

Below are the Members of the Water Bill [*Lords*] Bill:

*Chairman:* Mr. David Amess,  
Mr. Bill O'Brien

Ainger, Mr. Nick ( <i>West Carmarthen and South Pembrokeshire</i> )	Knight, Jim ( <i>South Dorset</i> )
Atherton, Ms Candy ( <i>Falmouth and Camborne</i> )	Lansley, Mr. Andrew ( <i>South Cambridgeshire</i> )
Baker, Norman ( <i>Lewes</i> )	Liddell-Grainger, Mr. Ian ( <i>Bridgwater</i> )
Brennan, Kevin ( <i>Cardiff, West</i> )	Morley, Mr. Elliot ( <i>Minister for the Environment</i> )
Burden, Richard ( <i>Birmingham, Northfield</i> )	Organ, Diana ( <i>Forest of Dean</i> )
Cunningham, Tony ( <i>Workington</i> )	Osborne, Mr. George ( <i>Tatton</i> )
Dobbin, Jim ( <i>Heywood and Middleton</i> )	Palmer, Dr. Nick ( <i>Broxtowe</i> )
Doughty, Sue ( <i>Guildford</i> )	Simon, Mr. Siôn ( <i>Birmingham, Erdington</i> )
Drew, Mr. David ( <i>Stroud</i> )	Swire, Mr. Hugo ( <i>East Devon</i> )
Iddon, Dr. Brian ( <i>Bolton, South-East</i> )	Thomas, Mr. Simon ( <i>Ceredigion</i> )
Johnson, Miss Melanie ( <i>Parliamentary Under-Secretary of State for Health</i> )	Tipping, Paddy ( <i>Sherwood</i> )
Key, Mr. Robert ( <i>Salisbury</i> )	Wiggin, Mr. Bill ( <i>Leominster</i> )
King, Andy ( <i>Rugby and Kenilworth</i> )	

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## **Standing Committee D**

**Thursday 23 October 2003**

**(Morning)**

**[Mr. Bill O'Brien in the Chair]**

**[Water Bill \[Lords\]](#)**

**Clause 61**

**Fluoridation of water supplies**

8.55 am

**The Parliamentary Under-Secretary of State for Health (Miss Melanie Johnson):**  
I beg to move amendment No. 319, in

clause 61, page 76, line 28, leave out from 'until' to end of line 30 and insert

'an indemnity with respect to the arrangements has been given by virtue of section 90 below—

(a) to the water undertaker; and

(b) to any licensed water supplier which is entitled to one.'

**The Chairman:** With this it will be convenient to discuss the following:

Amendment No. 220, in

clause 61, page 80, leave out lines 6 to 9 and insert—

'(1) The Secretary of State shall indemnify every water undertaker which enters into arrangements under section 87(1) above against all liabilities that any such undertaker may incur in complying with such arrangements, other than liabilities arising from the undertaker's own fault or negligence.

(1A) Subject to subsection (1) above, each indemnity shall be on such terms as (with the consent of the Treasury) may be agreed between the Secretary of State and the undertaker.'

Government amendment No. 343.

Amendment No. 111, in

clause 61, page 80, leave out lines 10 to 15.

Amendment No. 221, in

clause 61, page 80, line 10, at beginning insert

'Subject to subsection (1) above'.

Amendment No. 222, in

clause 61, page 80, leave out lines 12 and 13.

Government amendment No. 344.

**Miss Johnson:** It is a pleasure to rise in the knowledge that discussions have been going on for some time without me. The only other time that that happens is when the Chief Secretary to the Treasury occasionally appears in **Committee** for the Finance Bill, but I am afraid that I cannot claim such status.

The amendments relate to the indemnities granted by the Secretary of State to water suppliers that agree to fluoridate a water supply under arrangements with a strategic health authority and water undertaker. They are of great significance to the water industry, and as a general policy, we would not want a water supplier that agrees to

fluoridate to incur any additional liabilities compared with one that does not have a fluoridation scheme.

Amendment No. 319 provides for licensed water suppliers to be given an indemnity if they agree to fluoridate a water supply under arrangements made

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between a strategic health authority and water undertaker. Although we do not envisage strategic health authorities making arrangements with licensed water suppliers to fluoridate, we would not want to discourage licensed water suppliers from supplying water as well as water undertakers.

We want to ensure that there would not be any disincentive to a licensed water supplier bidding to supply water in a fluoridated area. We originally thought that the indemnity would be covered on the access agreement made between the undertaker and licensed supplier. We now consider that it would be more satisfactory if the licensed supplier had an indemnity in its own right.

Amendments Nos. 343 and 344 are consequential to amendment No. 319. Amendment No. 343 provides for both a situation in which the licensee is distributing water fluoridated by a water undertaker and one in which the licensee is fluoridating water under an agreement with the undertaker.

I have some sympathy with amendment No. 220 and consequential amendments Nos. 221 and 222, but I cannot commit at this stage to indemnifying suppliers against all liabilities. It is our general intention to give wide indemnities, but I want to reserve our position until we start work on the regulations so that we can tease out in greater detail how, for example, negligence on the part of the water undertaker could be excluded. Regulations could also contain model indemnities agreed by the Secretary of State and the Treasury, which the strategic health authorities and water undertakers could insert into their arrangements without needing Whitehall to go over the detail on every occasion. The flexibility would be prevented by new subsection (1)(a) proposed in the amendment.

**Norman Baker** (Lewes): Will the Minister give way?

**Miss Johnson:** No, I think that I will finish my remarks, and then the hon. Gentleman may make his own.

On amendment No. 111, the Water Industry Act 1991 currently provides the power for the Secretary of State to grant indemnities, but with little detail on what they may cover. The Department has produced some model indemnities, but they do not have any statutory force. We want to remedy that, but it would not be appropriate to include the detail in the Bill.

In light of those assurances, I commend amendments Nos. 319, 343 and 344 to the **Committee**, and I hope that Opposition Members will not press their amendments, on the understanding that the issues will be addressed in the regulations, which will be debated in the House under the affirmative resolution procedure.

**Mr. Bill Wiggin** (Leominster): What a change to be in this rather tropical atmosphere rather than the freezing conditions in which we were considering what became known as the Ice Bill. The Minister has already made a generous concession this morning by recognising the value of amendment No. 220, and I am extremely grateful to her. If we can continue with this co-operation we may have a better Bill.

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The Minister talked about different policies for different water companies. Can she confirm that the differences in the policies will not mean that people in some areas are properly indemnified and in others they are not, or that if consumers have evidence that fluoride in the water is doing them damage they will be able to sue in some areas but not in others?

We want proper protection for consumers in all areas. I am therefore surprised that the Government have chosen to go down this route of different policies. Obviously, different insurance companies will provide different types of cover. That may not be exactly what she meant and I would be grateful if she could come back to that. She also talked about the phrase "all liabilities". Obviously, when taken on its own it covers everything, but that is not the intention of amendment No. 220; it is intended to refer to all liabilities connected to the addition of fluoride to the water.

**Miss Johnson:** The hon. Gentleman will appreciate that his amendment uses that phrase: hence my remarks.

**Mr. Wiggin:** That leads nicely on to the Minister telling us what liabilities she proposes to cover and what will be excluded. What sums of money will be put aside or paid by the Government to provide that sort of cover? Anyone who drives a car knows that they have to be insured for pretty much everything that they do when something goes wrong even though that can be well out of their control. Yet at the same time it seems that the Government are being a bit weaselly here about what they mean by all liabilities, although I am sure that that is not what they intend. We need to know exactly what the Government mean, what they will do, how much it will cost and what is not included in the insurance liabilities.

This is just the tip of the iceberg. We cannot consider whether the Government should be fluoridating in the first place unless we know exactly what that will protect us against. After all, this is a balance. "Proportionality" is one of my favourite words, thanks to the Minister for the Environment, who has remained silent this morning, perhaps tragically. We are balancing the risk of tooth decay in young children against a risk that may be faced by all people, whatever their age.

I do not believe that science is sufficiently clear about whether fluoridation is a good thing. If I am to be persuaded that it is, I must know that the safeguards are in place. Unfortunately the Minister's statement is far from clear about that. She has quite a lot of work to do to convince us not only that the proper scientific work has been done, but that the proper protection is in place. I look forward to hearing how she does that.

**Mr. Simon Thomas** (Ceredigion): I want to follow up on the hon. Gentleman's comments. What was missing from the Minister's introduction was any explanation of

why we need to indemnify water companies against the addition of fluorides into our water supply. Could it be because the product in question is registered as a part II poison under the

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Poisons Act 1972? Could it be because the Government's York report asked for further serious research to be undertaken into IQ and congenital defects that may be associated with the addition of fluoride to our water supply?

How will silicofluorides be brought into our food stream? That, in effect, is what will happen if we take them into our water supply; we will ingest them along with our food and drink. I do not know precisely how silicofluorides will be brought into our food stream when they are still registered as a part II poison, along with arsenic and paraquat. We need to indemnify water companies against putting arsenic and paraquat in our water supply, and so we need to indemnify them against putting fluoride in our water supply. Why do we need to indemnify water companies? Could it be anything to do with the fact that the Medicines Control Agency has refused to class silicofluorides as a medicinal product? We are talking about putting something into our food and drink supply that may do us harm.

The Minister is the Under-Secretary of State for Health, after all, so it would be nice to hear a little bit about health in this context. Could she tell us precisely what further high-quality research her Department has commissioned to inform the debates of the **Committee** and the House on the addition of fluorides to our water supply? What research, asked for in the York report, has been commissioned on the possible negative effects on IQ and on congenital defects, particularly Down's syndrome?

In the Minister's letter of 16 October—which, I take it, she sent to all members of the **Committee**—she says that further high-quality research, specifically asked for, has now been downgraded to a low priority. That is a scandal; it is scandalous that, when the Government commission an independent report into a possibly dangerous additive to our water supply, and that report says that we need high-quality research on the possible effect of fluorides on congenital brain defects, we do not get it.

**Richard Burden** (Birmingham, Northfield): Does it say anywhere in the York report that the water supply should not be fluoridated?

**Mr. Thomas:** The hon. Gentleman is correct to suggest that the York report does not say that. Nor does it say that the water supply should be fluoridated; that is the point. Earl Baldwin of Bewdley, who was on the advisory panel for the York review, wrote, in response to the Government's acceptance of the report, that there was not

"any discrepancy in praising fluoridation as a health measure while admitting that too little was known about its effects."

That is my response to the hon. Gentleman—we do not know; the science has not been fully done. The Government accepted what the York report said as *carte blanche* to put fluoride in our water supply, although the case has not been proved at all.

**Mr. Wiggin:** Earl Baldwin of Bewdley has been extremely vociferous about what is in the York report. One of the biggest problems is the misinterpretation of the science. It is fair to say that the York report is

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probably the only science that has been done on the subject—

**Dr. Brian Iddon** (Bolton, South-East): It is a review of the science.

**Mr. Wiggin:** Perhaps I exaggerated, and if so, I apologise. However, the York report seems to be the definitive document on the science that has been done. Earl Baldwin has been vociferous against the addition of fluoride, and it is only fair to take his point of view extremely seriously, because he was involved in the report. The hon. Member for Ceredigion (Mr. Thomas) has covered that point, but I would be grateful if he would say a little more about it.

**Mr. Thomas:** I thank the hon. Gentleman, and indeed I will say a little more about it. In response to the way that the York report had been received, Professor Trevor Sheldon, the chairman of the review advisory panel, said:

"The review team was surprised that in spite of the large number of studies carried out over several decades there is a dearth of reliable evidence with which to inform policy. Until high quality studies are undertaken providing more definite evidence, there will continue to be legitimate scientific controversy over the likely effects and costs of water fluoridation."

The hon. Member for Bolton, South-East (Dr. Iddon) said that the York report was a review of the science, and I accept that, but the Minister's letter to us of 16 October says that when the York report reviewed the science, it found a lack of reasonably peer-reviewed current evidence. That is why Professor Sheldon said that

"in spite of the large number of studies carried out over several decades there is a dearth of reliable evidence with which to inform policy".

We need to go beyond the views of both the anti-fluoride campaigners and the Government, and consider the York report carefully.

**Dr. Iddon:** I take a great interest in Down's syndrome. Has the hon. Gentleman any evidence to suggest that in areas that have been fluoridated for 40 years, such as Birmingham and the west midlands, there are more incidences of Down's syndrome than anywhere else in the country? Does he not think that if that were the case, it would have come to the fore in the last 40 years?

**Mr. Thomas:** I would have expected the York review to say that there was no link or danger whatever. The hon. Gentleman knows that it said that further high-quality research into that is needed. I am not a scientist—my science stopped at advanced O-level—and I confess that I must be guided by science. When the chairman of a review panel says that there is legitimate scientific controversy, I, as a legislator, want to know the answer to that controversy.

I make a personal decision to brush my teeth with fluoride twice a day; I have no problem using fluoride myself, as that is my own decision. The question is what we are indemnifying water companies against in this regard. We are not indemnifying Boots against putting fluoride in toothpaste or the local pharmacy against selling fluoridated toothpaste, so why are we indemnifying water companies? Is it because the

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Government recognise that questions could be asked? Is it because certain factors could emerge if countrywide or large-scale fluoridation were introduced? Is it because things are emerging in Switzerland and America, and questions about the efficacy of fluoridation are being asked?

These amendments relate only to the indemnity. Questions should be asked about whether fluoridating water achieves what the Government think it achieves, or at least whether it is better than simply having a good oral care regime and educational programme. No doubt we shall have the opportunity to say something about that.

My fundamental question is: if the York review says so clearly that we need further high-quality research, why are Members of Parliament being asked to legislate without that research? I cannot support any measure to introduce fluoride into our water supply unless and until we see that research, and unless and until there is no scientific controversy over the addition of fluoride to the water supply.

**Norman Baker:** It is perhaps inevitable that we progress to the wider issue when discussing these amendments. I have considerable sympathy with the points made by the hon. Gentleman. However, I shall try, without prejudice, to limit my remarks to the amendments before us. That involves the question, which has been asked by two hon. Members this morning, of what these indemnities are for. Clearly, we need to have that spelt out. It also raises the fairly common-sense point that, if there is no risk whatever, why are water companies so insistent on having the indemnities in the first place? That seems to make no sense.

That said, if there were a risk, or even if there were no risk, water companies should not be in the firing line. It is right that they should not be exposed to any potential action in future. They are in the middle, between the public, who may, theoretically, wish to complain, and the Government, who wish to push this measure through. In a sense, the companies are an unwilling agent for this proposal, so they should not be exposed. The basis of the amendments leads to a number of questions that have been asked, and I need not repeat them.

**Dr. Iddon:** Is not the greatest risk that fanatics against fluoridation, particularly supporters of the National Pure Water Association, will litigate, and that the water companies do not want to stand the cost of that litigation?

**Norman Baker:** It is clear that water companies should not have to defend themselves, be distracted or have a financial penalty imposed for something that is not their doing. To that extent, I support the Bill's indemnity proposals, but it still prompts the question as to why they are there in the first place. If legislation clearly concludes

that they are required if fluoride is to be added to water, that would be a defence in law for the water companies, which I suggest would be watertight in any case. The legal action likely to be taken by fanatics, as the hon. Member for Bolton, South-East put it—I would not use that word—against the water companies would not be very

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successful if companies had a statutory duty to add fluoride in the first place.

**Richard Burden:** The hon. Gentleman has, I am sure, gone through the arguments about this. A statutory requirement to fluoridate water could not be included for the very reason that one does not need to put fluoride in water where it occurs naturally.

**9.15 am**

**Norman Baker:** That is the situation now. We have managed without indemnities or requirements on water companies, but the Government now seek to move the goalposts and introduce a measure that they feel requires indemnities to be introduced. The hon. Gentleman shakes his head, but why, then, is the clause before us? It is because a new situation is arising. I am unhappy with the whole process, but I will not go on about the science now, because that would probably be better dealt with under a later group of amendments.

I do not want to get off on the wrong foot with the Minister, but she would not allow me to intervene first thing this morning. In every other sitting, the other Minister allowed interventions at every opportunity by every member of the Committee. I would not wish her to have begun as she has.

**Miss Johnson rose—**

**Norman Baker:** I do not intend to give way. The Minister can take her turn, as I had to take mine. Perhaps she will be kind enough to address in her concluding remarks the intervention that I wanted to make: will she clarify the position in respect of private water suppliers? I think that they supply about 2 per cent. of the water in this country, but they can be significant in local areas, and there may be some pressure for fluoride to be added in those areas. I am thinking, for example, of a place in my constituency where there is a facility owned by the Glynde estate, which supplies an entire village. Such an arrangement is not unusual. How will the Bill affect private water suppliers?

**Dr. Nick Palmer (Broxtowe):** On a point of order, Mr. O'Brien. I want to refer to the remarks of the hon. Member for Leominster (Mr. Wiggin). It does seem quite tropical here. Have we not gone from one extreme to the other?

**The Chairman:** That is not a point of order.

**Miss Johnson:** I assure the hon. Member for Lewes (Norman Baker) that I normally take many interventions. It was just that I had virtually one sentence left to say at that point and there seemed to be no sense in allowing an intervention, given that I knew that he would have a lot of remarks to make. I had perhaps forgotten that the Liberal

Democrats are not the main Opposition, so I assumed that he would follow me. [Hon. Members: "You can do better than that."] Opposition Members are on a touchy day; we will have to be careful with their egos.

The point of the proposal is to ensure that no water company is in a different position from any other. However, as hon. Members will appreciate, this is

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about enabling local communities to decide for themselves on fluoridation; it is not about this place taking the decision. As a result, some areas may be fluoridated—some already are—and others will not be. For that reason, companies may find themselves in a different position.

**Mr. David Drew** (Stroud): It would be helpful if we knew what legal advice the Government received. There is an expectation on the part of water companies that they will face litigation. It would be helpful to know in particular what discussions there have been between the lawyers of the water companies and the Government lawyers.

**Miss Johnson:** I have to try to help my hon. Friend, but the Government's legal advice is seldom supplied. In this case, I am not aware of any legal advice other than that relating to what ought to go in the Bill—lawyers are obviously involved in that connection.

**Mr. Andrew Lansley** (South Cambridgeshire): But surely legal advice must have been taken as to the compatibility of this provision with the European convention on human rights in order for the Minister for the Environment to make the statement that he did.

**Miss Johnson:** The hon. Gentleman is being a little technical. Of course, that matter has been dealt with, otherwise Ministers would not have signed off the statement that all Ministers must sign off. The hon. Member for Salisbury (Mr. Key) may gesticulate and wave the Bill about, but it is true that every Minister must sign such a statement. However, that is not the point being raised by my hon. Friend the Member for Stroud (Mr. Drew). He is asking whether we have sought specific legal advice on the issue of litigation. All I can say is that I am not aware of any such advice being sought.

The water companies are now competing commercially with one another, and we think that that is to the consumer's advantage. We must ensure that there is no difference in respect of fluoridation, so we must ensure that no fluoridating undertaker is worse off. That is the Government's position, and that is what the amendments are designed to achieve. It is not the private insurance companies that will bear the risk but the Exchequer. The Government therefore carry any risk that there is, and I shall come to what it is in a moment.

**Diana Organ** (Forest of Dean): On the point of water companies being concerned about possible litigation that may go against them, has the Minister any record from

the past 40 years of cases of litigation relating to suppliers of water to Birmingham and the east midlands and fluoride in the water.

**Miss Johnson:** I am not aware of any such cases. My hon. Friend brings me on to another important point. There are many countries in the world, as well as the UK, where fluoridation has been happening for a long time. That includes huge sections of the population and a large chunk of the USA, a country where litigation is often to the fore. In the United States, 64 per cent. of the population receives fluoridated water, and I am not aware that that has been an issue. Los Angeles took the decision in 1999 to add fluoride

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to the water, so that covers another large chunk of the US population. In some parts of the UK, fluoride has been in our water for many decades. About 6 million UK residents drink water with fluoride in it.

**Mr. Thomas:** The Minister has just said there have been no cases of litigation in areas that have fluoridated water supply. She has also said that she is not aware of any legal advice from the water companies regarding indemnity. If there is no indemnity at present, why on earth include it in the Bill?

**Miss Johnson:** Section 90 of the Water Industry Act 1991 already provides for the Secretary of State to indemnify water companies against liabilities connected with fluoridation. In terms of the exercise of indemnities, we are talking about one Birmingham resident in the past five years who would not pay his water bill.

As I know from my former ministerial job, the water companies are now in a highly competitive industry. They are nervous about anything that makes any difference between one company and another. Therefore, the Government must ensure that the playing field is level. Some hon. Members seem to be attaching too much excitement to this issue.

**Mr. George Osborne (Tatton):** Has the cost of this indemnity to the taxpayer been estimated? Is legal action anticipated? If there were any action, how much would that cost the taxpayer?

**Miss Johnson:** I am not aware of any such costings, or of any anxiety about the matter.

The hon. Member for Ceredigion discussed Down's syndrome and fluoridation. The York study found that there was no association between them—but it was critical of the quality of the evidence. The Medical Research Council also did not find any plausible medical explanation for that association, so it regarded research in this area as a low priority.

Nothing that anyone takes in can be guaranteed to be 100 per cent. safe, but when consideration is given to the record of fluoride in water throughout the world—including the UK—it must be concluded that there is no evidence that it causes a lot

of the problems that people are raising. If the hon. Member for Ceredigion was really concerned about this matter, he would not have fluoride in his toothpaste.

**Mr. Thomas:** That is a matter of individual choice, which is what I want to preserve for everyone in this country.

It is my understanding that the York survey team found no evidence of an association between bone factors, infant mortality, cancer and water fluoridation. However, on possible negative outcomes—such as congenital and IQ defects—it stated that further high-quality research is required. The Minister said that, in response to that, the Medical Research Council stated that research on this matter was a low priority. However, she released a press statement on 4 September, in which she stated that she had asked the chief medical officer and the chief dental officer to advise on the implications of the

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York report for Government policy on fluoridation. What has been the content of that advice?

**Miss Johnson:** We have had a 48-year experience of fluoridation in parts of the country. The York report was commissioned. The MRC reported in September 2002 on the work that we commissioned. The study into bio-availability is now complete, but it is still subject to peer review. When we have the advice of the chief medical officer and the chief dental officer, we will commission further research. We are not complacent about any of these issues.

On the hon. Gentleman's point about individual liberties, I understand and respect the fact that some people hold those views, but trying to cast aspersions by suggesting links between certain conditions or diseases and fluoride in the water is not about individual freedoms but about whether the facts bear out such assertions or anxieties. Although I sympathise with some of his attitudes, I do not share this one: we must keep the science separate from the fact that some people would prefer individuals to make their own decisions on this matter.

**Mr. Wiggin:** The Minister cited medical people as sources. Does she consider fluoride to be a medicine?

**Miss Johnson:** No, I do not. I assume that the hon. Gentleman is picking up on my reference to the chief medical officer. He is involved in this because it has been regarded as a public health issue. I am proud that it is regarded in that way, because it is about the dental health of our population and some of the many inequalities that exist. That is a reason for considering the matter of fluoride in water.

