been achieved has been down to local enthusiasts and one enthusiast in particular. It is clear that John Burnie was an inspiration—a lifetime devotee who was committed to the whole atmosphere and spirit of rail—and that it was he who made such a valuable contribution and produced such a legacy. Although I did not know him, I can see that he has been taken from that prematurely. I hope that the legacy that he created will survive.

I am enthused by what I have read. Tonight's debate has persuaded one weegie, who now lives on the west coast, to make the journey through to visit the museum. However, I am not terribly sure that the day out with Thomas is the thing that attracts me. A nice swanky evening dinner cruise along the line would appeal most; if the museum could conceive of such a thing, I would be more than happy to support it in that way. I wish the project, the line and Christopher Harvie's motion every success.

17:22

Jamie Hepburn (Central Scotland) (SNP): I think that we have learned a little too much about Jackson Carlaw's holiday experience and I am sure that his wife will thank him for passing on the full details.

I congratulate Christopher Harvie on lodging his motion for debate this evening. I cannot boast his intricate knowledge of trains—it is clear that, as ever, he has an enthusiasm for the subject matter.

I should probably begin with a confession similar to Jackson Carlaw's: I have, shamefully, not visited the museum, although I am sure Cathy

Peattie will be relieved to know that I have visited Bo'ness many times.

The Scottish railway museum in Bo'ness is an important tourist attraction in the Central Scotland region, which I represent. The Bo'ness and Kinneil railway, which has been developed since 1979, and the museum play an important part in preserving our country's rail heritage. I always note with some sadness that too many of Scotland's railways now have heritage status. The savage Beeching cuts decimated our rail network. I should of course point out that that was way before my time, although I am sure Professor Harvie recalls it well.

It is ironic that much of the Bo'ness and Kinneil line and the museum are on a line that was closed so many years ago. It would be fantastic if Bo'ness still had a station on the wider rail network. However, that is not the case and it is right that the line can be utilised by the Scottish Railway Preservation Society today.

The society's efforts extend much further than the Bo'ness and Kinneil railway; it has the Scottish railway exhibition, which was opened in 1995 in a purpose-built, 15,000ft² exhibition hall beside Bo'ness station. I was intrigued to learn that it has built an extension, which seems to be through co-operative work with institutions such as the Heritage Lottery Fund, the European regional development fund, Scottish Enterprise Forth Valley and others. That type of joint working is to be commended.

It is important to talk about some of the Scottish Railway Preservation Society's work with the local community. I was heartened to learn that the society seeks to work with the local authorities, community planning partnerships, local business community groups and representatives of other visitor attractions to create initiatives to raise the profile of the town of Bo'ness and the Falkirk local authority area. The society encourages people to come to the area and visit other tourist attractions, and it has been playing its part in the regeneration of the town of Bo'ness. It is clear that a lot of good work is going on at the museum and the society, and they are to be congratulated.

The motion refers to John Burnie. I cannot profess to have known Mr Burnie, but the regard in which he was held is quite clear and I welcome his family to the Parliament today. I am sure that the Scottish railway museum's work will continue as testament to his devotion. Like Jackson Carlaw, I look forward to visiting the museum some time in the future.

17:26

Hugh O'Donnell (Central Scotland) (LD): I was fortunate to be guided by Mr Burnie on my

tour of the museum. As was clear from his enthusiasm, he felt that the museum's role should be of national significance.

If we consider the history of the industrial revolution as it manifested itself in Scotland, we can see the role of the communities along the Forth—in shale oil, and in the transition from shale oil to the Anglo-Persian Oil Company, and then British Petroleum—in the development of mechanical engineering, to which Professor Harvie referred. The significant role of communities right along the Forth estuary is worthy of more note than it often gets. All too often, the communities where I am originally from—Glasgow and Lanarkshire—are those that one associates more strongly with the heavy industries.

I give credit to Professor Harvie for mentioning mechanical engineering. A young friend of mine who was working in Grangemouth has recently been requested to work in the oil industry in Angola—not as an oil or petroleum expert, but as a mechanical engineer. People from the communities around the Forth are still exporting their skills.