**9.30 am**

**Mr. Thomas:** I understand from the Minister's remarks that a further report that she requested in September 2002 from the chief medical officer and the chief dental officer on the implications of the York review for Government policy on fluoridation has not yet been received. As I explained earlier, it is of extreme concern to me, as

someone who tries to follow the best scientific advice available—on, say, cloning or any other issue—that we are debating something in the Committee and in the House about which we do not have advice from the chief medical officer and the chief dental officer.

If fluoride is not a medicine, what is it? If it is added to the water supply of a large number of people, what will be the response of the chief medical officer and the chief dental officer to that?

**Miss Johnson:** The hon. Gentleman will know, from the many letters that I am sure I have written to him and to many other Committee members, that a medicine is defined, and that fluoride is not a medicine as it is defined; therefore it is inappropriate to call fluoride a medicine. That is the simple fact.

We are discussing the Bill today; we are not taking any decisions.

**Mr. Wiggin:** On a point of order, Mr. O'Brien. The Minister has said that medicine is defined. I have the definition that it is any

"substance or combination of substances presented for treating or preventing disease in human beings or animals".

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It would be helpful if the Chair could decide whether that is a definition of medicine.

**The Chairman:** That responsibility is not for the Chair but for the experts. However, I am sure that the Minister has taken note of the point.

**Miss Johnson:** Thank you, Mr. O'Brien. We expect to get the final study very soon. We will also, I think, want to commission further research. However, I point out to the hon. Gentleman that the next stage of the Bill—assuming, as one never should, that it makes the expected progress—will be regulation-making. After that there will be discussion in strategic health authority areas, and decisions on implementation will be made at local level. By that time, a great deal more information will be available.

**Mr. Wiggin:** I note that the Minister decided, without reading the newspapers, to respond to the hon. Member for Lewes with a little crawling. I see that the hon. Gentleman wishes to speak.

**Norman Baker:** It is very courteous of the hon. Gentleman to give way. The Minister may have responded on that point, but she has not answered the point that I was trying to make about private water suppliers.

**Mr. Wiggin:** The hon. Gentleman is absolutely right. The Minister has not answered any of the questions that we have raised this morning. It is surprising, because the Government have been rather unfair on the Minister for the Environment, who has done his best to answer our questions. Providing a substitute this morning has proved very disappointing. How can the Government possibly allow legislation to go ahead if they have not done their legal work or the costings? That is extraordinary.

**Mr. Lansley:** Does my hon. Friend agree that the Minister has not answered the points that he made about the nature of the indemnity that the Government are proposing? In resisting amendment No. 220 while saying that she was sympathetic to it, the Minister fixed upon the word "all" in front of "liabilities" and then said that the Government want flexibility on issues such as negligence. However, amendment No. 220 makes it clear that the indemnity offered would not be in relation to liabilities

"arising from the undertaker's own fault or negligence."

She has still presented no argument against that amendment.

**Mr. Wiggin:** I entirely agree with my hon. Friend. He is absolutely right. This is not the easiest part of the Bill to go through, and the way in which it is presented is extremely complicated, but that is no excuse for a Minister turning up without having done any homework. The questions being asked are entirely reasonable and entirely proper, and have not been ruled out of order. She has even failed to tell us what she thinks a medicine is, despite my making a point of order. Whatever side of the argument one is on, that is important. Whether or not one believes that fluoride should be added, people must be protected by a proper

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indemnity policy, and if that is unnecessary, the Government should not have to put it in the Bill.

Either way, we deserve answers and we are not getting them from the Minister. Her remark about how many countries use fluoride was unbelievable. It stretched the patience of the Committee well in excess of what we are used to, especially on this Bill. We can start with Switzerland, where the canton of Basel has given up fluoride—

**Dr. Palmer:** I am familiar with the situation in Basel, as I lived there for 18 years. Does the hon. Gentleman agree with the Swiss policy of putting fluoride in salt?

**Mr. Wiggin:** I am not convinced by what I have seen of the scientific research that says that fluoride should be put in the water in Britain. I am more than happy to keep an open mind about the advantage of putting fluoride in toothpaste, and giving people fluoride pills if they want them, but I am not convinced that the way in which the Government are setting out to provide fluoride for British people is necessarily the best way. I started the debate with an open mind and I have asked many questions that would be helpful if they were answered, simply in respect of protection, if nothing else.

The York report stated neither that fluoride should or that it should not be added. It concluded that more scientific research was needed to answer the questions and allow us to proceed with comfort, and that would probably mean that the indemnity proposal would not be necessary. None of the report's conclusions have been taken up. The Minister was floundering about whether the Bill lived up to its human rights obligations.

**Norman Baker:** Perhaps the hon. Gentleman can help me answer a question that came to mind after the Minister sat down. In response to an intervention by the hon. Member for Ceredigion, the Minister said that there is an indemnification process in the Water Resources Act 1991, so I am not clear why indemnification is needed in the Bill. If the situation is hunky-dory, why is indemnification needed, and if it exists in the 1991 Act, why does it have to be replicated? It makes no sense to me.

**Mr. Wiggin:** The hon. Gentleman is absolutely right. The debate shows more and more that the Bill has not been properly thought through. Which Department will have the money for indemnification taken out of its budget? Will it be the Department of Health? How many hospital beds will be lost because of the bad wording of the measure?

**Miss Johnson:** That is not how the finances of bearing risk internally work. Does the hon. Gentleman not understand that?

**Mr. Wiggin:** How can I understand it when the Minister never answers the question? It is not very difficult. Can you tell us, Minister, how much money you are preparing to put aside to pay for litigation? If you have any idea how much you have been advised it may cost, tell us. We have no obligation to accept anything other than your word as to its being true—

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**The Chairman:** Order. I draw the Committee's attention to the fact that hon. Members are asking one another questions, rather than me. It would be helpful if hon. Members of all parties would address their remarks to the Chair.

**Mr. Wiggin:** I am delighted to address my remarks to you, Mr. O'Brien. I apologise if in my excitement I did not do so.

**Dr. Palmer:** The hon. Gentleman alleges that the Minister does not answer his questions, but he has not answered my question. He gave Switzerland as an example, and I pointed out that the Swiss policy is to put fluoride in salt, which virtually everyone consumes. Does he withdraw his suggestion that Switzerland is not a proponent of the general use of fluoride?

**Mr. Wiggin:** I tried to answer the hon. Gentleman's question by saying that my mind is open about whether it is a good thing. I am sorry if he did not get that. I do not object to people choosing fluoridation—the hon. Member for Ceredigion said that he used fluoridated toothpaste—but I want to ensure that there is a proper process to indemnify water companies. This is not a complicated part of the Bill, but the Committee is not getting the answers it needs. I want to know how much the proposal will cost, what legal advice is being taken, and whether the Bill fulfil its human rights obligations, as it states on the front page. They are not difficult questions, but it is only fair that we get some answers from the Minister.

**Mr. Thomas:** In case there is any misunderstanding—and the Minister was trying her best, though perhaps without complete success, to misrepresent my position—I want to clarify something. Nothing that I have said on indemnities, and the possible health

reasons for indemnifying water companies against the addition of fluoride to our water supply, has come from anywhere but the York review. That review asked for further high-quality research, but the Minister said that she would prefer to take the advice of the Medical Research Council. As a layman, that leaves me in a quandary, because she also said that fluoride is not a medicine. The process of licensing medicines in this country will not deal with fluoride because it is not a medicine, but the advice is being given from the Medical Research Council, which I believe covers medicines—I am not 100 per cent. sure; perhaps it covers poisons—and research on the effect of medicines on human health. The council is advising the Government on a substance in the water supply that is not a medicine. If the Bill were used to bale out a ship, we would not get very far, because there are so many holes in it.

**Dr. Palmer:** I want to clarify that point. Does the hon. Gentleman agree that the Medical Research Council's job is to study alleged risks to human health, regardless of whether they are caused by medicines or by other substances?

**Mr. Thomas:** That is my quandary. I thought that the point of the York review was to consider all the evidence and scientific studies carried out on the addition of fluoride to the water supply and produce a

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set of recommendations, which the Government would then act on before they added fluoride to the water supply, an act that raises the question whether we need an indemnity for water companies. The Government have not done that.

**Richard Burden:** I get the impression that the hon. Gentleman is taking several things from the York review that were not in it. He said that the Minister prefers to accept the advice of the Medical Research Council, but she has said nothing to indicate that she has refused to accept the York review, and he himself made the point that the York review did not offer advice. It was a review of evidence, and it concluded that there must be further research. Nobody has disagreed with that. The question is what public policy to adopt while that further research is being done, which is a judgment that we all must make, but there is no question of accepting the MRC and not the York review.

**Mr. Thomas:** The hon. Gentleman is more or less on track with that comment, and I do not disagree with his analysis. However, the York review said that we must have further high-quality research on IQ, which has excited some members of the Committee, and perhaps on other fields as well. The Medical Research Council said that that is a low priority. Even if we accept the hon. Gentleman's point that that is the correct process, the Government also told us more than a year ago that there will be a report from the chief medical officer and the chief dental officer, and we still have not seen that report.

We seem to be legislating, and indemnifying water companies against the addition of something to our water supply that is not a medicine, but is supposed to have a health benefit, on the basis of peer and scientific reviews that do not reach firm conclusions. That is not the right way to legislate. We should wait at least for the report of the chief medical officers. Until we know what further research the Government will

commission, I am not happy to leave it to regulations from the Department of Health. Members of Parliament do not have the time and space to scrutinise those properly. We should scrutinise the primary legislation, not the regulations. We are trying to regulate through the back door in a clause that was added to the Bill, and we are doing so without the full facts and information at our fingertips.

There are huge disagreements between people—both scientists and the public—about whether we should put fluoride in our water. As a general principle we should not legislate to extend, or encourage the extension of such provisions, as the Government are trying to do, unless we are convinced about whether such moves are harmful or non-harmful

**Mr. Wiggin:** I agree with the hon. Gentleman. Does not he agree that perhaps the reason that the Government will not admit that this is a medicine is that they do not want to have a mass medication debate? They have, however, failed to give us an alternative of what they really believe it is.

**Mr. Thomas:** The hon. Gentleman may be right. There is also the problem of trying to register as a

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medicine something that is already in the Poisons Act 1972. That would have to go to the Medical Research Council. There would have to be a huge amount of testing on the population. I am sure that he is, like me, vaguely aware of how a medicine is introduced: it must be done through peer review and must be introduced gently to the human population via review groups, and so forth. However, that has not happened. Fluoride is not accepted as a medicine. Perhaps it would be better if it was treated as a medicine and we could consider whether it has positive medical effects.

**Dr. Iddon:** Does the hon. Gentleman accept that there are certain things called trace elements that are necessary for life, such as vitamins and many minerals. Selenomethionine, for example, is a means of supplementing the supply of selenium into the body. Would he consider those to be medicines? They come under the Medicines Act 1968, but I do not think that even the Medicines Control Agency considers them to be medicines. They are trace elements that are essential to good health.

**Mr. Thomas:** I must be careful how I use my words—the word "force" comes to mind. Those trace elements are available in food and, to some extent, in the water supply, but we do not deliberately add them. As the hon. Gentleman may be aware, in this country iodine is added to salt, and a vitamin is added to flour—that is a hangover from the second world war.

**Diana Organ:** And margarine.

**Mr. Thomas:** The hon. Lady may be correct.

We do not indemnify those companies against the addition of such things in our food supply, so why are we indemnifying water companies against fluoride? I think that it

is because the Government know that the science is still a bit shaky. They are not 100 per cent., and they want to cover their back.

**Mr. Drew:** I wonder whether the hon. Gentleman will carry the logic through. There could be a case for the Government being asked to indemnify companies that introduce genetically modified food into the food supply. The logic of what he said could, without doubt, be followed through.

**Mr. Thomas:** Could be—but perhaps not on this occasion. We note in passing that the Co-op has decided not to stock GM foods. Perhaps there are individual decisions to be made.

We should not try to indemnify water companies for something that the Government are not 100 per cent. sure about in terms of scientific and medical advice. I am not convinced. The Government are trying to cover their back for what could be horrendous—and horrendously expensive—litigation processes. The hon. Member for Leominster asked about costs. We have none of the information we need to take decisions on in primary legislation.

**Dr. Palmer:** I want to reserve my main comments for the stand part debate. Some hon. Members have been smuggling in a stand part argument. They are saying that they are sceptical about the addition of fluoride and would not like to see the indemnity. It

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seems illogical that we will have the opportunity to vote on whether the responsibility for the addition of fluoride should pass to the health authority, but if the Government's view is followed and that responsibility is passed on, we should not indemnify the companies that we are asking to take on that responsibility. That would be grossly unfair to them. I am therefore puzzled about amendment No. 220.

**Paddy Tipping (Sherwood):** Does my hon. Friend take my view that all the political parties have agreed that when the Bill goes back to the Floor of the House there should be a free vote on this clause? Is it not more appropriate to vote on that issue on the Floor of the House rather than in the Committee?

**Dr. Palmer:** I do not have a strong view on that. There are plenty of precedents for voting on it in Committee. However, my hon. Friend may be correct that the issue has attracted sufficient broad concern—

**Several hon. Members rose—**

**Dr. Palmer:** It seems that I am in popular demand. It might be appropriate to vote on the clause on the Floor of the House. I give way to the hon. Member for Leominster, with whom I entirely agree on motor cycles.

**Mr. Wiggin:** I am grateful to the hon. Gentleman on two counts. He is right to make his comments now, because there is always a risk that the clause stand part debate will not be reached. He suggests that some of us are what I might call fluorosceptics,

among whose number I think he includes me, although that would not be strictly true. The purpose behind our inquiries is to find out whether the best way for the Government to achieve proper fluoridation and the benefits—

**The Chairman:** Order. Hon. Members are addressing one another. They must address the Chair.

**Mr. Wiggin:** The age group with which we are primarily concerned is between seven and 12. If the best way to achieve dental protection for that age group is through adding fluoride to the water, we must make that judgment based on the facts and figures, which we rely on the Government to supply. If, on the other hand, the Bill for indemnifying water companies is so enormous, perhaps the Government should be exploring other methods, such as giving fluoride pills or fluoride toothpaste and toothbrushes to schoolchildren. We are trying to tease that out of the Government, but they say that there is no bill. However, there must be a bill if they are going to pay for proper protection.

**Dr. Palmer:** The indemnity is an example of the precautionary principle at work. It would be possible for the Government to indemnify private operations against any conceivable frivolous litigation that might take place. However, in this case, we are all aware of the risk that groups who feel strongly about the issue might initiate litigation, which, even if it is unlikely to succeed, could be quite expensive. If we in Committee and on the Floor of the House consider that fluoridation is in the public interest, it would be fair to the companies that are affected to cover the cost.

**Mr. Thomas:** I want to put on the record, with regard to what the hon. Member for Sherwood (Paddy

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Tipping) said about a free vote on the Floor of the House, that following my party's annual conference this year, we will not have a free vote. We will vote against.

**Dr. Palmer:** I am shocked to hear of the Stalinist discipline that operates in the Welsh National party and sympathise with the hon. Gentleman, who is probably struggling with his conscience.

**Norman Baker:** Can the hon. Gentleman help me on one point, or if he cannot, perhaps the Minister can—assuming that she will be returning to answer some of the points raised? If, as the Minister said, water companies are already indemnified under the Water Resources Act 1991, why is the clause needed?

**Dr. Palmer:** I am not an expert on the interaction between different pieces of legislation, so I will leave others more expert than me to answer that question. I shall defer any further remarks to the stand part debate.

**Miss Johnson:** I will first address the question, by which the hon. Member for Lewes seems very excited, about why the measure is in the Bill. As I have said, section 90 of the Water Industry Act 1991 makes similar provision. The new section is a substitute

for section 90 and takes account of the new procedure on fluoridation. It is as uninteresting as that.

**Mr. Osborne:** Is the indemnity really necessary? The Government are the guarantor of last resort in major public health issues—that is what the Minister of Agriculture, Fisheries and Food said during the BSE crisis. At the time, the Department of Health provided predictions to Ministers that up to 5 million people could die as a result of CJD, and the Government would have been the guarantor if a public health catastrophe had unfolded. If fluoride turned out to be dangerous to human health and there was a widespread medical disaster, the Government would have to step in and spend an enormous amount clearing up the mess whether or not the new section was in the Bill.

**Miss Johnson:** Let me say in the strongest possible terms that there is no evidence of any harm to overall health from fluoride. I want to make that clear to anyone who has any doubt about it. For more than 40 years in the UK, we have had a large trial of the trace element in our water. More than 6 million people in the west midlands and the north-east already receive fluoridated water, and there is no evidence of harm to overall health as a result.

That is backed by evidence from many countries around the world. The hon. Member for Leominster did not pick up on the point made by my hon. Friend the Member for Broxtowe (Dr. Palmer), which was that the Swiss fluoridate salt. Many other countries also do that, so the population absorbs fluoride through salt consumption as well as water consumption in some cases.

**Mr. Hugo Swire** (East Devon): Will the Minister pause to answer the question posed by my hon. Friend the Member for Tatton (Mr. Osborne)? The Government are the guarantor of last resort in all

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instances of health. If so, why is the new section needed?

**Miss Johnson:** I have already explained that, but hon. Members do not want to hear it. The explanation is that the water companies have asked for a level playing field on the risks that they face whether they fluoridate or not, and it is entirely right to provide that. We do not have a massive costing that suggests a huge liability. It is entirely to the contrary: there is no expected liability.

**Mr. Osborne** rose—

**Miss Johnson:** I will finish answering the hon. Gentleman's earlier remarks and then let him intervene if he wants to.

There is no expected liability. Only £500 has been paid out in the past five years under the indemnity in the Water Industry Act 1991, and that covered the costs incurred by a water company in prosecuting the non-payment of one bill, which I mentioned earlier. We are talking not about £5 million or £5 billion, but about £500.

**Mr. Osborne:** Each Committee member will have received a host of correspondence from several organisations that are against putting fluoride in water. It is predictable that at least one, if not many, will mount a legal challenge. The Government must be forecasting that they will pay out for legal costs in the simple expectation of such legal action. I am not talking about their paying hundreds of millions of pounds because people are ill.

**Miss Johnson:** I have already said no, and when I say no I mean no. How many times does the hon. Gentleman want me to say it?

**Norman Baker:** I entirely accept the Minister's point about indemnity and the Government's theoretical position. However, following on from the Birmingham example, is it not the case that if there was a campaign of non-payment of water bills as a consequence of fluoride being added, the water companies would happily pursue cases through the courts in the knowledge that the Government would pick up the bill for the prosecution?

**10 am**

**Miss Johnson:** No, no, that is not the case. As I pointed out, there are 6 million consumers already—across swathes of eastern England, from the north-east to Essex, and in a chunk of the Birmingham area—who are already receiving fluoridated water.

**Norman Baker:** As the Minister told the Committee a moment ago, under the 1991 Act the only time that the Government have had to cough up money is to provide the fund for the prosecution of the water company in the case of that one individual in Birmingham. It follows that, unless the indemnity provisions in the Bill are altered, they will give an undertaking to water companies to provide funds for prosecution in the case of non-payment where fluoride is an issue. The Birmingham case could happen again. I want the Minister to confirm whether that still remains the position under the new provisions.

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**Miss Johnson:** We will need to discuss the exact nature of the provisions when we discuss the affirmative procedure. I was distressed by the comments of the hon. Member for Ceredigion about the scrutiny that this House provides for regulations subject to affirmative procedures. I take it that when he comes to a Committee dealing with such regulations, he does not take his responsibilities seriously or he does not think that others do so. The fact is that there is a good, solid opportunity for detailed debate when dealing with regulations subject to the affirmative procedure.

**Mr. Swire:** A few days ago, or even last week, before the Minister came to this Committee and illuminated us all, the Minister for the Environment talked about the large amount of debt that was owed because of non-payment of water bills. The Minister has cited the Birmingham example, but can she envisage a situation whereby others might cite the reason for non-payment of bills to be the fluoridation of their water supplies?

Will not the Government find themselves having to distinguish between those who are refusing to pay their bills on principle because of water fluoridation and those who did not want to pay their bills anyway? The Government could find themselves, on one hand, supporting the water companies' legal cases with public money, and, on the other, not pursuing individuals for non-payment, because so far they have failed to pursue unpaid water bills amounting to £700 million or £800 million.

**Miss Johnson:** The hon. Gentleman is one of a number of people who are using the discussion as an opportunity to try to oppose fluoride, while not being as intellectually honest as those who simply say that they oppose it for whatever reason. The attempt to manufacture shroud after shroud out of tiny tatters of cloth is feeble.

**Mr. Swire:** Answer the question.

**Miss Johnson:** The answer is that we do not envisage the problems that the hon. Gentleman outlined. I have already made that absolutely clear in response to the hon. Member for Tatton.

I was struck by the remarks that the hon. Member for Ceredigion made about his party's position on the matter; he said that he believes in individual liberties, but that his party will not have a free vote on the subject. That is interesting.

**Mr. Thomas rose—**

**Miss Johnson:** I see that I have touched a nerve. I shall give way to the hon. Gentleman.

**Mr. Thomas:** I really cannot believe that I need to tell the Minister this, but in order to protect individual liberties, we sometimes have to take a stand and say that we will not legislate for measures such as identity cards or compulsory fluoridation.

**Dr. Iddon:** Or seat belts.

**Mr. Thomas:** Yes, or seat belts, but there is greater public benefit to be gained from that measure, because of its effect on other people and the health service, so that is a different matter.

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It would be better and more intellectually honest, to use the Minister's words, of her to say whether the Government are in favour of fluoridating our water supply, than to hide the measures in the Bill, which is what she is trying to do.

**Miss Johnson:** We are certainly not hiding the measures in the Bill. We are leaving local communities to decide. I do not know whether the hon. Gentleman believes in devolution, but Labour Members certainly do. Our position is entirely consistent.

I now come to the MRC. I am grateful to my hon. Friend the Member for Birmingham, Northfield (Richard Burden) for his remarks. He was entirely right in setting the hon. Member for Ceredigion straight about what I said. I had not made the

connection with, or the rejection of, the York report that was suggested. The MRC was asked to advise on how the gaps in the research which the York report identified could be filled. That is the work that the MRC was asked to undertake. The York report was basically a review of the evidence, and it said that much of the so-called evidence was not very well researched, and that more work needed to be done. That is what the MRC programme is designed to do.

On the question of so-called medication, and the definition of "medicine" that so excites the hon. Member for Leominster, the Medicines and Healthcare Products Regulatory Agency does not consider fluoridated water a medicine, and it is the agency responsible for defining medicine. We have to remember that fluoride is a natural constituent of all drinking water. Indeed, the bottles before us contain just under 0.02 mg per litre of fluoride.

**Mr. Robert Key** (Salisbury): At 8 to 12° C.

**Miss Johnson:** The hon. Gentleman has been studying intently on the Back Benches, and I am delighted to see it.

Fluoride sometimes occurs naturally at much higher concentrations than 1 part per million. Some areas have had the fluoride levels in naturally fluoridated water reduced to bring the content down to the levels considered optimal and entirely safe. It is entirely natural that we take in fluoride in a variety of ways. My hon. Friends the Members for Broxtowe and for Bolton, South-East remarked that it is found naturally in food, and that we need to take it in. That is why fluoride is not a medicine.

**Mr. Wiggin:** I am glad that the Minister has addressed the question. If fluoride is already in bottled water, why do the Government's proposals not insist that all bottled water contains fluoride?

**Miss Johnson:** We are not insisting that all of anything should contain fluoride. As I said earlier, we are talking about options and about the devolution of decision making to communities. That is what already happens; some communities in England already have fluoridated water, and others do not. That is how it should be.

**Dr. Iddon:** I just want to correct the point that I made earlier about comparing fluoride as an essential element with vitamins and minerals. I referred to vitamins and minerals as being regulated by the

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Medicines Control Agency. I apologise; I was wrong. Vitamins and minerals are regulated through food legislation. That strengthens the point that I was trying to make to the hon. Member for Ceredigion.

**Miss Johnson:** Indeed it does. As a Minister, I deal with vitamins and minerals through the Food Standards Agency. Can I therefore bring this interesting debate, which I am sure will be resumed on other amendments, to a close?

**Norman Baker:** I am still keen to know about the position of private water suppliers, which has not yet been addressed. If a private water supplier wished to add fluoride to water, would it be indemnified against any action in the way that water undertakers are? If not, is the Minister happy that the benefits of fluoride—as she sees them—will not be available to those who benefit from a private water supply?

**Miss Johnson:** I am not sure in what sense the hon. Gentleman uses the word "private", because all the companies are private.

**Norman Baker:** I understand that the Minister will not necessarily be up to speed with water legislation, but about 2 per cent. of suppliers are officially called "private". That has nothing to do with private companies, but where water is supplied by, for example, an estate. I am keen to know whether those suppliers will be indemnified in the same way as water undertakers.

**Miss Johnson:** Yes, the hon. Gentleman's point reflects the Government's desire for everybody to be on the same footing—to have a level playing field.

I trust that I have responded sympathetically to the issues and that hon. Members will support the Government amendment.

**Mr. Wiggin:** Before the Minister makes her closing comments, I want to ask her about Government amendment No. 343. I notice that it states:

"The Secretary of State may also, with the consent of the Treasury, agree to indemnify".

Can she confirm that the wording does not mean that if the Secretary of State is willing to indemnify the water companies, but the Chancellor says no, the amendment would be worthless? Is the Treasury's consent needed to provide the level playing field to which the Minister referred?

**Miss Johnson:** I am grateful to the hon. Gentleman for his remarks. He makes a good point. I mentioned the Treasury in my opening remarks. The Treasury is normally involved in these financial discussions for all Departments. I am sure that the hon. Gentleman appreciates that, whatever the measure says, it is unlikely that the Treasury would be not strongly involved in any such situations that occurred. It is unlikely that it will ever be an issue in the way that has been envisaged.

I ask hon. Members to support the Government amendments. I hope that Opposition Members will reflect on the opportunity for a fuller debate on the details of the exact liabilities. The appropriate time for that detail to be worked out is when the regulations are considered.

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**Mr. Wiggin:** I am grateful to the Minister for her closing comments. The Opposition's position is that this is a free vote, and will be the position throughout the debates today and with regard to the latter parts of the Bill. This is an important part of the Bill. It is difficult for me, having teased out quite a lot of information from the Minister, to oppose amendments that are almost identical to mine.

The wide-ranging debate is important because this is a crucial consideration in protecting people. I should have liked more detail about how the Government would handle a disaster, but my hon. Friend the Member for Tatton put that question very nicely, and the Government's response will be on the record. I am grateful to the Minister for what she said.

Amendment agreed to.

**10.15 am**

**Mr. Wiggin:** I beg to move amendment No. 213, in

clause 61, page 76, line 30, at end insert—

'(2A) Neither shall a water undertaker be required by subsection (1) above to enter into any such arrangements unless and until it has been ascertained (pursuant to the provisions of section 89 below) that at least 90 per cent. of the population residing within the area proposed to be fluoridated are in favour of the fluoridation of their water supply.'

**The Chairman:** With this it will be convenient to discuss the following:

Amendment No. 351, in

clause 61, page 76, line 30, at end insert—

'(2) With regards to Wales, neither shall a water undertaker be authorised by subsection (1) above to enter into any such arrangements unless and until a referendum on increasing levels of fluoridation has been held in accordance with the Political Parties Elections and Referendums Act 2000 seeking approval of the arrangements from the population residing in the area proposed to be affected.'

Amendment No. 156, in

clause 61, page 79, line 19, after 'below', insert

'the Secretary of State must ensure funding is available for the consultation to take place as set out below, and'.

Amendment No. 110, in

clause 61, page 79, line 21, after 'consult', insert 'all households'.

Government amendment No. 338.

Amendment No. 158, in

clause 61, page 79, line 22, at end insert

'then if public opinion is clearly in favour of such an addition'.

Government amendments Nos. 339 to 342.

**Mr. Wiggin:** Amendment No. 213 covers the two important aspects of consultation. The Government have put the strategic health authorities in charge of the consultation, and they are neither accountable nor democratically elected. The Government have also failed to answer the question of what would happen if one strategic health authority wants fluoridation, but another does not—which would take precedence? There will be overlaps in water supply areas, and it is impossible to separate those who want fluoridation from those who do not.

**Mr. Thomas:** Will the hon. Gentleman consider the fact that there are overlaps not only in water supply, but in strategic health authorities? In Wales, different

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trusts overlap; for example, mental health trusts and so on. There may be disagreements among bordering health authorities over an area that has more than one water supply. His amendment goes to the heart of the matter of how to address public consultation.

**Mr. Wiggin:** The hon. Gentleman is right, and his amendment No. 351, which is included in this group, touches on the sensitive issue of Wales, which is greatly relevant to my constituency.

A third question is how the consultation will be funded, because it is not cheap. We all know that the Government have done all that they can to invest more money in the health service, but will the funding come from the health service budget or another budget? How much will it cost? What will a strategic health authority be expected to spend on consultation, if indeed the authority is to pay? I would prefer an element of democratic decision making with local authorities having that power.

**Mr. Osborne:** My hon. Friend has touched on an important point. Even those of us who are neutral on whether to put fluoride in water feel that strategic health authorities are the wrong vehicles for the measure. In my constituency, we are governed by the Cheshire and Merseyside strategic health authority, which covers a vast area and is not locally accountable. The Minister talks about the decision being given to local communities, but nobody can call the strategic health authority representative of the local community. A local authority would be a better guide to local opinion.

**The Chairman:** Order. I draw Members' attention to the fact that the involvement of local authorities is covered by amendment No. 301. I hope that they will reserve remarks on local government for discussions on that amendment.

**Mr. Wiggin:** How lucky we are to have you in the Chair, Mr. O'Brien.

In amendment No. 213, I have suggested that at least 90 per cent. of the local population should be in favour of fluoridation.

**Andy King** (Rugby and Kenilworth): I find the amendment fascinating, especially as the hon. Member for Tatton said that he is being open-minded and not sceptical about it. Does the figure of 90 per cent. refer to the proportion of those who vote or, as I

interpret it, the proportion of the whole population? Has he ever known a vote in which 90 per cent. of the population even turned out to vote? The amendment is absurd.

**Mr. Wiggin:** The hon. Gentleman is right; it is a wrecking amendment, and I have no problem with saying that. We want to find out from the Government what democratic result they would consider right. I have taken this to the nth degree purely for that purpose. I am grateful to the hon. Gentleman for making half of my speech for me.

**Dr. Palmer:** We all appreciate the hon. Gentleman's openness and honesty about his wrecking intentions. Could I draw his attention to the fact that the Leader

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of the Opposition, before he became distracted by other matters, spoke scornfully about the idea of referendums on fluoridation? Is he concerned that his recommendation will lead to career discussions?

**Mr. Wiggin:** There is an important point that both hon. Members have made: what democratic accountability will we accept for this important procedure? I am more than happy to accept that 90 per cent. may not be the right figure, but I am keen to find out what the right figure is and how much democracy we will be exposed to. If strategic health authorities conduct the accountability element of the decision to fluoridate, we may have ridiculous results. That might make my amendment absolutely credible.

**Mr. Swire:** Does my hon. Friend share my concern that, as with the Government's intention to introduce regional assemblies, if some areas do and some do not, the Government will go on applying pressure until all areas comply with what is essentially Government policy?

**Mr. Wiggin:** My hon. Friend makes an important point. The sinister aspect to what he suggests is that there is so much pressure on one side of the argument, so how can we ensure that we have a proper and fair debate with good information that is well understood by all?

**Mr. Osborne:** My hon. Friend is making a good point. No one seriously believes that strategic health authorities such as Merseyside or Manchester will not, after carrying out some cursory consultation, introduce fluoride into the water. They know what happens. When people are asked about fluoride they almost always reject it in large numbers. As the hon. Member for Bolton, South-East will remember, in 1968 when the people of Bolton were asked in a referendum, 73 per cent. said no to fluoride. I imagine that the result would be replicated today.

**Mr. Wiggin:** My hon. Friend is absolutely right. One must bear it in mind that, according to the statistics that the Minister quoted, if one held a referendum in Birmingham, only one person would vote against fluoridation.

**Mr. Thomas:** The hon. Gentleman is dealing with an important point—how do we gauge public acceptance? In the context of Birmingham, he may be interested to know

that the Islamic Medical Association has announced that it is launching a campaign to stop artificial fluoridation in Birmingham. [Interruption.] What he has just predicted is about to come to fruition. Would not such a campaign affect the result of the referendum?

**Mr. Wiggin:** I, too, have had a letter from that organisation. I notice that the Minister for the Environment said from a sedentary position, "All two of them." There are 2 million of them. I am surprised that the Minister is so relaxed about it. Let us have no fatwas on water.

The important point is that the Committee has to decide what sort of democratic result we would be prepared to accept. Perhaps I was a little harsh on myself when I described this as a wrecking amendment. It is intended not to wreck but to

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probe, and it has been extremely successful in that respect. I should like the Minister to deal with the key points. What democratic accountability are we prepared to accept? Who will pay for the consultation? If we have a split result where one strategic health authority wants one thing and one wants another, who will win? How much accountability will people really get from the process?

**Dr. Palmer:** My impression, Mr. O'Brien, is that you are allowing us to range reasonably widely around the clauses, so with your permission I will make some remarks that I might otherwise have made on clause stand part. I will try to stick as closely as I can to the amendment.

I am grateful to the hon. Member for Leominster for raising these issues. However, I am still in the dark about whether he is in favour of referendums: he said that he is trying to probe whether the Government are in favour of them, but I am not sure whether he is. Opinion polls suggest that 55 per cent. of the population are in favour of fluoridation. In an individual referendum, the result might be different. I am happy to allow the hon. Gentleman to intervene to clarify his views, if he wishes to do so.

**Mr. Wiggin:** I am grateful for that invitation. I always seek to clarify my views, although, unfortunately, the decision on this matter will be taken by the Minister rather than me.

I am in favour of referendums on whether fluoride should be added to water, but I do not agree with the provision for holding those referendums. I would hate for fluoride to be added to the water without a referendum, but I am unsure whether the people who would conduct the referendum are the right people. Does that explanation help the hon. Gentleman?

**Dr. Palmer:** I must admit that I am struggling.

**Mr. Wiggin:** Shall I have another go?

**Dr. Palmer:** First, let me explain what I understood the hon. Gentleman to be saying. His amendment is based on the view that referendums conducted by the strategic health authority would be undesirable if the vote was in favour, but he would be happy if the vote was against. Is that right?

**Mr. Wiggin:** That is very wrong. I said that fluoride should not be added to water unless there has been a referendum—in that respect, I am in favour of referendums. However, I am not in favour of the referendums set out in the Bill, which would be conducted by strategic health authorities, which have very little democratic accountability. I would prefer them to be conducted by people who understand about votes, such as local authorities.

**Dr. Palmer:** I now understand the hon. Gentleman's position, which I must say, if he will excuse my rudeness, is odd, because most people are more concerned about what they are voting on than about who organised the vote.

I turn to the substance of the amendments. There are four separate issues. The first is whether fluoride is at all helpful to teeth. Although, as with the Burns inquiry on fox hunting, we all quote the bits of the York review that we like, leaving aside all minor

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issues, there is no serious dispute about whether fluoride reduces decay; it does. We can argue about how much it reduces it, but almost everyone agrees that it has a positive effect.

The second issue is whether we can be certain that fluoridation is not harmful to health. One cannot prove a negative. It is possible that chlorination is harmful to health. It is also possible that the electricity network is harmful to health, and I have constituents who believe that, if power lines pass somewhere near their house, that is likely to make them ill. One has to make a judgment about whether such fears are reasonable.

I am not an expert on fluoridation, but the York review and the MRC's comments suggest that there is no good reason to believe that fluoride is harmful to health. There has been extensive correspondence on this matter from different groups. There are issues that continue to be raised, and we should continue to respond to them—to listen attentively and see whether our judgment changes.

The third issue is about freedom, which the hon. Member for Ceredigion mentioned. I was struck by his view that in order to protect freedom it is necessary to abolish freedom. I think that he said that it was necessary to take a stand, but that stand is one of compulsion, regardless of the views of the individual members of Plaid Cymru. That is an original position, but I shall pass over it.

**Mr. Thomas:** Will the hon. Gentleman tell me the last time that the Labour party gave its MPs a free vote on anything in this place?

**10.30 am**

**Dr. Palmer:** Yes, today. Moving aside from what one might call partisan banter, there is a serious issue about freedom. If there was any serious evidence of probable harm, even to a small section of the population, we would need to take the matter seriously. However, as long as we believe that there is no serious evidence of probable harm, the collective cost to all of us of the national health service entitles us to adopt what we believe to be safe ways of improving the nation's health.

Some of my constituents object to safety warnings on cigarette packets: they say that they are nanny stateism, that they are irritating and a waste of public money. The argument in that case, as with the banning of cigarette advertising—some of my constituents object to that as well—is that because we collectively pay for health care, it is reasonable to take steps to protect the nation's health, if those steps do not inflict damage on individuals. Most of us would feel that the damage to individuals of having to read an irritating warning on a cigarette packet is so trivial that we would not worry about it. The question is whether the risk posed by fluoride is equally trivial.

**Norman Baker:** The hon. Gentleman has correctly identified the three issues at the heart of the debate. They are the quantifiable benefits and risks, such as they are, and the melding together of those two aspects with the question of individual freedom—that is the crux of the Bill. However, I do not agree with his

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application to tests. He has not mentioned the precautionary principle, which is the standard approach taken to environmental and health matters, and I ask him to address that point. People may have concerns about power lines, for example, but they do not have to live next to them. They may object to the warnings on cigarette packets, but they do not have to buy the cigarettes, or they can buy them and still object to the warnings. The difference with fluoride in water, and what makes it such a sensitive issue, is that once fluoridation has taken place, people have no alternative but to drink that water. That is my greatest concern, and suggests to me that the test that is applied should be a lower test than in cases in which there is genuine freedom of choice.

**Dr. Palmer:** I appreciate the logic of what the hon. Gentleman says, but the cases are less different than he thinks. If people feel strongly about wishing to avoid power lines, they may be forced to live in a less attractive property than they otherwise would, and may feel that they are losing out. Constituents who object to fluoridated water do not object because they would be forced to drink it, but because they would be forced to buy bottled water or filters, and they do not see why they should have to put up with that extra cost. It is not that they are being forced to consume it, but that they are being forced to pay something because of their beliefs.

**Mr. Swire:** I am following carefully what the hon. Gentleman says, but the logical conclusion of his argument is that we have responsibility for the nation's health. If that is the case, and there was an explosion of disease as a result of the lack of, or a decline in MMR inoculation, as is currently occurring, at what point should the state step in and say that, in order to protect the whole, it must insist on compulsory vaccination? Surely it is a fundamental medical principle that no one should be forced to accept medication?

**The Minister for the Environment (Mr. Elliot Morley):** It is not medication.

**Mr. Swire:** The Minister may say that, but—

**The Chairman:** Order. This is an intervention, but it is becoming lengthy.

**Mr. Swire:** What the Minister says is contrary to what the EU says. I invite the hon. Member for Broxtowe to reflect on the logical outcome of his conclusion, because I find what he says worrying.

**Dr. Palmer:** I appreciate that there are important issues around MMR, but I think you would lose patience with me, Mr. O'Brien, if I went down that route. Although I have strong views on the issue, I shall not ventilate them today.

**Mr. Osborne:** The hon. Gentleman is making an interesting speech. I am not tempting him into a debate about vaccination, but my hon. Friend the Member for East Devon (Mr. Swire) made a good point: some countries have compulsory vaccination. In the United States a child cannot go to a public school without having had the MMR jab. There may be a

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case for compulsion with regard to public health issues, whether it concerns fluoridation, vaccination or any other matter.

**Dr. Palmer:** There is a case for compulsion in respect of vaccination, but we are not discussing that today. As I said in my reply to the hon. Member for Lewes, we are not discussing compulsion on consumption of fluoridation, but whether the cost should lie principally with those who want to have fluoride, by forcing them to buy fluoridated toothpaste, or with those who have an apparently unreasonable fear of fluoride, who would have to buy bottled water.

I realise that I forgot to respond to what the hon. Member for Lewes said about the precautionary principle. I apologise for that. We all use the words "precautionary principle", but in practice we accept that a reasonable limit must be applied. There are some people who believe that practically any substance known to mankind is dangerous and that they are constantly at risk from everything around them. It is possible that we are all developing cancer as a result of sitting in this warm Room. The precautionary principle might suggest that we should not sit in warm rooms, but one has to draw the line somewhere. The question is whether the line is being drawn at a reasonable point in the Bill.

Ultimately, somebody must decide. We must decide whether the risks outweigh the benefits, or whether they are negligible, as far as we can see, and are outweighed by the benefits. Who decides that currently? It is the boards of the privatised water companies. That is totally bizarre. I am not one of those who bash industry. I worked in private industry for 18 years and I have absolute respect for people sitting on the boards of private companies. If they take their job seriously, let them get on with it—that is fine. However, people are not selected as directors of Severn Trent for their medical expertise.

The arguments against fluoridation would lead to a proposal to ban it. However, the proposal before us is not to insist on fluoridation but to transfer the decision-making competence from the board of privatised water companies to the health authorities. If somebody has to make the decision in the light of the amount of fluoride in the local water supply, the state of the local teeth, and so on, the best option is likely to be the health authority.

**Mr. Wiggin:** The strategic health authorities are fairly new. Who does the hon. Gentleman think is more accountable to the public, the current board of the water companies, which have a wide shareholder ownership and customer base, or strategic health authorities? The latter are neither elected nor even nameable in most cases.

**Dr. Palmer:** If I wanted a body to decide how to maximise the profit from the water supply, I think Severn Trent would be in a much better position to do so than the East Midlands strategic health authority.

**Richard Burden:** It should be on the record that the Opposition spokesman stated that a private company is more accountable than the national health service. It

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ends the debate about whether they want to privatise it.

**Dr. Palmer:** The logical conclusion of the view expressed by the hon. Member for Leominster is that responsibility for the local health service should be transferred to the management of the water supply company.

**Mr. Siôn Simon** (Birmingham, Erdington): Does my hon. Friend believe that the first and only single piece of shareholder power in the history of capitalism has gone to the hon. Member for Leominster's head?

**Dr. Palmer:** I will not speculate about the hon. Gentleman's thought processes, which have a logic that is not always perceived from the outside.

**Mr. Wiggin:** I am glad that I have caused the Committee so much amusement. We are talking about the power going the other way, from the shareholder board to the strategic health authorities. I am grateful for the interventions, as it shows that hon. Members are listening. I am keen to ensure that there is more accountability, not less. That is what I sought to tease out from the hon. Gentleman, despite the jibes from Labour Members.

**Dr. Palmer:** The hon. Gentleman is making serious points. Most people, when asked about fluoridation, say, "Well, it's probably a good thing, although I don't understand all the details." Some, however, say, "I'm a bit worried about it. It seems a bit spooky." Only a limited number of people, who are in a position to decide, having fully examined the arguments on both sides, feel totally confident about the issue. The call for a national referendum would not be as widely supported as the hon. Gentleman thinks. Most people would want a substantive consultation in which the health authority, working with local government, tried to ensure that the arguments were well understood, and that people had the chance to respond fully to the process.

I am not sure that asking people to vote is the best way to solve the matter. I do not feel able to assess every argument that has been advanced, and I have spent a lot of time reading up on the issue. What is needed is the best possible advice from health experts on both sides of the argument, and a health authority is probably the best place for it. If the hon. Gentleman is arguing for more democratisation of the health authorities, that is a separate issue, and we should discuss it.

**Mr. Thomas:** The logic of the hon. Gentleman's argument is that we would not vote on the issue in Committee. He said that he does not feel totally confident about the arguments. There must be a clear, accountable process by which to decide these matters, whether it is at local level in England, or Waleswide.

The real question is how the public are to be properly informed about the subject. What sort of choices will they be given? For example, will they be given a choice between fluoridation and a community dental service, with the reintroduction of the school dentist going to every school and ensuring that children brush their teeth properly? One is just as effective as the other.

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We are not arguing against the use of fluoride in the prevention of dental caries, but against the means of delivering it. We are arguing for the power of the individual to decide which means to use. The hon. Gentleman is on dangerous ground in suggesting that these things should be consulted on, when it should be a matter of individual choice. People should have that option.

**Dr. Palmer:** The hon. Gentleman is being uncharacteristically frivolous to suggest that the Committee would not be entitled to vote today as a consequence of my argument. I am not saying that we should decide yes or no to fluoridation. What we are deciding today, and what will be decided on the Floor of the House, is who should decide, which seems an entirely appropriate thing for the Committee and the House of Commons to decide. In fact, I cannot see who else would do that, except perhaps the Welsh Assembly. Who decides is a political decision, but thereafter it should be primarily a health decision, and a health decision should properly be taken by a health authority, not a privatised water board.

**10.45 am**

**Mr. Swire:** The problem is that the health authorities will have to rely on the contrary medical evidence on which the Committee has relied. They will have views, of course, but they may not coincide with the views of the local electorate, who might be more convinced, for instance, by the fact that 98 per cent. of western Europe has rejected water fluoridation. The evidence of the York review was mentioned, but how independent was that? It was funded by the Department of Health to the tune of £80,000 a year. You have to think carefully before you say that a health authority will have a better insight than anyone else in the argument.

**Dr. Palmer:** I note the hon. Gentleman's view that the Chairman needs to think carefully about that. I am sure that he will keep it in mind.

The difference between a health authority and us is that it is a health authority's job to assess health issues. With all due respect, very few of us have enormous medical expertise. I am not an expert on dentistry or the effect of different chemicals in the bloodstream. I can take a serious amateur interest in that, as can the hon. Gentleman, but I do not believe, although I may be underestimating him, that there are many research chemists and doctors on the Committee—I know there is one.

**Several hon. Members rose—**

**Dr. Palmer:** I am anxious not to monopolise the discussion; I see that my hon. Friends are looking a little nervous. I have had three requests for interventions and I give way to the hon. Member for Leominster.