We often talk about Scotland being a small village in many ways. The family of the father-in-law of my previous employer, Donald Gorrie, a former member of this place, were Reids. Some members will remember the St Rollox railway construction sites in Springburn. The Reids contributed hugely before the nationalisation of the railway industries. Some of the old locomotives in the Bo'ness museum were constructed by the Reids, who demonstrated huge largesse towards the local communities in the Victorian and Edwardian tradition. There are statues to them, the land that Stobhill hospital sits on was donated by them and much of their work is reflected in the artefacts that are currently in Bo'ness. I recommend the trip to Jamie Hepburn and Jackson Carlaw.

There is less opportunity for the Orient Express now—my understanding is that that trip has now been closed down, for which Mr Carlaw's wife may be eternally grateful.

On a more serious note, and as Cathy Peattie said, we must have greater respect for the industrial museums; many of the things that we now benefit from in modern Scotland have their foundation rooted in heavy industry. Much of that heavy industry has gone, but we need to maintain the skills and expertise that were grounded in it. I think back to the terrible destruction of York minster years ago, after which we had to bring in expertise that we once grew ourselves. We must keep mechanical expertise alive.

If the huge amount of work that is needed to put together the locomotives in the museum that are still in bits and pieces is anything to go by, our mechanical engineers will have a lifetime's work ahead of them. We need to maintain those skills, perhaps through apprenticeships and community service schemes—I encourage the think-tank to which Cathy Peattie referred to consider such issues. I look forward to continued support from the Scottish Government for the museum's growth and development.

17:30

Robin Harper (Lothians) (Green): As a child I was passionate about trains. When I was seven, I travelled by steam train from Thurso to Portsmouth—I have only a dim recollection of the journey. In Kenya I have travelled on trains drawn by steam locomotives that were made in Glasgow. In India I visited an open-air museum and travelled on trains. They were not drawn by engines made in Glasgow—people have mainly turned to diesel—but the museum, which is huge, contains many engines that were made in Glasgow. I think that even to this day there are working engines in South America that were made in Glasgow. We have a tremendous engineering history in Scotland, and any effort to preserve that history that can be made by railway preservation organisations, in particular the Scottish Railway Preservation Society at Bo'ness, is of immense value.

The Scottish railway museum at Bo'ness also preserves the memory of how our railways can be, should be and were run. I am dying to try out the dinner service, which might remind me of the standard of service that we used to get from the late lamented Great North Eastern Railway on trips between Edinburgh and London. It was a pleasure to travel on those trains, if one had enough money to buy the meal—it was not too expensive and it was well worth it.

There is something about travel for travel's sake, when we enjoy the journey; it is not just about getting from one place to another in a fast car, gripping the steering wheel, cursing the traffic as we go and arriving so exhausted that we have not gained anything because the train would have left us better able to start work as soon as we arrived.

The Bo'ness museum reminds us of the days when we were passengers, not customers, and staff were called "drivers", "guards" and "ticket collectors", not the peculiar names they are given nowadays. There was an immense standard of service. It is so refreshing to be reminded of that. Despite my passion, I regret that have been to Bo'ness only once. That was last year, so the memory is vivid. I arrived too late to get on the train, so I went to Blackness castle—the museum

should offer a double ticket, because Blackness is wonderful; it is entrancing, incredibly interesting, in very good condition and very well presented. I got back to the station in time to stand on the bridge and get that blast of smoke as the train came in. Steam engines seem to be alive; we can feel them breathing, straining and bursting with steam and energy. There is something completely different about a steam engine, compared with any other engine that I know of.

I am honoured to stand up in memory of John Burnie and to pay tribute to the Scottish Railway Preservation Society and the work at Bo'ness. I wish the society well and I promise that I will visit Bo'ness again. I will also engage in any conversations that take place with a view to pushing forward railway preservation in Scotland.

I will conclude by telling members about a wonderful moment. Four years ago I was asked to flag off the Jacobite at the beginning of the tourist season. Here was this huge black engine, waiting and puffing out steam—psht! psht! I was given a guard's cap and a green flag and after I flagged the train off I leaped into a carriage and went up to Mallaig and back. I thoroughly recommend the trip.

17:35

The Minister for Culture and External Affairs (Fiona Hyslop): First, I congratulate Christopher Harvie on securing the debate. In doing so, I also pay tribute to the late John Burnie. Members have set out the achievements and contribution of that remarkable man.