**Mr. Wiggin:** I shall not delay the hon. Gentleman long. He is making the point that strategic health authorities know best, and although he may or may not be right, the real weakness in the argument is that they should not conduct the consultation process, because they come with an agenda. That is the real fear, but we shall deal with it later.

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**Dr. Palmer:** Yes. I have said that the serious point is how the consultation should be conducted and to what extent one should simply weigh and count the responses or consider the arguments. I agree that those are all serious issues, but we shall vote today on whether the decision should be taken by the strategic health authority or by the privatised water companies, and I just do not see the case for the latter.

**Andy King:** It is important to recognise that we are not considering this legislation such that the moment that it is passed every health authority will be expected to rush out and have referendums on the basis of where we are today. If the legislation is sound, it will be around for a long time, and I would expect and trust strategic health authorities to undertake the fullest possible consultation and to give a balanced view of the research available at the time. I certainly hope that more and better information will be available to health authorities when they consult communities.

**Dr. Palmer:** I entirely accept my hon. Friend's point and I share his trust, but let me reflect on the points made by a number of Opposition Members. If there were an amendment to spell out in greater detail what steps needed to be taken for the consultation, I for one would feel that that would be quite helpful on Report. However, the principle is who should decide, and the principle of the Bill seems entirely right.

Fluoridation is, by common consent, helpful to teeth. It does not appear that there is a danger from it. There is a reasonable case for asking people to accept health measures, if they do not impose a danger, in the national interest, or for placing a modest additional cost if they insist on evading such measures. The decision should be made by the strategic health authority.

**Norman Baker:** Let me come back to the question of who should decide. It is an important question. There is an argument that the individual should decide, not a

Government body, health authority, water company or anybody else. It is a standard accepted philosophy that people have the right to decline medical treatment. The Minister will know that well from her portfolio.

We are getting into some sophistry as to whether fluoride is a medicine. I am happy to accept that it is not defined as a medicine under the Medicines Act 1968, but that is not terribly relevant in a sense. What is relevant is that the argument for the addition of fluoride to water is that a health benefit will be derived, and that that benefit will be the improved condition of teeth, and so on. Government Members have referred to that. The driving force here is one of health, and that constitutes a medical benefit. The hon. Member for Broxtowe, who I assume will vote in favour of fluoride on Report, identified it as a medical benefit although not necessarily a medicine. That is sophistry; the issue is whether people should have forced on them a health benefit that they do not want. I do not think that they should, even for their own good.

As to who decides, the individual should decide. That choice is not in the Bill.

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**Mr. Simon:** Just to explain that concept of "force", a tiny number of people have objections, apparently entirely unfounded, to the substance in question being in the water. If that tiny number of people choose to opt out of the water from their taps, how are they forced to drink it? We should let them get some other kind of water—for instance, bottled Hampshire water such as we have here.

**Norman Baker:** There are two points to that intervention. The first is whether one could entirely opt out, notwithstanding the comment about bottled water, because one goes through one's life drinking water in different establishments, in restaurants and in people's houses. One cannot simply opt out of water in that way.

Secondly, the more interesting philosophical point is whether the majority in a population—if it is a majority in this case, which I expect it is—has the right to impose its view on the minority.

**Mr. Nick Ainger** (West Carmarthen and South Pembrokeshire): It is the other way round.

**Norman Baker:** No, it is not. If the majority wants to compel the minority to do something, does it have the right to do that? That is an important philosophical point. As Members of Parliament, we have to listen to majority views. We do so all the time, and would not be elected if we did not. However, we are also here to defend the minority, and those who do not want something. When we pass any sort of legislation, we always have to think what the consequences are for somebody who does not want it and whether it should be imposed on them against their will.

**Richard Burden:** I understand the hon. Gentleman's point, but I wonder how far he would take it. Where would he draw the dividing line between something added to water as a benefit, and something added to water to prevent what is perceived to be a danger? Somebody else might draw a different conclusion. If somebody had a deeply

held, if illogical, personal conviction that chlorine in the water was dangerous and they wanted to opt out of it, would they have the individual right to do that?

**Norman Baker:** That is a fair question. These are difficult matters, and it is difficult to get absolute answers to them. We all have to draw lines where appropriate. There is a sensible line drawn there, between something that prevents a public health hazard, such as chlorine, and something that is not necessary to prevent a hazard but would be beneficial. There is a distinction, and it might be difficult to draw, but that is probably where I would draw the line.

**Mr. Thomas:** These are valuable arguments that we should always have on legislation. It is important to think these things through. However, we should also look at whether we can achieve the same aims without legislation. In this case, we can clearly achieve similar aims. People cannot add chlorine to their water after it comes out of the tap to cleanse it of bacterial substances and so on, but people can add fluoride by choice to their diet or toothpaste, or however they wish. The science shows that that has much the same effect.

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It is not a question of a minority imposing its views on a majority, because everyone has a choice. There is an alternative, and we should think about alternatives before we legislate.

**Norman Baker:** We need to think about alternatives in any situation. I am instinctively more comfortable—as I imagine all Committee members are—with a situation in which we can choose to have something rather than having it forced on us. That is the natural position of any MP. However, there is a question about whether the alternatives provide the same benefits and reach the same target groups, and that calculation must be made.

**Mr. Simon:** Is not the hon. Gentleman in danger of following the hon. Members for Ceredigion and for Leominster in multiplying six counterfactuals by seven hypotheticals and ending up with a load of waffle?

**Norman Baker:** That comment was a load of waffle. In my inadequate way—we are all inadequate in our own ways—I am trying to reach a sensible outcome to a difficult moral question that has health implications. I do not pretend that that is easy.

**Mr. Wiggin:** Will the hon. Gentleman give way?

**Norman Baker:** I will, but I am keen to make some progress.

**Mr. Wiggin:** I am keen to help the hon. Gentleman make progress. The comment from the hon. Member for Birmingham, Erdington (Mr. Simon) was disingenuous, especially as he told the Committee a few minutes ago that if people did not want fluoride in their water they should buy bottled water. That is fine if people can afford it. It was an extraordinary comment from someone who is normally more rational.

**Norman Baker:** That is a point for the hon. Member for Birmingham, Erdington rather than me, but the hon. Member for Leominster has made his point.

Who should decide whether to fluoridate? I have set out the philosophical difficulties that I have with the way in which the Government are moving forward, but we can be clear about who should not decide. The water companies should not decide. To that extent, I agree with the Government. It cannot be right in terms of democratic accountability to ask water companies to decide such matters. Nor is it fair on those companies to be put in the middle and to be asked to make decisions. They do not like it, and have made it perfectly clear that they are happy to be taken out of the equation. I hope that we are on common ground on that.

I am slightly alarmed by the Conservative suggestion that the water companies could decide, not least because dangerous ideas from the Conservative party tend to end up in Labour party manifestos five years later. I hope that that will not happen on this occasion.

There are complications about who should decide. Later, we will have a discussion about local authorities and health authorities, but I would like to place on the record my view that health authorities should not decide such matters. They are perceived as having an agenda—whether they do or not—and as being biased

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and as looking after the health aspect. Health authorities are doing their duty and trying to further the health of the population, but they do not have an agenda for civil liberties, or for locality and accountability in the way that local councils do. If we are to have a decision-making process, people must feel it is fair and want to sign up to it. If they do not get the result that they want on what for some people are terribly important issues, they must at least feel that it has been a fair process. They will not feel that if health authorities are involved.

The other point is that health authorities are not local. The Minister keeps saying that they are, but they are not. Surrey and Sussex health authority represents my area, but it is not local at all. It is not even based in Sussex, so what can it know about what happens in Lewes? That is apart from the fact that it has only just been set up and has not yet got its feet under the table. A local decision is not the same as a sub-regional decision.

Whoever takes the decision—the health authority, the local council or whatever—there is still the complication of boundaries. Water supply boundaries are not the same as health authority boundaries, local council boundaries or any other boundaries. Whatever the body mentioned in the clause happens to be, we will be asked to take a decision that may cross over the boundaries of two water companies. I do not know how that will be dealt with. Perhaps the Minister will tell us when she responds.

**11 am**

The amendments in my name and that of my hon. Friend the Member for Guildford (Sue Doughty) and the hon. Member for Ceredigion seek to do two things. First, they

suggest that the Secretary of State, as a matter of principle, should fund any consultation. I believe that that is right: this is a national issue, and the funding should come from the centre rather than from health authorities, councils or any other body. Hon. Members may disagree, but that is our position.

Secondly, and perhaps more important, amendment No. 158 suggests that the process of adding fluoride to water can be undertaken and concluded only if public opinion is "clearly in favour" of such an addition. That is not 90 per cent. in favour, by the way, but "clearly in favour". It is important that more than a bare majority are in favour for reasons of accountability, which I mentioned a minute ago, and for the acceptability of the result. The process must be seen to be fair, consultative and exhaustive.

Hon. Members mentioned referendums. I hope, by the way, that Hansard writes referendums, not referenda, when it reports my comments. As far as I can tell and unless I have misread it, the Bill contains no guarantee of a referendum, only regulations made by the Secretary of State. This consultation process, which would be conducted by health authorities if the Government had their way, could therefore simply be one of those farcical arrangements of the sort that we had when NHS trusts were set up, whereby the health authority calls a meeting in a draughty village hall on a Thursday evening, puts a notice in the local paper that

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no one notices, three people come along to harangue the person holding the meeting, and the health authority declares that consultation has taken place. We must be given a much clearer explanation of what consultation means, and this should be given earlier, rather than later, in regulations. That is key.

**Dr. Palmer:** Is the hon. Gentleman saying that we need referenda—or referendums, as the case may be—or is he merely saying that he would like a little clarity?

**Norman Baker:** I am saying that I do not want a facility in the Bill that could lead to the addition of fluoride to water. That is my view, not my party's, and I shall vote against such a provision on Report as a matter of individual liberty. Notwithstanding that—without prejudice, as it were—if the Government are going to go ahead with the proposal, it is very important that the consultation process is as I described. The hon. Gentleman also mentioned voting on consultation on Report. It is important that the Minister gives some indication of the form of that consultation.

Lastly, this is an issue of individual liberty and it is of significant magnitude for some people. We should not underestimate how strongly some people feel, and that strength of feeling should be respected. Does adding fluoride to water cause harm? I suspect not, but the jury is still out. There is the issue of brittle bones, which hon. Members have mentioned. It is probably safe, but I am not 100 per cent. convinced, and the York review said that further research was necessary.

**Mr. Thomas:** I believe that we agree on the York review, but it is worth making one point that has not been made so far, which is that adding fluoride to water may or may not cause harm, but there is an identifiable cosmetic effect. In America, for example, fluorosis is prevalent at about 12 or 15 per cent. That is predicted to be much the same

as the levels at which the Government are considering introducing fluoride into the water supply. We are talking about harm to health, and the hon. Gentleman's comments were perfectly correct in that regard, but we should put on record that we at least acknowledge the cosmetic effect on teeth as well.

**Norman Baker:** I am happy to accept that in conjunction with the point that I made, which is no demonstrable harm is done. We know that, although the jury is still out and the York review says that further work is required. Equally important, however, there needs to be quantification of the benefits. If we are going to impose this on people, there will have to be very clear, undeniable and substantial health benefits. Those are the two tests that I have.

I spoke to my hon. Friend the Member for Oxford, West and Abingdon (Dr. Harris), who was the Liberal Democrat spokesman on health until quite recently.

**Mr. Key:** Totally unbiased then.

**Norman Baker:** I wanted some input on health issues; it is important that I understand the health benefits, so I had a long chat with him. If I may say so, he is very keen to believe men in white coats, and

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whatever doctors and scientists say. That is a matter of dispute between us on issues such as GM crops. I asked him what he thought of the matter. His view, as a doctor as well as our health spokesman, was that the benefits from fluoride are not necessarily substantial and certainly not proven to be so, although the benefits are there.

The issue is whether what my hon. Friend regards as a marginal benefit justifies such action. We are asking the country to accept fluoridation—which many people object to on civil liberties grounds—for a questionable or marginal health benefit. I do not think that that is justified.

In conclusion, I cannot support the Government's wish—and it is a wish—to have fluoride added to water. However, if we are to go down that road—I come back to the amendments—it is important that the consultation process is open and exhaustive, seen to be unbiased and is held in such a way that people feel comfortable with it even if they do not like it.

**Mr. Drew:** I shall try to keep my remarks to what has not been said rather than to what has been said. I start with the point on which the hon. Gentleman finished. I am somewhat confused and concerned as to the Government's position on fluoridation.

With such a controversial issue—and it is controversial; there is substantially more opposition to fluoridation than some people would have us believe—it is only right for the Government to say exactly where they stand on the matter. Yet a clause was introduced in the House of Lords in a rather confusing debate. It was not clear whether that clause was Government-inspired or whether, as I had been led to believe, there was all-party support for the proposition that it was about time for the debate and for the legislation to be introduced. I cannot recall reading in any Labour

manifesto—I admit that I do not carry one around with me—or in any Labour party policy document that the policy of fluoridation has been advocated.

I am sure that my hon. Friend the Member for Birmingham, Northfield will get the opportunity to speak at this or a later stage, He will say that fluoridation is extant in his area and has been for a considerable period. There is some agreement in the Committee that, although the medical case is not proven, fluoridation does considerable good. No one can, hand on heart, make the allegation that it does medical harm. However, that is not the issue. The issue is this: if the Government genuinely believe that fluoride is an important part of health policy, indeed public policy, they should be honest and open enough to say, "That is what we believe in; that is what we are supporting."

I always welcome the freedom to vote as a matter of conscience. However, if the matter is such an important policy item, I would have expected the Government to say, "This is what we are advocating and putting forward." Although the Minister has made a valiant attempt to provide a rationale, I am not convinced.

**Mr. Simon:** Surely the logic is exactly the same the other way round. One could say that in not making it

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compulsory, the Government see fluoridation as a positive thing, but not as something so definitively important that they will legislate so as to make it compulsory. They will leave it up to people.

**Mr. Drew:** I am not sure whether that intervention was a help or a hindrance. We either legislate, or we do not. At the moment, it is left to the water companies to generate enthusiasm for putting fluoride in the water, which is unsatisfactory. However, there has not been much enthusiasm because, since the original fluoridation scheme of many decades ago, no water company has advocated it. In fact, I and my hon. Friend the Member for Birmingham, Northfield, have the same water company, and correspondence that we have received on the subject suggests that people do not want to go along that route. However, the Government seem to be sitting on the fence. They seem to be saying that even if fluoridation is wanted, and even if we can see a better way of doing it, and even if they concede the benefits to the public, they will get someone else to push it forward.

**Mr. Key:** I have received perhaps 10 letters and e-mails on the subject. How many letters or e-mails has the hon. Gentleman received?

**Mr. Drew:** Hundreds in opposition, but as the hon. Gentleman will know, things are somewhat different in Stroud.

**Mr. Key:** Hundreds?

**Mr. Drew:** Hundreds in opposition to it. Certainly, campaigns against it are now collecting signatures.

**Dr. Iddon rose—**

**Mr. Drew:** I give way to my hon. Friend, who can give us some scientific advice.

**Dr. Iddon:** I am sure that my hon. Friend must be aware of the recent NOP poll that showed that 67 per cent. of those who were polled were in favour and only 22 per cent. were against. That is one of several NOP/Gallup polls that have been taken across the country during the past 18 years that have shown a substantial majority in favour of the fluoridation of water.

**Mr. Drew:** I am always willing to take advice from opinion polls when they tell us what we want to hear. I see no reason why people should not be informed on the matter. We should have an open, honest and meaningful debate on whether fluoridation is the way forward. However, I feel more passionate about the fact that what we are talking about will do little to advance dental health care. The only way to do that will be to rebuild the national health service dentistry service.

As I said, it is most unfortunate that the body that we are asking to engage in so-called consultation and to make an appropriate decision is the strategic health authority. Indeed, I am annoyed, because it was only recently set up, and has no expertise or experience. I would not say that it has no interest in the subject, but it has no practical way of gauging people's opinions on it.

**Andy King:** Is it possible for the Minister to ask the strategic health authority to act as an honest broker, but to engage instead the primary care trusts? In my

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experience, they are champions acting on behalf of the health of my local communities. In their short life, they have already proved to be a good ally of the community.

As for the opinion poll, it may have found that only 22 per cent. are against fluoride, but they are a strong minority who have given the subject much thought. The 67 per cent. who say that they are in favour have been brainwashed by years of fluoride toothpaste advertising, and being told that fluoride is a wonderful thing that can only do good.

**Mr. Drew:** I thank my hon. Friend for being much more helpful than I expected when he started his intervention. I cannot comment on his second point, because I do not know what questions were asked. However, his first point, which was well made, was that there were other bodies that could better gauge the health of the community. The primary care trust has the authority to commission health policies for its local population. I shall not rehearse the argument, but being local means that the community has some recourse, and it can be done at a much lower level. Certainly, without organising a huge referendum, my strategic health authority of Avon, Gloucestershire and Wiltshire has no way of gauging whether people think that this is an appropriate way forward.

**11.15 pm**

How do we gauge the view of the health communities on that? What will the Government do in response? Is this the appropriate way to go forward? One of the points that have not been picked up at all is why the Government have tabled amendment No. 338, which replaces "Secretary of State" with "appropriate authority". This is about the process of consultation. I am not sure what it tells us. It seems that who will drive this forward will come out of the ether. It will not be the Secretary of State. The Secretary of State will still have the power to look at the regulations by which the process may be kicked off, but I am confused about where the Government come in. Will they drive their health policies forward or will be it some other agency? If so, which agency, and what powers will it have?

The health authorities, according to their representative bodies, have made up their minds about fluoridation. The British Medical Association has written to us all and told us that it is categorically in favour of fluoridation, apparently largely because of equity. It wants targeted help to be given where poor dental health is a problem. It argues that it can be targeted through fluoridating the water supply. The British Dental Association is even keener. Indeed, to go back to the point made by the hon. Member for Salisbury, to counteract those from the National Pure Water Association and anyone else who may have organised a campaign against fluoridation, the BDA is running a campaign in favour.

I receive many things through the post, but the two sets of dentures did not impress me. I should like to know how it can be proved that the state of the two children in the photographs is entirely the result of fluoridation of the water supply. Perhaps the people who sent them will write to me. The last time I made

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comments about dentists I received quite a lot of correspondence, so I am wary. When I opened up my computer screen today I had a message from "The Dentist". Thankfully, it was a spam message, but I feared that they were looking at ways of dealing with me.

**Mr. Key:** Did the hon. Gentleman, like me, chuckle at the fact that photographs of disfigured teeth were sent to us from both sides of the argument?

**Mr. Drew:** I have had few cards on this and they were all from dentists or people who work for dentists. It seems that the profession has made up its mind and it will influence the strategic health authority. It will certainly influence other health bodies. I am saddened that we are dealing with the effect rather than the cause. We have to look at how we can rebuild NHS dentistry. It is sad that the organisation that represents dentists see this as a way in which we can deal with tooth decay. To me it is a sop. It would be much better if it encouraged its members to go back and treat NHS patients again.

**Mr. Thomas:** I very much share the hon. Gentleman's view. I come from an area where 71 per cent of the population do not have an NHS dentist. Does he also share my concern that in a letter the Minister wrote to us arguing for fluoridation she says that it is cheaper than changing people's habits, costs around 50p per person per year,

and that a year's supply of toothbrushes and toothpaste costs around £10? She suggests that we will go for fluoridation at 50p a year and give up a campaign to get people to brush their teeth with fluoride toothpaste. That spurious argument emphasises the hon. Gentleman's point.

**Mr. Drew:** The hon. Gentleman has made his point, although I do not concur completely with it. There is no effective substitute for good dental health care. I worry about whether the measure will deal with a growing problem—many young people will not see a dentist and will be given no encouragement to go to a dentist. Fluoridation is not the answer to that.

**Norman Baker:** I should like to emphasise what the hon. Gentleman said. Do not many dental health problems arise from gum disease, which would not be helped by the measure? If people felt that they did not need to go to the dentist because their teeth were looked after, they might, as a consequence, end up with gum disease.

**Mr. Drew:** I am sure that that is so.

My philosophical objection to the provision is that it looks at the wrong issue and causes unnecessary controversy. The Government know that it is controversial, and they are effectively saying that it is up to somebody else to implement it, but they are providing the means whereby to do so. They know that the consultation process is meaningless. There is no way that consultation can be carried out through strategic health authorities. As if by magic, we will end up with fluoridation in many more areas. That is not honest politics and it is not the way to do it. Let us have a proper debate so that we can see whether there

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is merit in fluoridation—but not as is suggested. I shall vote for amendment No. 301 and against the clause.

**Mr. Key:** We have had a good debate this morning. I have been sipping the excellent mineral water provided by the House, which contains 0.2 mg of fluoride per litre at 8 to 12°C.

The amendment says that if a health authority wishes the water supply in its area to be fluoridated, there should be the widest possible consultation before a decision is made. That is the nub of the argument today.

I am impressed, and always have been in my political life, by arguments of individual liberty, freedom of choice and human rights, which are important in any mature western democracy. I also care about child health. This is one of the many times in the 20 years I have been in the House when a balance has to be struck. We had endless debates about water fluoridation some 20 years ago—when the House was similarly vexed about the issue—but it seems no more than five minutes ago.

Like other hon. Members, I have done my homework on fluoridation in recent weeks and months. I received a written answer from the Minister on 25 September. I asked

"by what methods other than fluoridation of public water supplies safe levels of fluoride can be delivered to the population."

The Minister replied:

"Trials are underway offering fluoridated milk in schools and, in some parts of Europe, fluoridated salt is on sale",

as we have discovered. She said that her Department

"introduced the brushing for life scheme whereby free fluoridated toothpaste is given to families with young children in areas of high tooth decay",

but

"Findings to date suggest that none of these measures yields benefits equivalent to those derived from water fluoridation."—[Official Report, 6 October 2003; Vol. 410, c. 1288–1289W.]

I have talked to dentists in Salisbury, including my own—but without my mouth full of cotton wool and steel. I have had a proper conversation about the issue. My dentist thinks that this is a very difficult matter because, speaking professionally, there is no doubt that fluoridation is a success. However, he feels strongly about individual liberty and freedom of choice. Only this morning, he said that he is glad that I am making the decision, not him. It is right that Parliament should make the decision, rather than the dentists, scientists, or anybody else. We have a difficult job to do.

I have also been approached by a consultant clinician at Salisbury district hospital, who had no doubt that as long as he and his colleagues in the hospital had to extract the teeth of children aged four under general anaesthetic, and there was an alternative to fluoridation, I should very strongly support the clause today. Let us be in no doubt that medical and dental opinion is divided. As I—

It being twenty-five minutes past Eleven o'clock, The Chairman adjourned the Committee without Question put, pursuant to the Standing Order.

Adjourned till this day at half-past Two o'clock.

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The following Members attended the Committee:

O'Brien, Mr. Bill (Chairman)

Ainger, Mr.

Atherton, Ms

Baker, Norman

Burden, Richard

Cunningham, Tony

Doughty, Sue

Drew, Mr.

Iddon, Mr.

Johnson, Miss Melanie

Key, Mr.  
King, Andy

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Knight, Jim  
Lansley, Mr.  
Morley, Mr.  
Organ, Diana  
Osborne, Mr. George  
Palmer, Dr.  
Simon, Mr.  
Swire, Mr.  
Thomas, Mr. Simon  
Tipping, Paddy  
Wiggin, Mr.

## **Standing Committee D**

**Thursday 23 October 2003**

**(Afternoon)**

**[Mr. Bill O'Brien in the Chair]**

### **[Water Bill \[Lords\]](#)**

Amendment proposed [this day]: No. 213, in

clause 61, page 76, line 30, at end insert—

'(2A) Neither shall a water undertaker be required by subsection (1) above to enter into any such arrangements unless and until it has been ascertained (pursuant to the provisions of section 89 below) that at least 90 per cent. of the population residing within the area proposed to be fluoridated are in favour of the fluoridation of their water supply.'—[Mr. Wiggin.]

**2.30 pm**

Question again proposed, That the amendment be made.

**The Chairman:** I remind the Committee that with this we are discussing the following:

Amendment No. 351, in

clause 61, page 76, line 30, at end insert—

'(2) With regards to Wales, neither shall a water undertaker be authorised by subsection (1) above to enter into any such arrangements unless and until a referendum on increasing levels

of fluoridation has been held in accordance with the Political Parties Elections and Referendums Act 2000 seeking approval of the arrangements from the population residing in the area proposed to be affected.'

Amendment No. 156, in

clause 61, page 79, line 19, after 'below', insert

'the Secretary of State must ensure funding is available for the consultation to take place as set out below, and'.

Amendment No. 110, in

clause 61, page 79, line 21, after 'consult', insert 'all households'.

Government amendment No. 338.

Amendment No. 158, in

clause 61, page 79, line 22, at end insert

'then if public opinion is clearly in favour of such an addition'.

Government amendments Nos. 339 to 342.

**Mr. Robert Key** (Salisbury): I was describing how my constituency had been involved in this issue and how both general practitioners and consultants regarded it. As it happens, no fluoride is naturally found in or added to the water. The only place in the Wessex Water area where natural fluoride is found is in the vicinity of Laycock, where the borehole provides naturally fluoridated water to about 14,000 people.

I want to turn to the national position. We are talking as if we are about to launch a campaign to put fluoride in everyone's water. That would never happen. The British Dental Association points out that of the 659 parliamentary constituencies, only 64 have above-average rates of tooth decay in children up to five years old. We are talking about just under 10 per cent. of constituencies in this country, which means that 90 per cent. of constituencies would probably not see any reason even to hold a ballot, let alone have a local health authority propose that fluoride should be added.

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An NOP survey found that 67 per cent. of people in Britain think that fluoride should be added to water if it can reduce tooth decay, with 22 per cent. saying no. The same survey found that 42 per cent. of people think that fluoride is added to their drinking water already, when the real figure is that about 10 per cent. have fluoridated water. Most people also do not know that fluoride is present naturally in some water—only 28 per cent. of the population think that it is. The national situation gives us a picture that is less certain than some people would allege.

We have debated whether fluoride is a medicine. It has always been my understanding that, as with chlorine or calcium, it is a trace element that is important for human well-being. The process of natural fluoridation or the addition of fluoride could be

seen as nanotechnology, and the question is how we get the fluoride to the teeth. That is where the scientific arguments, many of which have been deployed today, can be cited on both sides of the discussion. As the Medical Research Council study reports, it is true that some of the science has not been good or conclusive and that lots more should be done. However, that does not mean that we should stop people from having fluoride in or added to their water. We are in one of those endless scientific debates.

My other problem is that, although it would be better in theory if we could leave the issue to the private choice of parents and other adults, preventive medicine has not worked. The evidence for that is in the parliamentary answer from the Minister that I quoted earlier. My constituency has average rates of tooth decay in children, and no fluoride naturally occurs or is added to the water. If I were an MP for an area in which children suffered from poor dental health, if public education had failed for many years, and if fluoride were not already added to public water supplies, I would vote for fluoridation.

Some people would say that therefore, by implication, I would be opposed to fluoridation, but that is not the case. There is a compelling argument for walking by on the other side, saying, "I'm all right, Jack," in Salisbury, and ignoring those in areas where there is no naturally occurring fluoride, or where there is particularly bad child dental health. However, I have decided that I am not prepared to pass by on the other side. It is a question of balance and judgment. I have decided that, in this instance, child health must take precedence over my scruples, prejudices and personal views on individual liberty and freedom.

The York report concluded that there is no reason to believe that fluoride is harmful to health. I believe that strategic health authorities are better bodies to take decisions than water companies or local authorities. If water is to be fluoridated, water companies must be indemnified. For many years, water companies have been unwilling to move on this issue, for very good reason, and I therefore welcome the indemnity clause that the Government have included.

Even if the Government receive sufficient support for clause 61, however, the whole scheme may founder on practical grounds. First, it is unlikely that many health authorities will want to ask for fluoridation

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and, if they were to do so, the water companies would face practical problems. I have discussed that matter with Wessex Water, the major water company in my constituency. It was pointed out to me that its network of mains distribution crosses strategic health authority boundaries. What would the company do if it found that one health authority said, "Please fluoridate" and the other ones said, "Don't."? That is one practical reason why the scheme may founder—inside or outside the law courts.

I listened carefully to the debate, and I have come to the conclusion that, whatever my reservations and the sincerely held reservations of some of my constituents, the clause to permit fluoridation of the water supplies should be added to the Bill. However, if that happens, there must be the widest possible local consultation. That is what the amendment is about. I suspect that it is a probing amendment—90 per cent. is a jolly

good figure to ask for because it sets you thinking. However, I also think that the attempt to improve the health of children's teeth should not be scuppered by a minority of adults who feel passionately that their preference for libertarianism must prevail.

I am surprised that the Government have not been able to tell us what arrangements they propose for consultation, and they have simply said that those will follow in regulations. It is a common problem faced in both Houses—part of the parliamentary process—that Governments tend to leave things to statutory instruments that will follow later. No doubt some of the relevant statutory instruments have not even been drafted yet. I scrutinised the Export Control Bill last year, and there were more than 40 regulations that were to follow it, but at least those were available to us in draft form for the debates in Standing Committee. The Government have a duty to prepare those draft regulations as quickly as possible, so that we can see what is proposed for consultation. In my opinion, they should have done so already.

**Mr. Hugo Swire** (East Devon): I am most grateful to my hon. Friend for giving way and appreciate his concern for children. Is he aware of the report by Mr. Ortiz-Peres and colleagues, which concluded that very low doses of fluoride inhibit the response of follicle-stimulating hormone to inhibin B, and linked that to reduced sperm production? If we were to follow his line of argument, there might be no children in future who need their teeth fixing.

**Mr. Key:** I saw that article, but that argument would not apply to me, since I had a vasectomy many years ago—[Interruption.] Hon. Members may not have wished to know that, but now they do. My hon. Friend's remark illustrates the point that the science is open to discussion. There is no certainty in the science, but the balance is strongly in favour of the fluoridation of water having no general adverse effects. Most of life is about taking a judgment on things, and on balance, in my judgment, the clause should be added to the Bill.

**Dr. Brian Iddon** (Bolton, South-East): I represent a constituency where the dental decay in children is probably some of the worst in the country. The hon.

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Member for Tatton (Mr. Osborne) has already referred to Bolton. I, too, have the table that was circulated to hon. Members showing the number of decayed, missing or filled teeth per five-year-old child. Bury, the neighbouring town to mine, is top of the table. Several of the Manchester constituencies are at the top of the table. The three Bolton constituencies are at Nos. 57, 58 and 59; mine is No. 57. I am ashamed of that, frankly. It is terrible that 70 per cent. of the children in my constituency have serious dental decay at the age of five.

I must admit that, as the hon. Gentleman said earlier, Bolton has taken a decision about fluoridation, but it did so in 1968, and that was the old Bolton borough, not the present Bolton metropolitan borough council, which is much larger. There was not a referendum such as we have been discussing. Bolton seems to be out of step with Greater Manchester. There are 10 towns or cities in Greater Manchester, and at that time Bolton was the only one that decided against. Seven decided in favour and two,

Wigan and Bury councils—we should bear it in mind that Bury is right at the top of the table—had not taken a decision at that stage.

In the late 1960s and early 1970s, most of the people in Greater Manchester who had been consulted voted for fluoridation, but that has not happened and children still suffer. By the age of five, the average Bolton child will have experienced quite a lot more than 2.5 decayed teeth, which is much greater than the national average. The situation is far worse in my constituency, which has some of the highest levels of deprivation in the three Bolton constituencies. Some of the wards in my constituency are some of the most deprived in the country.

I listened carefully to the hon. Member for Salisbury (Mr. Key). He said that he could take an attitude of "We're all right, Jack" in his constituency, but he does not and I am pleased that he considers the people of my constituency and many others where dental decay is at such a high level that all hon. Members should be ashamed. Parliament must try to do something about that.

It is all very well people saying, "Well, you can go out and buy a toothbrush and fluoridated toothpaste." The reality is that these parents do not, for whatever reason. Perhaps they are poorly educated. They probably ain't got the brass, and putting food on the table is more important than going out and getting a toothbrush and fluoridated toothpaste. The fact is that many parents do not educate their children about correct dental health procedures, and I do not see why those children in my constituency should suffer because of the neglect—that is what it is, I suppose—of the parents who are meant to be looking after them.

In total, 70 per cent. of Bolton's children suffer dental decay at a very early age. I was sitting next to a dentist the other evening, when I addressed the Royal Pharmaceutical Society's annual dinner in Bolton. He was very pro-fluoridation. At his practice in Manchester—I did not ask him which part of Manchester—he sees children with teeth in terrible condition. Two years ago, he could have done

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something about that—he could have extracted them—but he can no longer do so. Children come into his surgery in intense pain, but there is little that he can do. He certainly cannot extract the teeth, because we have banned general anaesthetic in general practice, and dentists now have to refer people to a clinic.

I am told that a few extractions are done at Bolton Royal hospital, but most such children in Bolton go to the Manchester university dental school. Last year, it gave general anaesthetics 1,500 times to extremely young children—I stress the extremely young bit—and on top of that there was a waiting list of 500. Hon. Members who are anti-fluoridation should consider the suffering of those children who cannot have their teeth out immediately in general practice. I accept that they can be given antibiotics or other palliative care, but for curative care they have to wait to be seen at a centre such as the Manchester dental school where the teeth can be extracted. It is shameful that there are so many children in Britain with such poor dental health that some as young as two or three have to have teeth out.

I take the point made earlier that things might be better if the dental system was improved. But even if it were, and there were more NHS dentists and people did not have to queue for appointments, it would not be much better than it is at present in the deprived parts of my constituency.

**2.45 pm**

I have considered all the arguments, for and against. I appear almost as an Aunt Sally on the National Pure Water Association's website, as people are invited to write to me, which they do. Some of the letters I receive can only be described as fanatical. For example, hexafluorosilicic acid, the main chemical used to fluoridate water, is described as a waste, poisonous product from the phosphate fertiliser industry. One would believe that we were putting children up chimneys to scrape the stuff out. The letters are almost out of this world, and certainly fanatical. I do not say that all members of the NPWA are fanatics, but a minority of people write the most absurd things. If they want to persuade me to their point of view they should not write such letters, but I respond to them all.

I make my point to the British Fluoridation Society, too, because those on both sides of the argument have circulated pictures and so on. Both organisations are a bit over the top, but especially the NPWA.

Why are hexafluorosilicic acid and its disodium salt being used to fluoridate water? As a chemist, I have given that question careful consideration. The NPWA would say, "If fluoride is already in water, that is okay; it is natural." Belladonna is natural, but I would not dream of taking it. Calcium fluoride comes out of the rocks in the earth but it is insoluble in water. There could not be more than about three, four or five parts per million calcium fluoride in water because of its lack of solubility, so it would be impossible to use calcium fluoride to fluoridate water in a rapidly flowing stream going through the treatment works.

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The fluoride used in toothpaste is called sodium fluoride. All fluorides when they enter water are ionisable and they end up as fluoride ions; when we talk about fluoride, that is what we mean. We use hexafluorosilicic acid and its disodium salt because the former is a liquid; it is soluble in water and easy to titrate to one part per million or whatever concentration Parliament decides. It is easy to add to water in that concentration. Of course, I would prefer to use the natural stuff, but it could not be put accurately into the water while it is flowing through a treatment works, and the same applies to sodium fluoride. It is okay in toothpaste, but it could not be added to water.

I am concerned about hexafluorosilicic acid, but only a trace—one part per million—is being added. At that level in many areas there are already a fair number of chemicals in water, including fluoride, although I do not want to name them all. In some areas, fluoride occurs at such a high level that the water has to be diluted with unfluoridated water in order to get it down to one part per million.

On behalf of my constituents, especially the children, I ask hon. Members to look at the figures and think about the suffering of children, which we can easily prevent. I

ask members of the Committee to support fluoridation and not the wrecking amendment.

**Sue Doughty** (Guildford): Much of our discussion concerns the heart of the reason for debating the controversial subject of fluoridation. We are talking about the dental health of children and adults. The hon. Member for Bolton, South-East (Dr. Iddon) made a powerful case, with which I am sure the Committee sympathises. One or two of us attended a scientific event today and were paired with scientists, and the insight that it provided on fluoride has been helpful.

Some questions remain, and I would appreciate help with them. According to the table provided by the British Dental Association, children in Birmingham constituencies are still at risk even with fluoridated water. That problem also exists in Manchester, and I know that the people of Manchester are anxious to put that right. Anomalies still exist over the outcomes in areas where we are putting fluoride in water, and I would like to understand the discrepancy. I do not want to undermine the case for or against fluoride; the question merely comes from my ignorance.

Other issues regarding the dental health of children and adults are beginning to give us reason for hope, in particular for the plight of children under the age of five. I agree that some problems arise from deprivation, ignorance, or poor health care during pregnancy, never mind when the child is born. There are also problems with nursing, and ignorance as to whether to give children fizzy drinks or chocolates at an early age. I remember my in-laws being deeply upset when I would not let my children have chocolate before they were five. That was the only time that my children did something I wanted: I could give them a piece of fruit instead and they would be grateful. Those days are long gone, but we had a stay of execution before they were sucked in.

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There are problems with junk food being advertised to children, particularly the under-fives. Many substances that damage children's teeth are advertised, and I hope that the Government will carefully examine the work being done on the private Member's Bill on TV advertising of food to children. I am sure that that work could have a beneficial effect on children's teeth.

Surrey schools, among others, are working towards encouraging children, not to stop drinking fizzy drinks but to drink lots of fresh, tap water through the day as a beneficial health aid that will also help teeth. I understand and agree with the hon. Member for Salisbury that prevention does not always work. I sympathise with that view and support my hon. Friend the Member for Lewes (Norman Baker) in saying that we are not against fluoride, but we question how the decision is made. I am the sort of person who would have taken my children to get their teeth painted—in those days that was available on the national health service and would have sorted the problem for many people. There is a lot of work, and I understand the problems of parenting.

Will the Minister further consider what will happen with children's centres? In—

**The Chairman:** Order. I draw the hon. Lady's attention to the fact that the amendments are about consultation and referendums. Her speech is really for a clause stand part debate rather than relating directly to the amendment. If she will refer to consultation and referendums, that will bring us back to the amendments.

**Sue Doughty:** I was drawing attention to this subject, because I feel that, as part of the wide-ranging debate, we are left with a problem over health. I will not dwell on that much further, other than to say that I hope that children's centres will provide an opportunity to deal with parentcraft, diet and other problems. We must avoid the scandal of under-fives having problems with extractions, which lead to pain and problems in adult life.

I support the need for consultation, but any decision must be democratic, or as democratic as we can achieve. I certainly cannot support the idea of 90 per cent., but I appreciate why it was included. We need to consider the means by which we consult local people. We must ensure that where there is an overpowering case—I am sure that there is in Manchester—that decision can be made sensibly. With good health service support, too, we can get the best outcome for children.

**Mr. George Osborne (Tatton):** I found this one of the most difficult issues to decide on in the short period that I have been in Parliament. It is a classic case of the overwhelming medical and scientific evidence coming up against a quite proper public feeling that reacts against the view that Whitehall knows best about public health and how we should be treated. We encounter that on other issues, such as GM crops, all the time in Parliament. That illustrates one of this country's problems in addressing many

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scientific and medical issues. I did not come into Parliament with a fixed view about fluoridation, and I have made an effort to read all the evidence for and against. To be honest, my mind changes with each new piece of evidence that I read.

The argument made by the hon. Member for Bolton, South-East is extremely compelling. I represent a constituency on the edge of Manchester, and the state of tooth decay in Manchester is shocking. It is difficult for any person living near Manchester not to be at least forced to think hard about their position when it is pointed out that in Birmingham tooth decay is, on average, much less. On average, children of five do not have tooth decay there, whereas in Manchester the average child has three fillings by that age. When confronted with that evidence, it is difficult to say, "Well, I'm going to ignore that. People should look after their own dental care, buy toothpaste and brush their teeth." In an ideal world, we want people to look after themselves, but we do not live in an ideal world. Tooth decay affects the most deprived communities in the country. That is not just because such communities cannot afford toothpaste and toothbrushes. There is a broader problem of getting people in those communities to take an interest in their health care; that applies to many other things, such as smoking and the kind of foods that they eat. The argument is compelling.

Equally compelling is the argument that people should not be medicated—I know that the Minister will dispute my use of that word—or given health treatment without their consent. That is a powerful argument about freedom in our society, and about being forced by Government or Parliament to do things that they do not want to do.

I tried to resolve the issue—although, as I shall explain, it did not help—by writing a column. I have a regular column in the Manchester Metro News, which I am sure all members of the Committee have read.

**Dr. Palmer:** Send us a copy.

**Mr. Osborne:** I shall be happy to read out the whole column. By the way, nobody ever writes to me after I write the columns; I receive no reaction at all—except to this one. I wrote, quite straightforwardly, that an issue was being debated in the House of Commons, I did not know what to think about it and, what was worse, there was to be a free vote on the issue, so the Whips—I am a Whip—would not tell me what to do. I set out as fairly as I could the arguments for and against fluoridation. I had an amazing response. I have here all the letters that I received from people in Manchester and, as I also put the column in papers in my constituency, from people there too. The letters are very compelling. The overwhelming majority were against, and they were not fanatics, as the hon. Member for Bolton, South-East suggested that some people involved in this argument are. They were sensible, well-written letters.

For example, a Ms Yates said:

"I buy organic food as much as possible, but would have no choice available to me if the water supply was fluoridated".

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An e-mail from a Mr. Brumby in Manchester said:

"Please vote against adding fluoride. I live in a democracy and I believe I have the right to drink water without someone else telling me I have to drink it with fluoride in. Parents should be responsible for their own children".

Equally, I received some letters in favour of fluoridation, including from a senior lecturer in primary dental care at Manchester university dental hospital, to which reference has already been made in this debate. It is just the nature of my constituency that I tend to represent all the dentists. They live in Cheshire and commute to their practices in Manchester.

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I also have almost all the Manchester hospital consultants in my constituency. My constituents are a well-informed bunch. This senior lecturer says that he sees

"the consequences of the non-fluoridation of the water supply at the sharp end. We hold regular extraction sessions for children under general anaesthetic and I have to listen to the poor kids being escorted out with their families, usually in tears and all in pain."

However, he concludes that

"the benefits of fluoridation outweigh the negative aspects of the mass medication"—

he uses that word—

"argument, although I have fierce arguments with my wife on this issue! She is a homoeopath and believes that people should be more responsible for their own health."

The matter divides families. The way I have resolved the issue, which is not necessarily to come down on one side of the argument or the other, is to criticise the way that the Government are doing it. Whatever the arguments for and against, it is a decision that should be left to local communities—a phrase that the Minister has used several times today. However, I do not think that the strategic health authority is the right vehicle.

My constituency comes under the Cheshire and Merseyside strategic health authority, which covers a vast area that obviously includes millions of people. When my constituents talk about the local community they do not think of themselves as being in the same local community as central Liverpool, Knowsley, St. Helens or even Chester at the other end of the county. One cannot fairly say that the strategic health authority is a representative body of the local community, however good the consultation exercise it carries out. The other problem with giving it to strategic health authorities is that they are seen as having *parti pris*. They obviously have an overwhelming self-interest in promoting fluoridation. They are not seen as neutral in the argument.

Two things would greatly improve this deeply controversial piece of legislation. First, there should be a genuine local referendum. The Government have nothing to fear from such referendums. They have been carried out in the past in this country on this issue. They would be easy to organise. It would be a genuine debate in many cities and regions. In Manchester one could well get a strongly positive vote for fluoridation with the kind of arguments we have heard today. Secondly—this strays slightly into

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the next group of amendments—this is best dealt with by local authorities. They would be seen as more neutral.

**Richard Burden** (Birmingham, Northfield): Birmingham has been referred to so many times that it would be remiss of me if I did not rise to say something. In doing so, I am conscious of how the hon. Member for South Cambridgeshire (Mr. Lansley) referred a couple of sittings ago to putting on his anorak to deal with some amendments. Moreover a commentator who was talking about politics in general and politicians in particular said that one should always be rather suspicious about people who get over-excited about fluoridation. Having received some of the letters and representations that my hon. Friend the Member for Bolton, South-East mentioned, I know what that commentator means.

We are not immune as politicians. The same commentator said that people should be really worried about politicians who think that the two crucial things to debate are fluoridation and proportional voting systems. I wish to talk about fluoridation, and I chair the all-party group on electoral reform, so I have to take a deep breath in case I get too excited about this. It is important to be clear what the issues are, both in relation to the amendments and the general question. Other Members have said this, but it bears repetition. This is not a discussion about whether fluoride should be added to water supplies. My hon. Friend the Member for Broxtowe (Dr. Palmer) hit the nail on the head when he said that it is a discussion about who decides whether fluoride should be added.

If the situation stays the same—and if clause 61 is not passed, it will stay the same—a private water company, and not a health body, will make the decision. The issue is not theoretical, because the Water (Fluoridation) Act 1985 has been on the statute book for a long time and it is not true that local and district health authorities have never made any representations or requests to fluoridate water supplies when it was important for public health. About 50 health authorities submitted such requests, but not one fluoridation scheme has been put into effect. We cannot run away from that fact.

The discussion appears to be about who decides and democracy, and I am aware that the people who have campaigned vigorously against fluoridation have taken on board the issue of democracy. However, I did not hear them complaining when the health authorities, which represented local people, sometimes with help from local councillors, were trying to get a debate going and had their efforts thwarted by water companies' decisions.

I do not blame the water companies for that. All sorts of pressures pushed them into those decisions, but it is interesting that the campaign for "democracy" grows when a decision could be made that leads to the fluoridation of the water supply. We should not ignore the fact that the objective of the people who have been most vociferous is not to secure democracy or freedom of choice but to stop fluoridation schemes. If we lose sight of that, we will miss something important.

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The question is about who should decide, and in the next group of amendments, we will talk about local authorities. At this stage, I want to say only that although no Member who has spoken has said that it is anything other than a health issue, some people are saying that fluoridation—and fluoridation only—should not be decided through the channels appropriate for all other health issues. Are we saying that because fluoridation is controversial? If so, what do we do about other controversial issues? Public health campaigns about HIV and AIDS are sometimes controversial. Minority campaign groups sometimes do not want primary care trusts or other parts of the health service to take action on such issues, because they are controversial. Should they come out of the health sphere? I do not think so.