Members might be aware that the Scottish Government's recognition scheme is designed to celebrate, promote and invest in nationally significant museum and gallery collections around Scotland that are held outside the nationally run institutions. The Scottish Railway Preservation Society achieved that recognised status in 2007 for its core collection, and the project to have the collection recognised was of course led by one John Burnie.

The recognition scheme is designed to be flexible, to channel capital and revenue funding to important collections such as that successfully developed by John Burnie and the Scottish Railway Preservation Society. For the first time, the Scottish Government, through Museums Galleries Scotland, has a structured mechanism to fund nationally important collections at a local level and to demonstrate and evidence their importance in the international context. The Government provided £1.2 million in revenue funding for the scheme to enable the recognised collections to develop and to increase their impact. In January, I had the pleasure of announcing an additional £750,000 in capital funding for the scheme for

2009-10, and I plan to announce the successful projects in March.

I am aware that one of John Burnie's ambitions was the creation of new workshops and apprenticeships with a view to rebuilding the industry that existed when he was a child, and the Scottish Government shares that vision. In 2009, we had the first ever apprenticeship summit, which was undertaken through the Scottish Government's six-point economic recovery plan to help individuals to get through the downturn. Part of the money for that plan was reserved for apprenticeships. Only last month, we announced an additional £4 million to help businesses across Scotland to take on new apprentices. That is part of ScotAction, which is an integrated package of new and improved measures to help individuals and businesses through the recession. It is important to relate that to the new industries that Hugh O'Donnell and Christopher Harvie talked about, because through the recession we need to develop engineering for the renewable energy industry and to build on the skills, experience and practice that those workshops can provide. A bit of joined-up thinking might enable something for the future to be built on the experience of the past.

We should also acknowledge the involvement of the many enthusiastic volunteers who are instrumental in the maintenance of the collection. The society has about 350 active volunteers, some of whom are from the railway industry. I met a delegation to the Parliament a few weeks ago, and I was amazed at the phenomenal skill level and amount of experience among the volunteers. The flow goes two ways. Several of the younger volunteers subsequently found new careers with Network Rail, First ScotRail and other train operating companies, which is testament to the role that the society can play in developing skills and expertise.

John Burnie has left the Scottish Railway Preservation Society as a forward-looking and healthy organisation. It has enjoyed a period of growth in visitor numbers during the past six years—2009 saw a record 70,565 visitors. The impact of those figures cannot be overestimated. The Bo'ness museum is a beacon for rail enthusiasts, and the passion with which Robin Harper delivered his speech shows how infectious enthusiasm for the railways can be. However, the museum also attracts the wider public who are interested in experiencing the world of the railway. I look forward to visiting the museum in my new capacity as minister.

In 2006, the National Museums Directors Conference and the Museums, Libraries and Archives Council jointly commissioned a report that analysed the impact of a number of British museums and galleries. We have some of the best

museums and galleries in the world. No other country has such a powerful group of them within a relatively small space. The annual turnover of the major museums and galleries exceeds £900 million, and a report commissioned by Museums Galleries Scotland estimates that the sector in Scotland generates £78 million in direct and £44 million in indirect revenues, with another £600 million coming into the economy via other impacts. That is business for the economy.

Our museums and collections are very much part and parcel of our visitor and tourist attractions. We have more than 25 million visitors a year—a figure that increased by 24 per cent between 2003 and 2007—and 47 per cent of them are tourists. Museums and galleries are a significant factor in attracting visitors to Scotland, but they need to develop if they are to continue to compete against institutions that are developing in other countries.

Cathy Peattie referred to the museums think-tank, which was established after the museums summit in June last year and whose members represent the museums and galleries sector. It is examining difficulties and opportunities that the sector faces. I very much appreciate its work and I will assist in the development of a national policy for the sector. Just a few weeks ago, I chaired the think-tank's most recent meeting, at which we agreed to consider how to develop our industrial heritage. The SRPS will have a role in that—I gave that commitment to the delegation who visited the Parliament a few weeks ago.

I am sure that John Burnie's family are especially proud of his achievements. I am grateful that we in the Scottish Parliament have had the opportunity today to pay tribute to him and to acknowledge the unique role that he played in the Scottish Railway Preservation Society's development. Scotland is a better place because of him. Our heritage, culture and opportunities for the future based on the experience of the past have been well served by him and by the Scottish Railway Preservation Society as a whole.

Meeting closed at 17:41.

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