The accountability of strategic health authorities should be considered. As was mentioned earlier, it would be good if PCTs were fully involved in the consultation undertaken by strategic health authorities. There may also be a case for working out

whether the current model of strategic health authority is right. However, that is not an argument for today. The argument for today is whether fluoridation should be tackled as a health issue. If so, the national health service mechanisms should be adopted.

**Mr. Osborne:** With the greatest respect to the hon. Gentleman, who makes the decision is the issue. We are trying to work out the best vehicle for determining local opinion, and strategic health authorities as presently constituted are not the best vehicle. It may be a health decision, but it could be determined nationally by the Department of Health and Parliament and then implemented through organisations and devices that are better able to gauge local opinion.

**Richard Burden:** I do not agree. As far as I know, we all agree that circumstances vary from area to area, according to issues such as standards of dental health and the incidence of naturally occurring fluoride. As such, there cannot be a national approach other than an enabling national approach, and this clause is the right kind of enabling clause. If we are to enable anyone on a health issue, we should enable the national health service mechanism. It should be required to consult, involve people, and generate a debate locally, which is why involving the primary care trusts is a sensible idea. However, in terms of the framework, strategic health authorities are the right vehicle.

**Mr. Ian Liddell-Grainger** (Bridgwater): I come from Devon—I mean Somerset. I see the hon. Member for South Dorset (Jim Knight) over there, and, although the strategic health authority for Somerset and Dorset is small, it covers a massive area. That is not the right body to do the work. I mentioned Devon because I am from West Somerset, which extends into Devon. The strategic health authority and issues including cross-border piping were brought up earlier, but I do not think that the proposed system would work. It is a

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health matter, but strategic health authorities are too big and unwieldy to deal with it.

**Richard Burden:** We are being pushed in two directions. We all agree that we must ensure that local people can give their views and be consulted properly. That is important, and it is right to try to achieve that at the level closest to those people. That is why I argue that primary care trusts should be involved. Whether it follows that consultation should be organised at that level is a different question.

The fact that the supply of water does not necessarily follow administrative boundaries, whether they are local authority or health authority boundaries, might cause us more problems. If we have more local consultations, which are disconnected from each other, there will be greater complexity in the cross-boundary issue.

I will wait with interest to see the regulations that will come out, but I believe that we must empower bodies in the national health service, and give them the responsibility for organising consultation at the most appropriate level to reach a decision on fluoridation. We must ensure that, in the context of those responsibilities, the

mechanisms for consultation and involvement are as local as possible. There is no contradiction between those two ideas.

**Mr. David Drew (Stroud):** I am listening carefully to my hon. Friend, and we agree on many things, including electoral reform. However, we do not agree on this. We would all like the NHS to be better at consulting and making decisions after consultation. Can the Minister give me an example of when the NHS has achieved that degree of consultation on such an issue? I do not know of one.

**Richard Burden:** My hon. Friend is right to be sceptical about the ability of institutions in the national health service to consult properly, and the regulations that emerge will be important to ensure that they do. The requirements to have discussions and involvement on fluoridation may provide a model for greater consultation in the future. If they are going to continue, strategic health authorities will have to tackle that. In the structure of the NHS, primary care trusts at local level may be improving their skills at local consultation and planning of health services—something I want to see. Bringing that together at the strategic, sub-regional level is important whether or not there is fluoridation of water, and whatever happens to the Bill. If the Bill can be used to further that process, I welcome it.

**Mr. Osborne:** We are not, as the hon. Gentleman is suggesting, debating a method for improving strategic health authorities. I would guess that less than one in a thousand of my constituents knows that they fall under the responsibility of the Cheshire and Merseyside strategic health authority. SHAs are not well known organisations. We have all, as Members of Parliament, seen their efforts at consultation, which seem to involve writing to MPs, primary care trusts and other bodies. They have no experience of carrying out a genuine consultation with members of the public.

**Richard Burden:** Again, I give the same answer: that is why the regulations are important. In consultation

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with local people, the important factors will be whether they are aware that they are being consulted, the level of information that they have, and the debate that is generated. People will not be bothered about whether the local authority or the strategic health authority conducts the consultation. That is important for us, because we need to work out the mechanisms through which it is done, but the important thing at local level is that the debate takes place.

**3.15 pm**

**Mr. Wiggin:** If I can bring the hon. Gentleman back to the amendment, may I ask him how he envisages that the consultation will be carried out? Will it be a referendum, or will it just be a process of seeking opinion? Will every household be consulted? How does he think that it would take place? It would be interesting to hear his point of view, with his electoral reform hat on.

**Richard Burden:** I am certainly not suggesting something that is done by single transferable vote. Various mechanisms can be used. In this case, the extent to which we can generate discussion and debate will be as important as the final decision. We could use newspapers and the media, or citizens' juries, which have been pioneered in a range of areas. We need to think imaginatively about how the consultation is carried out, which is why it is best to examine the issue by means of the regulations that will be introduced, rather than trying to determine everything now. If the consultation was reduced to a local referendum, I suspect that that would generate a lot of heat, but not necessarily the discussion that people would like to see.

**Mr. Swire:** There are all sorts of pitfalls in holding a local referendum and consultation; no doubt some of them will be pointed out later. There are areas such as the constituency of my hon. Friend the Member for Tatton which are largely residential and full of prosperous people who go to another area to work. Would those people be consulted in the area in which they work, because they use the water there during the working day? The area in which they live may not have fluoridated water, because it falls under another strategic health authority. Those aspects must be taken into account.

**Richard Burden:** The hon. Gentleman is right. That is why it is complicated to work out how the consultation should be done, who should carry it out, and how people can be involved. However, we can all agree that the consultation must happen, and in a way that involves as many people as possible and generates as much knowledge as possible.

In conclusion, I return to where I started—to Birmingham, which has been the subject of a great deal of discussion in the Committee. My approach to the debate has been determined partly by the experience of Birmingham. The area has been fluoridated since 1964, so I was disconcerted when the hon. Member for Lewes said earlier that the jury was out on that. If that is the case, it is a hell of a long trial—the jury has been out for nearly 40 years.

Birmingham still has inequalities in dental health. On average, the dental health of children in lower

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income groups is worse than that of children in higher income groups. Fluoridation does not get rid of inequalities in dental health; I wish that it did, but it does not. Nevertheless, if one examines the statistics across social groups, one finds that 31 per cent. of children in Birmingham have had tooth decay up to the age of five, whereas in non-fluoridated Manchester, the figure is 62 per cent. Some 13 per cent. of five-year-olds in Manchester have had teeth extracted as opposed to 4 per cent. in Birmingham. When we consider extractions, we should remember the concerns expressed by hon. Members about the impact of general anaesthetics. Those things matter to me, and they cannot be ignored.

Perhaps I should take a deep breath before saying what I am about to say, because it may generate more correspondence, but neither the amount of correspondence that I have received from Birmingham people during my time as a Member of Parliament in

the city, nor my experience of living there before I became an MP, has led me to believe that there is a huge desire among Birmingham people to get rid of the fluoride in their water supply.

I certainly have not detected any of the evidence apparently produced by groups opposed to fluoridation saying that fluoride has been proved to be dangerous to health. It is true that dental fluorosis is at a higher level in fluoridated areas than elsewhere, but evidence for the other things that we have heard about, whether in relation to bones, Down's syndrome or whatever, is simply not there in the Birmingham experience. It is right that those issues are researched, and that the York study drew our attention to the fact that the research so far is not as conclusive or detailed as it should be, but the idea that the report is somehow an argument against fluoridation of the water supply in areas where naturally occurring fluoride is insufficient simply does not stand up to close examination.

Talking about the extent to which fluoridation of drinking water supplies reduces dental caries, the executive summary states:

"The best available evidence suggests that fluoridation of drinking water supplies does reduce caries prevalence, both as measured by the proportion of children who are caries free and by the mean change in dmft/DMFT score."

The summary goes on to say that the extent of that is subject to debate, but there is no doubt that it says that the best evidence suggests that there is an impact. It also states:

"The best available evidence from studies following withdrawal of water fluoridation indicates that caries prevalence increases".

Again, the document asks for more research, but it does say that the best evidence indicates that there is a link between fluoridation of water supplies and a reduction in tooth decay.

However, talking about allegations that somehow fluoridation causes extra bone fractures and bone development problems, and about cancer studies, the summary states that

"there is no clear association of hip fracture with water fluoridation."

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It states that

"no clear association between water fluoridation and incidence or mortality of bone cancers, thyroid cancer or all cancers was found."

The summary is not neutral on those issues.

The authors of the York report were right to complain about their findings being over-hyped by those campaigning for fluoridation, but we should not conclude from that that it found no evidence of a link between fluoridation and improved dental health, or

that it in any way gave, or said that there was, evidence to suggest that some of the horror stories about the effects of fluoridation were founded on substantial evidence.

Yes, this is a controversial issue—it generates heat. Perhaps it is one of those anorak issues, but as lawmakers we need to consider the evidence and make a judgment about what is right in public policy terms. The evidence that I have read, and my experience in Birmingham indicates, that the amendment is wrong and the clause is right.

**The Parliamentary Under-Secretary of State for Health (Miss Melanie Johnson):**

It is a pleasure to respond to a debate of the quality that we have heard this afternoon and, indeed, this morning. So often we do not do justice to these topics, but on this occasion all members of the Committee, on all sides of the argument, did considerable justice to the issues and spoke with considerable passion. They aired most impressively many of the arguments that needed to be aired on all sides. I shall endeavour to rise to the challenge of responding to the debate in like terms, and to talk about the main issues raised. I shall go through one or two of the amendments, but not in too much detail, because I am conscious that there are other issues still to be discussed in detail.

I believe that our reason for moving away from the water companies to the strategic health authorities as the vehicle for making decisions about this matter is right. Hon. Members have sketched out the issues involving the difficulties that the water companies had with existing arrangements. That did not result in what many of them had requested concerning the local authority interest in having water companies do things and concerning accountability.

We have already teased the hon. Member for Leominster (Mr. Wiggin) about his views on accountability in the private water companies, and I shall tease him no more. It is clear, however, that the strategic health authorities are the right bodies at the right level to make these decision. I shall explain why in more detail. They have a broader oversight of the health and health provision of their area than do the primary care trusts. People have argued that these decisions should be made at PCT level. The PCTs vary in size, and the mechanics of the engagement with water companies—which I shall come on to shortly—indicates that if things were done at PCT level, issues would be magnified many times. The strategic health authorities can, in my experience, rise to the challenge.

I shall give an example that has nothing to do with fluoridation—I must be careful what I say, because no

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decisions have been made and I am a Health Minister. In my constituency area, the strategic health authority has considered, through the PCTs, the future of hospital provision across Bedfordshire, Hertfordshire and north London. That is a big swathe of the area—as big as Somerset and Dorset together, or a number of the other conjunctions that hon. Members have cited as being covered by their strategic health authorities.

With the engagement of the PCTs and other councils at a local level, the strategic health authority has communicated with local people in all manner of ways about those proposals. Many views have been received through every avenue that one could hope to have used, including discussion and debate, meetings, the media, questionnaires, petitions, MPs and local authorities. I am not diminishing the importance of this debate by saying that the debate about the future of local hospital provision is probably an even more important question for people than that of whether the water is fluoridated. I am confident that strategic health authorities can rise to the challenge. That, together with the difficulties of the existing arrangements, is why we settled on them as the right vehicle for taking forward the measure.

My hon. Friend the Member for Stroud (Mr. Drew) asked about the Government's position on fluoridation. Our position is very clear: we think that there are strong oral health arguments for fluoride which make it a useful answer, if local communities want it. That is why we have taken this route.

**Mr. Osborne:** The Minister explicitly says, "if local communities want it". What advice would she give to a strategic health authority that had decided on medical grounds that it would be good for the area if fluoride was added to water, but which, after public consultation, got an overwhelming negative response? Should it trust its medical instinct or advice, or should it listen to local opinion in that situation? It is a serious point and I think she will find that this happens in many areas.

**Miss Johnson:** We are not suggesting a referendum, as hon. Members know. I mentioned the consultation in my constituency. Judgments have to be made in weighing up the thousands of responses generated as a result of widespread consultation over time, as I sketched out.

**Mr. Swire:** Will the Minister give way?

**Miss Johnson:** I shall give way when I have answered the question asked by the hon. Member for Tatton.

There is a difficulty in weighing up the responses, but whatever the case, local opinion must be in favour of the proposal. It will not proceed if all the indicators are overwhelmingly against it, as the regulation to be introduced will make absolutely clear. Local opinion must support the measure overall.

3.30 pm

**Mr. Osborne:** Will the Minister give way?

**Miss Johnson:** I shall give way to the hon. Gentleman and then reply to the hon. Member for East Devon (Mr. Swire).

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**Mr. Osborne:** I am sure that my hon. Friend does not mind. I am reassured by what the Minister said, and by what may be in the regulations. What does she mean by local opinion? Will sheer numbers—the fact that thousands of people write in to say

that they are against it—be taken into account, or will more weight be given to the opinion of local doctors and dentists than that of ordinary people, to use that awful phrase?

**Miss Johnson:** I hope that the hon. Gentleman is not insulting his many constituents who belong to those two admirable professions. At the end of the day, judgments will have to be made, just as they are in deciding how hospital provisions are to be redeployed in the long term.

If the hon. Gentleman is asking whether the views of certain professionals will carry more weight, as in a block vote, that should not be the case. We are talking about the opinion of the local community, which means that the views of the ordinary person on the street are taken as seriously as anyone else's.

**Andy King** (Rugby and Kenilworth): The discussion appears to be about how to introduce fluoridation. Can the Minister clarify what will happen when fluoridation is already in place, and evidence is produced that makes us say, "Well this is not quite how we thought it would be."? What mechanisms are in place to deal with such a case? Decisions cannot be once and for ever, because we live in an ever-changing world.

**Miss Johnson:** Obviously, we do not expect things to swing backwards and forwards on a pendulum basis. The expectation is that the decision would stand for a considerable time. The water companies would have to make a capital investment in fluoridation so it would cause difficulty if we allowed different views to prevail every couple of years.

The hon. Member for Leominster and others mentioned the cost of consultation. I do not conceal the fact that there will be such a cost, which will come out of the NHS budgets. However, given the cost of providing dental treatment on a much more significant scale to children and others with decaying teeth on the basis proposed earlier by my hon. Friend the Member for Bolton, South-East, there would probably not be a net cost—there may even be even be a saving—but that would not be the reason for doing it.

**Mr. Swire:** I am grateful to the Minister for giving way, and for the delay in doing so, because it has prompted another thought. Can she confirm what she has just said, that the costs of consultation will be absorbed by her Department, and not passed on to the taxpayer? Does that also apply to fluoridation? Will the water companies bear the cost, or will it be passed on to the hard-pressed taxpayer?

**Miss Johnson:** No, in both cases the costs will be borne through NHS funding. That is the proposal.

**Mr. Swire:** I will now ask my original question, if I may. Given our discussions about how the consultation would work in practice, has the Minister had a chance to consider the problem that would arise if one area was keen to have fluoridation and another area, which was under the same or a

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neighbouring health authority and shared certain pipes, was vehemently against it? How would that problem be resolved?

**Miss Johnson:** That situation is almost bound to crop up. I certainly foresaw that it would be an issue early on. The water distribution systems do not cover exactly the same areas. Nothing overlaps exactly in anything here. There is obviously no overlap with any other mechanism for making these decisions either. Boundaries are not coterminous. There would need to be discussion if the water company was going to cover an area wider than the strategic health authority by fluoridating its water at a single source, for example.

When I talked to someone in the water industry about this matter informally, I was told that it was possible to fluoridate at different points in the water distribution systems, depending on the company and the way that the distribution takes place. Therefore it can be done nearer or further away from the customer and with more or less fine-tuning. That obviously will not overcome all the difficulties that hon. Members have described, but it would overcome many of them.

There will be occasions when two strategic health authorities may need to have discussions with a part of a population that might be affected by a decision in a neighbouring area. There could be a marginal additional cost for example to remove that area from the water distribution system and put in the supplies nearer to the sources so ensuring that it covered a more limited area that was more naturally coterminous with the strategic health authority boundaries.

**Norman Baker (Lewes):** Two points flow from that. First, if we are to take local opinion seriously, decisions need to be taken—whether or not they are organised by the health authority—about local communities within the health authority area. Brighton and Hove, for example, might be in favour and the rest of east Sussex might be against. The water company should be required to respond to sophisticated public opinion, even if that is more expensive, rather than try to make the case that it is more convenient for it to put the necessary works further up the chain, which would mean that others would get fluoride whether they wanted it or not.

Secondly, I should like to make a point in response to the intervention by the hon. Member for Tatton about the tests that will be applied by the consultation process. Under clause 61, the proposed new section 89(1)(a) to the Water Industry Act 1991 states that

"a relevant authority shall . . . consult and ascertain opinion in accordance with regulations".

I am not sure whether that is qualitative or quantitative. Are there any circumstances in which public opinion may be either divided equally or be marginally against fluoridation but the health authority would nevertheless still wish to pursue that course of action for other reasons? Is public opinion the only test? If so, may I draw the Minister's attention to amendment No. 158, which, if I understand her correctly, is what she is trying to achieve? It says that this should be progressed only

"if public opinion is clearly in favour of such an addition".

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Is she attracted to that amendment?

**Miss Johnson:** I have already said that we think that it should be done only when public opinion is in favour, and the question is how to sum up public opinion. As well as the careful judgments and difficult balances, which Members have sketched out well in their contributions, that is another judgment that may have to be taken by some strategic health authorities if there is a carefully balanced view. Whatever mechanism is used, a clear majority of people should be in favour of fluoridation.

**Mr. Wiggin:** One of the questions I posed at the beginning of the debate—the 90 per cent. quoted in the amendment is tempting the Minister to discuss this—was about the meaning of a clear majority. The hon. Member for Birmingham, Northfield (Richard Burden) outlined many types of consultation, for which I was grateful. The point that we are coming to, which will reappear in the next amendment, is what she means by a clear majority.

**Miss Johnson:** I am grateful to the hon. Gentleman for picking up on my exact words, because they were probably misleading. One reason why we have sympathy with the intention of amendment No. 158 is that we agree that the strategic health authority should not be permitted to fluoridate unless the local community is in favour. I have already sketched out the mechanisms and issues involved in reaching that conclusion.

Fluoridating water makes a difference, as many Members have already said. However, the 70 per cent. of my hon. Friend's constituents who are five years old or under and have experienced tooth decay is in stark contrast with the number in other areas of the west midlands and Crewe. The figure in the west midlands is one third of that, and in Crewe the figure is 23 per cent.

The hon. Member for Guildford (Sue Doughty) asked about some areas in Birmingham and the midlands that experience considerable problems with tooth decay, gum disease and dental health. In deprived areas, even if the water is fluoridated, tooth decay levels may be at or above the national average. That is not to say that improvement has not taken place; indeed, the situation would have been worse without it. Everybody will not be at the same level because other factors are involved.

The hon. Lady also mentioned children's centres and the role that we can play in encouraging other contributions to dental health. Those points were well made and have been taken on board. We are attempting to give young people and their families the best possible start, with a number of programmes designed to help and advance that.

I turn to the question raised by my hon. Friend the Member for Stroud on amendment No. 338. The reason for introducing the differential in that amendment is to distinguish between the Secretary of State, who is the ultimate reference point for the English health service, and the National Assembly for Wales, which is relevant for the Welsh health service.

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The Secretary of State will set the regulations for England, which is why we have introduced amendments that deal with the different position of the English and Welsh health systems.

**Mr. Drew:** I accept what the Minister says, but I think that that wording should be in the Bill, and I hope that it will be redrafted on Report. To me, the term "appropriate authority" could mean any body. The drafting should be tidied up.

**Miss Johnson:** I take that point on board and will discuss it further with officials. I imagine that parliamentary counsel will tell us that the drafting is right and means that the legislation can be clearly understood, but I understand my hon. Friend's difficulty.

**3.45 pm**

I take issue with my hon. Friend's dismissal of the cards from dentists. One interesting point is that, if we look at the debate from a purely financial point of view, dentists benefit most from dental decay. It is admirable that so many of the dental profession are arguing the case for fluoridating water, because their pockets will be most at risk if people's dental health improves substantially. I have been fortunate throughout my life in having good dental health, so my dentist has not often profited from me.

In response to the hon. Member for Lewes, gum disease and dental health problems are relevant and both need to be addressed. Fluoridation will considerably reduce tooth decay, while gum disease is reduced by many other oral hygiene measures. It is not either/or, it is both.

**Norman Baker:** I agree that it is not either/or, but hon. Members were concerned that if people knew that fluoride was being added to water as a health benefit, they might conclude that it was less necessary to visit the dentist, and other dental problems not related to tooth decay could increase.

**Miss Johnson:** I suppose that we could not rule that out in a limited number of cases, but I am not aware of any evidence from fluoridated water areas to substantiate that claim.

I have already sketched out the mechanisms that are relevant for a strategic health authority in considering public opinion and making a decision, and they will be subject to regulations debated under the affirmative resolution procedure. The hon. Member for Leominster was gracious in admitting that the amendment was a wrecking or exploratory one—

**Mr. Wiggin:** A probing amendment.

**Miss Johnson:** I see. I trust that the hon. Gentleman will not advocate the 90 per cent. level too strongly outside this Room, because otherwise I imagine that the right hon. Member for Chingford and Woodford Green (Mr. Duncan Smith) might become nervous about both him and his continuing in his present role.

I will run through a couple of the other amendments, which hon. Members have not addressed but which are probably important to mention. Amendment No. 351 is designed to amend and clarify the respective responsibilities of the

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Secretary of State and the National Assembly for Wales. As I said, the Secretary of State will make regulations for England and the National Assembly will make them for Wales. The hon. Member for Ceredigion (Mr. Thomas) passed me a note this morning to say that he has another appointment this afternoon and cannot be here, but I am sure he would be interested to learn that.

**Kevin Brennan** (Cardiff, West): Just to remind my hon. Friend that the hon. Gentleman is not the only Committee member from Wales. I am listening carefully to what she has to say about provisions affecting Wales.

**Miss Johnson:** I am well aware of my hon. Friend's interest.

On amendment No. 156, I appreciate that hon. Members are concerned that consultations are adequately funded. We will set out in regulations the procedures that the strategic health authority must follow in undertaking a consultation, and it will be advised not to embark on one if it has not identified the funds for so doing.

I am in sympathy with the spirit of amendment No. 110. We want to ensure that as many of the people as possible that would be affected by a proposed fluoridation scheme participate in the consultations. We would hope to consult more widely than just with residents; we would want to include people who work in the area, and who perhaps spend most of their day there.

**Mr. Osborne:** Amendment No. 110 would add a requirement to consult all households. In the regulations that will be introduced, will the presumption be that the strategic health authority will send consultation literature to every household in the area affected?

**Miss Johnson:** That is the sort of thing that we have in mind. The regulations will be subject to the affirmative procedure, so I do not have a draft with me and cannot confirm specific details. However, we believe that some sort of door-to-door consultation must be part of the overall consultation.

**Mr. Drew:** Can the Minister assure me that both sides of the argument will be included in the consultation? Otherwise, it will not be true consultation.

**Miss Johnson:** I certainly think that we would want to include material setting out both sides of the argument, with input from different places. However, that regulation would again be subject to the affirmative procedure.

Amendments Nos. 338 to 342—I shall not discuss them in detail—all relate to the Secretary of State and the National Assembly for Wales, and the way in which the regulations should reflect the different position in Wales. Amendment No. 341

provides for the Secretary of State and the National Assembly to make a written direction for the termination of all, or one or more specific fluoridation schemes.

The reason for going through all those amendments in relation to Wales and England is to clarify the respective responsibilities. That is essential for the

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implementation of our policy, which is to give local populations a choice over whether they want their water fluoridated.

I commend amendments Nos. 338 to 342 to the Committee. I also thank hon. Members for their contributions to the debate. Many of us feel that the matter under discussion is important, but I hope that Opposition Members will not press their amendments.

**Mr. Wiggin:** I have also enjoyed the debate, which has been informative. We have had some useful expert opinions, and much of what I have heard has been reassuring. I am grateful to the Minister for her support for amendment No. 110, which would ensure that every household is consulted. I thought, and she confirmed, that if a majority were in favour of fluoridation, that would provide a much more compelling argument for it to proceed. My hon. Friend the Member for Tatton neatly explained how individual Members may find the decision-making process difficult on a subject in which the science is debated.

I should like to put the Minister on notice, so to speak, because the next amendment deals with local authorities and strategic health authorities, and I was not comforted by the comments that she made about the strategic health authorities in her opening remarks. However, in the light of the fact that they would be forced to accept a proper majority—

**Miss Johnson:** Perhaps I can be clear with the hon. Gentleman, because he picked me up on this issue and I said that we were saying that no strategic health authority should fluoridate unless local opinion was in favour. As long as he is interpreting my remarks in that context, I am happy with his paraphrase of them.

**Mr. Wiggin:** The next amendment will give us an opportunity to debate what a local population is, but surely the phrase "in favour" is the key. If 49 per cent. are in favour and 51 per cent. are against, surely the Minister will accept that that is not acceptable for what we are discussing. Does she agree that there will be a numerical way of defining who is in favour and who is against?

**Miss Johnson:** The issue is not as clear-cut as the hon. Gentleman makes out, for the reasons that I sketched out when I referred to the Bedfordshire, Hertfordshire and north London consultation discussion about the future of hospital and other services. How does one weigh up a signature on a petition against someone attending a meeting or writing a letter? One cannot simply do a straightforward crude summary and say that there was a majority one way or the other. We have to consider these things in balance.

**Mr. Wiggin:** I agree, but that is why consulting all households would include everyone in a satisfactory way. I accept the criticisms of consultation. Personally, I would prefer a referendum. I was asked earlier whether I would prefer a referendum and I want to say categorically at this stage that I would. I am sorry that I did not say that more strongly at the time, because it is becoming increasingly clear that, when dealing with a subject as emotional as this—no one could fail to be moved by the case of the children in Bolton—we must

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ensure that it is pinned down in a proper and clear way.

I remind the Committee that the consultation will be

"in accordance with regulations made by the Secretary of State".

That is why we have to keep returning to the Minister to clarify exactly what she means about the consultation and how it is interpreted. That is why I personally prefer a referendum. It is less difficult to understand how the consultation has been weighed up when there is simply a straight numerical vote. That said, I recognise that the amendment, with its 90 per cent. numerical weighting, would be impractical.

There are good arguments in favour of fluoridation. Equally, there are good arguments against. The only way in which we can ever get a satisfactory response is to ensure that everyone has their say and, more importantly, that there is a fully informed debate. Therefore, when dealing with all households or whatever form the consultation takes, it is very important that whoever is in charge is clearly seen to be neutral. I am glad that the Bill says

"made by the Secretary of State",

because obviously one person will declare an interest if they are not neutral. We can trust the Secretary of State to take a neutral stance—well, I hope we can. I find that much more comforting than allowing what we are discussing to be done by the strategic health authorities.

There is another side to the issue, which local communities will have to deal with. We have touched on the leakage problem that water authorities and water companies have, and there is an element of accumulation with fluoride. It goes into someone when they drink it and it is absorbed through the skin when they are in the bath. Some of it is excreted and some remains in the teeth. However, if there are large amounts of leakage, we will be putting a toxin into the ground or wherever the leakage takes place, which is a serious issue. In addition, I hope that when water is taken out of and put back into rivers, the fluoride will be taken out, because it can constitute hazardous waste in a more concentrated form.

The Minister referred to who would take precedence if two authorities overlapped and one local community clearly wanted fluoride and one did not. She led us to believe—I am sure that she will intervene if I am wrong—that efforts would be made to provide fluoride to the areas that wanted it and not to those that did not. The situation in my

area is particularly difficult. The strategic health authority is in Coventry, and it takes me nearly as long to get to Coventry as it does to get here. It is a huge area across the west midlands with a vast number of people. Much of the water in my constituency comes from Wales, and would come under a different strategic health authority. There are difficult problems with that, and I am not sure that the Minister's guidance has been sufficiently clear.

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**Miss Johnson:** I shall give what I think is an accurate reflection of the hon. Gentleman's comments. Much of the water in Birmingham comes from large dams in Wales, and some small areas in Wales receive fluoridated water as a result of being linked to that system. That is nothing new, nor is the question of fluoride being left in water and going into the waste systems. The only difference is that it is not an issue for the 6 million who already have fluoridated water.

**Mr. Wiggin:** It would be easy to leave it at that, but we are talking about a small amount—one part per million is a very small amount—going into the environment. That is not something that the Government, or any hon. Member present, would normally encourage. Having made the point, I am prepared to leave it at that. There were a couple of points that I thought it important to pick up.

**Dr. Iddon:** In the water cycle, if fluoride gets into the ground, it will be washed out eventually; it is soluble in water. I ask the hon. Gentleman to remember that there is rainfall all the time, which will wash the fluoride away. I do not understand his point about contamination of the ground. In any case, at one part per million, we are talking about one person in a town four times the size of Bolton, which has 261,000 people. We must get things in proportion. The amount of fluoride going into the ground, even over decades, would be trivial.

**Mr. Wiggin:** I am grateful for the hon. Gentleman's intervention; of all hon. Members who have been most informative he has probably been the best. I was talking about fluoride going into rivers, not the sea, but as I said earlier, it is a very small amount. The issue is not so much the quantity as the principle that we are putting a toxin back into the environment when normally people in our position are trying to do the opposite.

Finally, I should like to chide the Minister, if I may, for something that she said. I am sure that she regrets it, too, because after hearing speeches such as that of the hon. Member for Bolton, South-East, about children, surely nobody would want people to stop using their toothbrush. Unfortunately, that seems to be what she said.

**Miss Johnson** *indicated dissent.*

**Mr. Wiggin:** A headline in The Independent was "Dump your toothbrush, says health minister". Words from the Minister's letter are quoted. I shall give her the article. I am grateful to her for denying that people should dump their toothbrush, because I am sure that she—

**Miss Johnson:** May I put the record straight? I believe very strongly in the use of toothbrushes, and encourage my children to use them from the earliest possible age. In response to a question from the hon. Member for Guildford, I endorsed her enthusiasm and the importance of continuing to brush teeth. I have no idea where that report came from.

**Mr. Wiggin:** I can help the Minister. The report says:

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"Melanie Johnson wrote to MPs last week informing them that brushing requires 'ongoing positive personal action by the individual'. But people who drink fluoridated water can protect their teeth 'without needing to take any personal action'."

I accept that that is wrong.

**Miss Johnson:** This refers to a letter that all hon. Members have received.

**Mr. Wiggin:** Indeed. The Minister is right, and I am glad that she has taken the opportunity to set the record straight. It is most unfortunate that she should be quoted in such a way, and I am sure that all members of this Committee agree with her that toothbrushing must continue. I thought that she would be aware that she must be careful, because obviously she would not want to send the wrong message.

**Norman Baker:** May I request a vote on amendment No. 158? I will say something if the Committee wants me to, but in the interests of speed, I am also happy not to. The amendment would simply require public opinion to be

"clearly in favour of such an addition"

before fluoride could be added, following a consultation process. The Minister said that she wants that to happen, and as it is a very important point of principle, it should be in the Bill, notwithstanding the fact that it may be in regulations.

**Miss Johnson:** We will not support the amendment in a Division, but I repeat my assurance: the phrase will be included in the regulations when they are introduced, but it should not be in the Bill.

**Mr. Wiggin:** Will the Minister ensure that the regulations provide for every household to be consulted?

**The Chairman:** What does the hon. Gentleman want to do with the amendment?

**Mr. Wiggin:** As the Minister has nodded to indicate that all households will be consulted, I beg to ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

**The Chairman:** Amendment No. 158 will be dealt with towards the end of the sitting.

**Mr. Wiggin:** I beg to move amendment No. 301, in

clause 61, page 76, line 33, leave out from 'a' to end of line 35 and insert 'local authority'.

**The Chairman:** With this it will be convenient to discuss amendment No. 157, in

clause 61, page 79, line 20, at end insert

'request the elected local authorities within its area to'.

**Mr. Wiggin:** We now come to thorny issue that the Minister mentioned earlier: the fitness of a strategic health authority to carry out the full consultation that we want, including every household.

Will the Minister tell the Committee how a strategic health authority is appointed? My understanding is that worthy people are nominated and appointed to it, essentially by the Government. I am happy to stand corrected if I am wrong about that.

**Miss Johnson:** I do not have the details, but historically, certainly before the Labour Government

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took office, there was a great deal of potential, and perhaps actual, political involvement. To reassure the hon. Gentleman, my understanding is that the process is now entirely separate from the political process, and appointments are made through the public appointments mechanisms, which are independent.

**Mr. Wiggin:** I am reassured in one respect, but not that the quality of consultation will be as local as it might be. That is the reason for the amendment. I touched on my sense of distance from the strategic health authority when I said that it was in Coventry, which is a considerable distance from Herefordshire. Despite the qualities of the public appointments mechanisms that the Minister valiantly described, they are not accountable in the democratic sense as a method of selection.

Strategic health authorities do the best they can. They have a clear mandate, and they get on with what they do, but if they did not it would be difficult to discover where they went wrong and what they had not done. To a great extent, that is because the primary care trusts are at the sharp end of local health delivery, and that is why the proposal needs to be localised.

There is another reason, which arose in earlier debates. The perception is that dentists, doctors and scientists—people in white coats—are all in favour of fluoridation. One might think that that is also a strong argument in favour of fluoridation, and I would accept that, with due respect to those professions, but when we are dealing with such an emotive issue, we should start from scratch. The consultation process should not be run by people with an agenda.

It is well known that returning officers do not vote, and if they appear to have any political allegiance they are ruled out. We need a fair consultation process. We need it

to be seen to be fair, transparent, open and straightforward, as I know the Minister would like it to be. That is why local authorities are the right people to run the consultation process and the strategic health authorities wrong.

There is another fundamental problem. Strategic health authorities do not coincide with the water authorities. The reason for choosing strategic health authorities is perhaps that the Government could not think of anything else for them to do or any other body they could have started with.

**Miss Johnson:** May I be bold on behalf of the strategic health authority and suggest that it would welcome a visit from the hon. Gentleman?

**Mr. Wiggin:** It takes me less time to get from here to Hereford than it does to visit my strategic health authority. One day I shall make that trek to visit them.

**Miss Johnson:** Bold man.

**Mr. Wiggin:** Well, I have to say that I have never been invited to visit my strategic health authority. This matter does not give me sleepless nights.

**Mr. Key:** I visited my strategic health authority only last month and I found it a rewarding experience, which I recommend to my hon. Friend.

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**Mr. Wiggin:** I am delighted to hear that. For that reason alone, I will make every endeavour to visit my strategic health authority. No doubt it will wish to consult me on fluoridation when the time comes. The important point is that such authorities are not local in any sense of the word. The strategic health authority in the west midlands is more than 100 miles from many places in its remit.

**Dr. Palmer:** The hon. Gentleman suggested that the local authority should conduct the consultation. Does he suggest that local authorities should take the final decision, and how many local councillors does he know who know more than even we do about medicine?

**Mr. Wiggin:** The hon. Gentleman makes an important point about who makes the final decision. That is why I pressed earlier for a clearer consultation process so that the people making the decision were the people who would drink the water, not a panel of experts. That is the same reply that I gave when he asked me about referendums. That is the next part to the argument. Should we appoint a strategic health authority to make a health decision in what is essentially supposed to be a democratic process? That cannot possibly be the right way of handling it.

I can understand why the Government want to handle it in that way, but I do not think that that gives the individuals who consume the water the freedom of expression that they should have. That is why I will press the amendment. It is an extremely important debating point for the Committee. We must get this part right. We have had to concede that the consultation process will not be a referendum. It will be more arbitrary. Therefore I should like to see a neutral platform conducting—

**The Chairman:** Order. I draw hon. Members' attention to the fact that this is a narrow amendment. I appeal for co-operation in keeping to it.

**Norman Baker:** You will certainly have that from me, Mr. O'Brien. This is exactly the issue that I want to address. A strategic health authority is not the appropriate body to be solely involved in this. First, it is unelected. Secondly, it is unaccountable to the local community. It is accountable only through the Secretary of State, which is not a direct mechanism for the local community. The word "local" has been emphasised by all sides.

Thirdly, fairly or otherwise, a strategic health authority will be perceived to be biased. Health bodies have largely made up their minds that fluoridation of water is a good thing. When they are responsible for the consultation and perhaps for co-ordinating the material that is sent out, they will be open to accusations that the material is loaded because it quotes this but does not quote that. The material may be entirely balanced but those accusations will still be made against them. That is why it is important, if we are not to be derailed on this, that the body that carries out the consultation is seen to be neutral. That is why many of us prefer local authorities here. Amendment No. 157 differs slightly from the Conservative amendment. The Conservatives want to

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use local authorities throughout. We suggest that the health authority should "request the local authorities within its area".

That is a subtle difference. We recognise that there is a strategic view—and we are trying to go along as far as we can with the Government on that—to find some common ground. However, we are saying that the process itself should be carried out by local authorities, even if a health authority initiated it, so that the accusations—which will be made—of bias and distance, and of unelected bodies being involved, can be dealt with in a sensible way. That would mean that we could get on to discussing in the communities whether fluoride should be added to water, rather than whether the body carrying out the work is biased. That suggestion is intended to help the Minister.

Local authorities and people on the ground have independence, and they have taken on board local opinion. They may not be skilled or have the necessary qualifications, but they are in touch with local people and they will listen carefully to them. The value of that must not be undermined. The strategic health authorities may wish to be the co-ordinating bodies, but they must involve local communities in a democratic way, and there is no evidence at the moment that they will do that.

**4.15 pm**

I say to the hon. Member for Leominster that I do not know where my strategic health authority is—I will discuss that with my hon. Friend the Member for Guildford. It could be said that I should know and that it is remiss of me not to. [Interruption.] Apparently, my hon. Friend does not know either. We represent constituencies in Sussex and Surrey, and neither of us knows where our health authority is. I am

occasionally in touch with the authority, but I do not know where it is based, although I know that it is somewhere near me.

**Sue Doughty:** To clarify that point, it is not that my hon. Friend and I do not talk to our strategic health authorities but, because of the geographical situation, their officials tend to come to London to talk to us. We converse with them, and e-mail and phone them, but we do not know where they are based.

**Norman Baker:** That is exactly the case. [Hon. Members: "They will know where the base is tomorrow."] Yes, my hon. Friend and I will know that tomorrow: I shall go and check it tonight. I think that it is nearer my hon. Friend's constituency than it is to mine, but she might prove me wrong.

We converse with and write to the authority's officials. If we do not know where they are, that does not suggest that they are very local; and if they do not impinge on our consciousness in that way, it is likely that, with the best will in the world—and regardless of whatever snide remarks people might want to make about Liberals—they will not have impinged on the consciousness of most people in the area, for whom they purport to speak on this important issue.

I ask the Minister to recognise that if the issues that I am raising are taken on board, that will aid the process rather than hinder it.

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**Mr. Drew:** I shall take note of your advice, Mr. O'Brien, and speak entirely on why we need to re-localise this process and re-link with local government. Before anyone asks, I know exactly where my area health authority is. It is in a huge black hole: that is how things have ended up because Bristol, Bath and Swindon are involved. I will add nothing more on that sore point, except to say that I am in regular contact with that authority.

This is an important matter. I hope that the hon. Member for Leominster will press this amendment to a Division. Where we come from in relation to this debate is important. Some of us genuinely believe that one of the problems with our health service is that it is not accountable enough. The mechanisms are not in place whereby it can easily find out what its population wants in terms of health.

This is one of the issues about which I think that there would be a great deal of public interest. It might not be on the same scale as the interest in genetically modified organisms, but some people might be surprised to find that many members of the public, when they listen to the arguments, will be very interested in the debate. It is a gut-reaction issue that will take off. It might not have taken off in other Members' areas yet, but it has certainly taken off in mine.

I passionately believe that if we look at the Berlin wall—to borrow the words of a previous Secretary of State—between social care and the NHS on a day-to-day basis, it is clear that in recent times we have never arrived at an acceptable relationship between them. I am talking about local government and the NHS. Because of that

wall, we will have real problems when we need to try to find out what people think about this issue.

The Conservative amendment is right. I accept that parliamentary draftsmen might have to try to make more sense of it, but it is at least a stab at trying to reconnect with what should be happening. There should be a mechanism whereby we can genuinely convince people that fluoridation is right.

I listened carefully to the scientific advice that my hon. Friend the Member for Bolton, South-East spoke about, and I shall not demur from that powerful case. However, that case must be made to the general public before we fluoridate their water, rather than afterwards in the hope that they go along with it. That is where local government has more expertise, although it often feels excluded from health matters. We have given local government responsibility for the economic and social well-being of its community, and there is nothing more connected with such matters than what we are discussing. It connects with what the Government are trying to do.

I passionately support the foundation hospitals debate. Apart from being about mutualism, which I, as a co-operator, believe is a different way to run services, it is also about trying to connect with the population by making them members and giving them a stake in how a public service is run. There are different arguments about that in different parts of the health service. The foundation hospitals debate connects

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directly with the current debate. If things are put in place through local government, people will feel much more empowered and will be more likely to vote. There is no better way to proceed. That is better than having a false consultation process. With the best will in the world towards my hon. Friend the Minister, I have to point out that she may not be there to make a decision on different areas in which there may be confusing results.

The alternative way would be much more straightforward; it would take note of what people say. If we are serious about having such debates—and are doing more than pretending to listen to people's views—let us proceed according to some form of democratic accountability. Otherwise, people will feel that they have not been listened to, and that consultation had been taken just to reinforce the decision.

**Miss Johnson:** I want to make it clear that appointments to strategic health authorities are made by the NHS Appointments Commission. That is done independently through the usual proper Cabinet Office procedures and those appointments are externally advertised.

On amendments Nos. 301 and 157, I should like to reassure hon. Members who have contributed to the debate that we have resolved that local authorities should play a major part in reaching decisions on whether an area should fluoridate. I do not agree with what hon. Members said about the strategic health authorities. I shall not rehearse the argument about their connection with their area and the role that they can play. There have been some pertinent developments in the organisation of the health service and the relationship between it and the local authorities in recent times.

One such development took place under the Health and Social Care Act 2001. All the county councils, London boroughs and unitary authorities have established local authority overview and scrutiny committees. The strategic health authorities and primary care trusts are required to consult those committees where there are to be significant changes to health services. We need to put a ring-holder in the Bill and name a ring-holding organisation. I am convinced that the strategic health authorities are the right ring-holding organisations; none the less, they must engage with the wider community in a meaningful way, including engaging with the local authorities and playing a major part in the decision and consultation-making processes for such matters. The strategic health authorities are, in any case, required to consult the local authority scrutiny committees.

My experience of talking with people in local authorities about health and public health matters is that already much stronger links are being made in many areas between local authorities and health authorities, including strategic health authorities and primary care trusts. Those committees represent a forum for the SHAs to sound out local authorities on the proposal to fluoridate, and to enlist their co-operation in organising the wider public consultation; they represent a very important avenue. I was a local authority member for some 16 years, and

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I would not want to downplay the importance of local authorities.

In terms of the democratic processes involved, it is important to stress that neither the views of SHA members nor those of local authority members should determine whether an area is fluoridated. As we have all been saying, it should be determined by the views of the local population.

**Norman Baker:** Will the Minister confirm, if she can at this stage, who will be responsible for producing the literature that will doubtless be part of any informative campaign to help people choose? Will it be the strategic health authority?

**Miss Johnson:** The hon. Gentleman is pressing me a little too hard on the detail. That is the sort of thing that could be part of the regulations that will be introduced subject to the affirmative procedure.

Partnerships, which are already represented through the scrutiny committee arrangements, and using the organisations that are part of those same partnerships throughout local authorities and the health service more widely are useful ways for a body, such as a strategic health authority, to move forward consultation and engagement of the kind that we are discussing in relation to the proposal to fluoridate water in a given area. The role of local authorities, strategic authorities and other health organisations will be to hold the ring to ensure that comprehensive consultations take place and that there is an objective assessment of people's views.

I reassure the hon. Members who tabled the amendments that we are not very far apart in where we want to be on these matters. However, I believe that they are best addressed not in the Bill but through the detail of regulation. In light of my

assurances, I hope that the hon. Member for Leominster will withdraw his amendment.

**Mr. Wiggin:** The Minister was kind to be so sympathetic towards the amendments. Unfortunately, these amendments need to be added to the Bill. It is as simple as that.

Question put, That the amendment be made:—

The Committee divided: Ayes 8, Noes 12.

Division No. 13]

AYES

Baker, Norman Doughty, Sue Drew, Mr. David Lansley, Mr. Andrew Liddell-Grainger, Mr. Ian Osborne, Mr. George Swire, Mr. Hugo Wiggin, Mr. Bill

NOES

Ainger, Mr. Nick Brennan, Kevin Burden, Richard Iddon, Dr. Brian Johnson, Miss Melanie Key, Mr. Robert King, Andy Knight, Jim Morley, Mr. Elliot Organ, Diana Palmer, Dr. Nick Tipping, Paddy

Question accordingly negatived.

**4.30 pm**

**Miss Johnson:** I beg to move amendment No. 320, in

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clause 61, page 77, leave out lines 3 to 6.

**The Chairman:** With this it will be convenient to discuss the following:

Amendment No. 214, in

clause 61, page 77, line 6, after 'of', insert 'up to'.

Government amendments Nos. 325, 326 and 334.

+ Amendment No. 352, in

clause 61, page 79, line 8, after 'State', insert

'as regards England and the National Assembly for Wales as regards Wales'.

Government amendments Nos. 335 to 337.

**Miss Johnson:** I have a detailed speaking note, but I might not inflict all of it on the Committee, depending on their interest in the detail of the amendments.

**The Minister for the Environment (Mr. Elliot Morley):** There may not be any.

**Miss Johnson:** Well, that is another way of putting it.

Government amendments Nos. 320, 325, 326 and 334 to 337 consolidate and refine the provisions implementing target concentrations of fluoride. Amendment No. 320 deletes the reference to targets that is now provided in amendment No. 326, and amendment No. 325 omits section 87(9) of the Water Industry Act 1991, which provided for third parties to add fluoride to a water supply and for operational blending. We originally thought that we would need a reference to third parties to provide for licensed water suppliers supplying fluoridated water, but we now realise that that can be covered by the access agreement between the undertaker and the licensee.

I am happy to hear what interest members of the Committee have in the detail of the amendments, and I will then be able to respond to their remarks.

**Mr. Wiggin:** The amendment in my name seeks little from the Bill other than to limit the amount of fluoride to a concentration of 1 mg per litre. The amendment would insert "up to" after "of" in line 6 on page 77.

**Miss Johnson:** One milligram per litre? Or 1 part in a million?

**Mr. Wiggin:** The Minister should read what it says on page 77, line 6: "milligram per litre". However, I think that we know what we are on about. [Interruption.]

**Miss Johnson:** Yes, I think that we do know what we are on about, but my hon. Friend the Member for Bolton, South-East knows better than anyone else.

**Mr. Wiggin:** What an extraordinary statement! I hope that the Minister is right. I was reading from the Bill.

When we have studied evidence—and hon. Members have referred to the pictures of teeth that they have been sent—we have compared areas of Britain where the water is fluoridated with those where it is not, but we have not looked at the same thing in the United States. Some of the evidence from the US shows that as the concentration of fluoride rises, the number of fluorosis cases rises. At levels of about

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3 parts per million, the number of cases is extremely high.

The amendment would not prevent fluoride from being put in water, but it would make sure that the chemical concentration was limited to 1 mg per litre or 1 part per million. I think that it is a worthy amendment. In high concentrations, fluoride is a poison. It is concentration that determines toxicity, and so it is right that such a chemical be regulated properly. That is what the amendment would do.

**Mr. Lansley:** I have one question, and I hope that the Minister can respond to it. The issue with target concentrations is that everything, including Government amendment No. 326, seems to be based on there being no difference between naturally occurring fluoride and fluoride that is artificially introduced into the water supply, and no variation in the impact of such concentrations on water hardness, for example.

The Medical Research Council's first recommendation for research—which, I understand, is ongoing and has not yet been published—is about what is termed the bio-availability of fluoride. I understand that to mean the take-up into the body tissues of fluoride that occurs naturally rather than artificially. The assumption underlying further research is that the bio-availability of artificial fluoride may be higher than that of natural fluoride. I do not understand why that would chemically be so, but I will not linger on it. Assuming that they are not the same—research may show that to be right or wrong—it would be reasonable for target concentrations to vary according to the level of naturally occurring fluoride in areas in which it was intended to supplement it with artificially added fluoride.

**Miss Johnson:** We do not yet have the detail of bio-availability, but topping up naturally occurring fluoride in water to a certain level, or watering it down because the water is naturally fluoridated at a much higher level than desirable, can both take place. The Government do not want to see the level rise above 1 part per million. I am not sure about the basis of this debate, because the points being made on the amendments all suggest that we might allow the level to exceed that, but we are clearly saying that we will not.

**Mr. Lansley:** My argument was not that there should be a different level, but that if the bio-availability of forms of fluoride differs, we should work to a range rather than a specific target. We should vary the extent to which we top up the levels with artificially occurring fluoride according to the bio-availability of those different forms.

Amendment No. 326 covers what is reasonably practicable, but that does not relate to what is desirable for achieving the optimum level of fluoride, taking into account its different properties. The legislation ought to follow the research rather than the research following the legislation. The drafting should include a range, perhaps 0.8 to 1.2, or 0.6 to 1 part per million, as a better mechanism for allowing for the results of future research.

**Column Number: 474**

**Miss Johnson:** I understand the drift of the hon. Gentleman's remarks, but 6 million people receive fluoridated water, some of which is titrated down to 1 part per million, some topped up to that level—I am not sure how much is topped up—and some artificially added to. On that basis, we have not felt obliged by any evidence to reduce the level not to be exceeded from 1 part per million.

The phrase,

"so far as reasonably practicable"

is designed to allow for the fact that, when fluoride is added to water, it may be slightly watered down. If we were to demand exactly 1 part per million, it would be difficult and expensive for water companies. The passage of fluoride through the water supply and the position at which the supply is fluoridated will mean that the figure may drop below 1 part per million. As the Minister for the Environment has

reminded me, we do not want the level to exceed 1 part per million, and that is what the arrangement is designed for.

**Mr. Wiggin:** I suggest to the Minister that the statement in amendment No. 326 that fluoride concentration in the specified area should be

"maintained at the general target concentration"

is worrying Opposition Members. If she could provide tighter wording, as my hon. Friend the Member for South Cambridgeshire suggested, we would be content with a phrase such as "a range" or "not greater than". When we are dealing with a chemical as contagious as fluoride, it is only fair to have tight wording about its concentration. That is good government, and I hope that the Minister takes the point seriously.

**Miss Johnson:** I understand the hon. Gentleman's point, which is probably about the word "target". The target level is a form of words used to encapsulate the difficulty of keeping the rate at precisely 1 part per million.

**Mr. Wiggin:** It does not have to be exactly that.

**Miss Johnson:** No, it could be slightly different. I take the hon. Gentleman's point, and we will examine whether the wording could be better devised. I should point out that a power to change the level of fluoride by order is given under new section 88A. I can tell the hon. Member for South Cambridgeshire that if new research, such as the bio-availability work, showed that we should adjust the level, it would be possible to use new section 88A to do that.

I take the point made by the hon. Member for Leominster; I think that I understand it now, and I undertake to consider further the wording that we are using.

Amendment agreed to.

**Miss Johnson:** I beg to move amendment No. 321, in

clause 61, page 77, line 10, leave out

'The terms may, for example,'

and insert 'Those terms shall'.

**The Chairman:** With this it will be convenient to discuss the following:

**Column Number: 475**

Amendment No. 215, in

clause 61, page 77, line 10, leave out 'may, for example' and insert 'shall'.

Amendment No. 216, in

clause 61, page 77, leave out lines 11 and 12 and insert—

'(a) requiring reimbursement by the relevant authority to the water undertaker of all the undertaker's capital and operational costs of or in any way related to the fluoridation of the water supply;'

Government amendment No. 322.

Amendment No. 217, in

clause 61, page 77, line 17, at beginning insert

'Before making a request under subsection (1) above,'.

Government amendment No. 324.

Amendment No. 218, in

clause 61, page 77, line 27, at end insert—

'87AA Fluoridation arrangements: technical guidance

(1) Without prejudice to Chapter III of this Part and the Health and Safety at Work etc. Act 1974, the Secretary of State and the Assembly shall jointly prepare and issue a code of practice containing guidance on the technical standards that must be met by water undertakers in relation to the fluoridation of water supplies.

(2) Such code of practice shall—

(a) include such provisions, and

(b) be prepared and made in such manner,

as shall be prescribed by regulations made by the Secretary of State.'

Government amendment No. 327.

Amendment No. 219, in

clause 61, page 78, leave out lines 20 to 34 and insert—

'(3) Subject to such safeguards as may be prescribed by regulations made by the Secretary of State, where a water undertaker is required by any such arrangements to add fluoride to water which it supplies to any area, the undertaker may, to such extent and for such time as may be reasonably necessary to accommodate any operational exigency—

(a) not supply such fluoridated water to the area required to be fluoridated; or

(b) reduce the concentration of fluoride in the water required to be fluoridated to below the required concentration.

(4) In this section, "operational exigency" means—

(a) any serious deficiency in supply;

(b) any accident or unforeseen circumstance;

(c) the carrying out of any works (including cleaning and maintenance) by the undertaker concerned or, as the case may be, by the undertakers concerned, or by a licensed water supplier supplying water using its or their supply system;

(d) any contractual obligation on the undertaker concerned or, as the case may be, on any of the undertakers concerned, or on a licensed water supplier supplying water using its or their supply system, to supply water of a particular quality; or

(e) any other operational circumstance which involves the undertaker concerned or, as the case may be, any of the undertakers concerned, or a licensed water supplier supplying water using its or their supply system, varying the source or sources of the supply of water to the area in question.'

Amendment No. 223, in  
clause 61, page 80, line 15, at end insert—

'90A Fluoridation arrangements: precondition

### **Column Number: 476**

A water undertaker shall not be obliged to enter into any arrangements under section 87 above until the Secretary of State has made regulations under sections 87AA and 89 above.'

**Miss Johnson:** Amendments Nos. 321 and 322 respond to requests from the water industry, which asked us to clarify the arrangements that strategic health authorities may make with water undertakers to fluoridate their water. Amendment No. 321 ensures that all arrangements provide for payments to the undertaker for adding fluoride, the circumstances in which the fluoridation can be temporarily suspended and for variations to be made in the arrangement.

Amendment No. 322 enlarges on the costs that the water undertaker will be able to recover from a strategic health authority under arrangements to fluoridate. It also specifies that both the capital cost of setting up the scheme and the recurring running costs would be recoverable. The Government amendments also cover the intentions behind amendments Nos. 215 and 216.

In light of Government amendment No. 324, amendment No. 217 seems excessive. Strategic health authorities will discuss proposals with the water undertaker in advance of any public consultation, so it will be alerted to any issues that need to be raised with the Water Services Regulation Authority in advance of consultation. Otherwise, the regulation authority can be brought in at the time of the public consultation.

Amendment No. 324 was also suggested by the water industry. It requires strategic health authorities to consult water undertakers about the boundaries of the distribution system and technical constraints before commencing public consultations on a proposal to fluoridate. They will also need to undertake prior consultation if they propose to terminate a scheme. The intention is to ensure that strategic health authorities appreciate at an early stage whether the water distribution system serves the area of more than one strategic health authority and whether they need to collaborate on public consultations. It will also avoid raising public expectations about proposals that are not technically feasible. Water undertakers have a key role at

every stage of the development of a fluoridation scheme, and I am grateful to the water industry for its sensible suggestions.

On amendment No. 218, we recognise the importance that the water industry attaches to observance of a technical code of practice. We are already working on a new, updated version of the code, which contains guidance that may need to be updated in light of technical developments. Prescribing guidance in regulations could cause delays in updating the code.

I hope that I have reassured hon. Members that we are already updating the code and intend that it will inform all arrangements. I therefore trust that they will not press their amendments to a Division.

**4.45 pm**

Amendment No. 327 amends new section 87A, which provides for the determination of any disputes between strategic health authorities and water

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undertakers on making arrangements to fluoridate. As drafted, the section provides for the determination of disputes that arise over the making of new arrangements, and the amendment includes any disputes that might occur when a strategic health authority wants to vary the arrangements that are already in place.

For example, a strategic health authority might decide that it wanted a variation if the oral health of the population had improved so much in one part of its area that it no longer needed to be fluoridated. The strategic health authority would ask the water undertaker for a variation to switch off part of the area fluoridated. We are not expecting many discussions or disputes between the strategic health authorities and the water undertakers, but we have provided for arbitration to avoid the possibility of legal actions.

On amendment No. 219, we accept the need to give water undertakers the discretion to cope with unforeseen circumstances such as droughts, floods and plant breakdowns, which have been provided for in new section 87B. We have also extended the provisions in section 87(7)(a), (b) and (c) in the existing Act, which, in the circumstances in which the requirement for fluoridation may be temporarily suspended, allows them to be specified within the terms of the arrangements. Section 87(6) provides for a local agreement of those arrangements. I would need more persuading to go further than that and, given the above assurance, I hope that hon. Members will not press amendment No. 219 to a Division.

With regard to amendment No. 233, there is no question of our expecting water companies to fluoridate without indemnities or before regulations on consultation, and I hope that hon. Members will not therefore divide the Committee on that.

**Mr. Wiggin:** It would be extremely churlish of me to challenge the Government on the amendment, as it is almost identical to mine. The Minister is right to concede that, and to have heaped praise on Water UK, which should be congratulated on having

worked so hard to get the best possible legislation for water companies. The parallels happily continue until amendment No. 219, on which the Minister said that she would need further persuasion, and we will seek to do that.

I am grateful for the progress that we have made. It is nice to have a wry smile, rather than the Minister pulling my leg.

Amendment agreed to.

Amendment made: No. 322, in

clause 61, page 77, line 11, leave out from 'requiring' to end of line 12 and insert

'the relevant authority to meet the reasonable capital and operating costs incurred by the water undertaker in giving effect to the arrangements;'.—[Miss Melanie Johnson.]

**Miss Johnson:** I beg to move amendment No. 323, in

clause 61, page 77, line 20, at end insert—

'(8A) If two or more relevant authorities request a particular water undertaker to enter into arrangements in respect of adjoining areas—

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(a) the authorities shall cooperate with each other so as to secure that the arrangements (taken together) are operable and efficient; and

(b) if suitable terms are not agreed for all the arrangements, a combined reference may be made by the relevant authorities under section 87A below to enable the terms of each set of arrangements to be determined so that they are consistent.

(8B) If a relevant authority requests a water undertaker to vary arrangements, the authority shall cooperate with any relevant authority for an adjoining area which has entered into arrangements with the same water undertaker so as to secure that following the variation the arrangements (taken together) will be operable and efficient.

(8C) If suitable terms are not agreed for a variation mentioned in subsection (8B), a combined reference may be made by the relevant authorities under section 87A below to enable the terms of the variation to be determined so that (following the variation) both sets of arrangements are consistent.'

**The Chairman:** With this it will be convenient to discuss Government amendments Nos. 328 to 333.

**Miss Johnson:** The amendment arises from our better appreciation of the relationship between the boundaries of the water distribution systems and the strategic health authorities. There are 24 water companies in England and 28 strategic health authorities and inevitably there are instances in which a water distribution system overlaps, as we have discussed before. There are also overlaps in Wales. There could be a case in which two strategic health authorities, or a strategic health authority and the National Assembly for Wales, would have to co-operate to undertake joint consultations of the population served by the water distribution system. If the

populations were supportive, those bodies would have to co-operate in negotiating agreements. We discussed some of those matters earlier, in passing, and I am happy to discuss them in further detail, if hon. Members wish to do so.

Amendments Nos. 328 to 333 provide for the situation in which a water distribution system spans the border between England and Wales. In that situation, it would be necessary for an English strategic health authority and the National Assembly for Wales to collaborate, where possible, on the making of arrangements. Amendments Nos. 328 to 331 are consequential on amendment No. 332.

**Mr. Wiggin:** The Minister is talking about consultation and making arrangements. Could she tell us more about the arrangements, and how she envisages that co-operation taking place?

**Miss Johnson:** Given that, in some circumstances, two strategic health authorities will need to co-operate—the same would be the case if the National Assembly for Wales were involved, although obviously it is a different sort of body—provision is made for establishing arrangements for collaboration.

We want to avoid conflicting determinations holding up the implementation of a scheme that populations support on both sides of a border. Amendment No. 329 gives the Secretary of State and the Assembly the powers to appoint a third party to determine the fluoridation arrangements. We have in mind, for example, someone such as a retired engineer or a lawyer from a water company without any

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connection with the undertaker involved in any dispute, so that such matters can be dealt with as expeditiously and efficiently as possible.

At present, we are not aware of any proposals for cross-border fluoridation schemes, but as I mentioned earlier, the west midlands relies on Wales for much of its drinking water, so it makes sense to provide for such an eventuality, even though we are not anticipating the issue coming to the fore. I commend the amendments to the Committee.

Amendment agreed to.

Amendments made: No. 324, in

clause 61, page 77, line 20, at end insert—

'(8D) Before carrying out the consultation required by subsection (1) of section 89 below in relation to a step mentioned in paragraph (a), (b) or (c) of subsection (2) of that section, a relevant authority shall consult the water undertaker in question as to whether the arrangements which would result from taking that step would be operable and efficient (or, where it is proposed to terminate the arrangements, as to whether it would be reasonably practicable to do so).'

No. 325, in

clause 61, page 77, leave out lines 21 to 27.

No. 326, in

clause 61, page 77, line 27, at end insert—

'87ZA Target concentration of fluoride

(1) Arrangements under section 87(1) above shall include provision for securing that, so far as reasonably practicable, the concentration of fluoride in the water supplied to premises in the specified area is maintained at the general target concentration of one milligram per litre.

(2) But the arrangements may provide for the concentration in the specified area (or any part of it) to be lower than that if the relevant authority considers that it is not reasonably practicable to achieve the general target concentration in the specified area (or that part of it).

(3) Any such lower concentration must still be as high as is reasonably practicable in the circumstances.

(4) If, in relation to any area ("area A"), an order under section 88A(1) below specifies a general target concentration lower than that for which any arrangements effective there provide (or, by the previous operation of this subsection, are taken to provide), the arrangements shall have effect from the coming into force of the order as if they provided for the general target concentration specified in the order (subject to the operation again of subsections (2) and (3) above).

(5) If the result of the operation of subsection (4) above in relation to arrangements in area A is that in an area adjoining area A ("area B") it is not reasonably practicable to maintain the concentration of fluoride in the water supplied by virtue of arrangements made in area B with the same water undertaker, the order shall be taken to extend also to area B so far as those arrangements are concerned, and subsection (4) above shall apply accordingly.

(6) An order under section 88A(1) below which in relation to any area specifies a general target concentration higher than that for which any arrangements effective there provide (or are taken to provide by virtue of subsection (4) or (5) above) does not have effect to increase the concentration for which the arrangements provide (or are taken to provide).

(7) In this section, "specified area" means the area specified in arrangements under section 87(1) above.'

No. 327, in

clause 61, page 77, line 30, leave out from 'agree' to end of line 31 and insert '—

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(a) the terms of arrangements requested by the relevant authority pursuant to subsection (1) of section 87 above; or

(b) a variation in the terms of those arrangements following a request by the relevant authority pursuant to subsection (7)(c) of that section.'

No. 328, in

clause 61, page 77, line 32, after 'England', insert

'(except where subsection (3A) below applies).'

No. 329, in

clause 61, page 77, line 35, leave out from 'State' to end of line 36 and insert 'may—

- (i) determine the terms of the arrangements as he sees fit; or
- (ii) refer the matter for determination by such other person as he considers appropriate; and'.

No. 330, in

clause 61, page 77, line 37, after 'State', insert  
'or, as the case may be, the other person'.

No. 331, in

clause 61, page 77, line 38, after 'Wales', insert  
'(except where subsection (3A) below applies)'.

No. 332, in

clause 61, page 77, line 45, at end insert—  
'(3A) Where the Assembly is one of the relevant authorities which has made a combined reference under section 87(8A)(b) or (8C) above—  
(a) the terms of the arrangements shall be determined by a person appointed by the Secretary of State and the Assembly acting jointly; and  
(b) the determination of that person shall be final.'.

No. 333, in

clause 61, page 79, line 3, at end insert—  
'( ) But (except where it is reasonably practicable to terminate the arrangements separately), arrangements to which section 87(8A)(a) or (b) applied may only be terminated by the relevant authorities acting jointly.'.

No. 334, in

clause 61, page 79, line 8, leave out 'Secretary of State' and insert 'appropriate authority'.

No. 335, in

clause 61, page 79, line 9, leave out '87(5)' and insert '87ZA(1)'.

No. 336, in

clause 61, page 79, line 15, after 'made', insert  
'by the Secretary of State (or by the Secretary of State and the Assembly acting jointly)'.

No. 337, in

clause 61, page 79, line 16, at end insert—  
'(4) In subsection (1) above "appropriate authority"—

(a) in relation to an area which is partly in England and partly in Wales, means the Secretary of State and the Assembly acting jointly;

(b) in relation to an area which is wholly in England, means the Secretary of State; and

(c) in relation to an area which is wholly in Wales, means the Assembly.

(5) An order amending or revoking an order under subsection (1) above made by virtue of subsection (4)(a) above must also be made by the Secretary of State and the Assembly acting jointly.".

No. 338, in

clause 61, page 79, line 22, leave out 'Secretary of State' and insert 'appropriate authority'.—  
[Miss Melanie Johnson.]

**Column Number: 481**

Amendment proposed: No. 158, in

clause 61, page 79, line 22, at end insert

'then if public opinion is clearly in favour of such an addition'.—[Norman Baker.]

Question put, That the amendment be made:—

The Committee divided: Ayes 9, Noes 11.

Division No. 14]

AYES

Baker, Norman Doughty, Sue Drew, Mr. David Key, Mr. Robert Lansley, Mr. Andrew Liddell-Grainger, Mr. Ian Osborne, Mr. George Swire, Mr. Hugo Wiggin, Mr. Bill

NOES

Ainger, Mr. Nick Brennan, Kevin Burden, Richard Iddon, Dr. Brian Johnson, Miss Melanie King, Andy Knight, Jim Morley, Mr. Elliot Organ, Diana Palmer, Dr. Nick Tipping, Paddy

Question accordingly negatived.

Amendments made: No. 339, in

clause 61, page 79, line 23, leave out 'any prescribed requirements' and insert

'the requirements set out in regulations made by the appropriate authority'.

No. 340, in

clause 61, page 79, line 33, leave out from beginning to 'requirements' in line 36 and insert—

'( ) Regulations—

(a) under paragraph (a) of subsection (1) above shall include provision about the process which relevant authorities are to follow for the purposes of that paragraph;

(b) under paragraph (b) of that subsection shall include provision about the'.

No. 341, in

clause 61, page 79, line 41, leave out from beginning to end of line 2 on page 80 and insert

'if the appropriate authority so directs by an instrument in writing (and such a direction may apply either generally or in relation to a particular proposal).'

No. 342, in

clause 61, page 80, line 2, at end insert—

'( ) In this section "appropriate authority"—

(a) in a case where two or more relevant authorities (one of which is the Assembly) propose to request a particular water undertaker to take a step mentioned in subsection (2)(a), (b) or (c) in respect of arrangements in adjoining areas, means the Secretary of State and the Assembly acting jointly;

(b) in relation to England (except in a case to which paragraph (a) applies), means the Secretary of State; and

(c) in relation to Wales (except in a case to which paragraph (a) applies), means the Assembly."

No. 343, in

clause 61, page 80, line 9, at end insert—

'(1A) The Secretary of State may also, with the consent of the Treasury, agree to indemnify any licensed water supplier in respect of liabilities which it may incur—

(a) in supplying water to which fluoride has been added by a water undertaker by virtue of any such arrangements;

(b) (if the licensee is introducing water into the water undertaker's supply system) in complying with any obligation imposed on it by the undertaker in consequence of the arrangements.'

**Column Number: 482**

No. 344, in

clause 61, page 80, line 13, after '(1)', insert 'or (1A)'.—[Miss Melanie Johnson.]

**Miss Johnson:** I beg to move amendment No. 345, in

clause 61, page 80, line 16, leave out subsection (7) and insert—

'(7) For section 91 (pre1985 fluoridation schemes) there is substituted—

"91 Pre1985 fluoridation schemes

(1) With effect from the appointed day, relevant pre1985 arrangements shall be treated for the purposes of this Chapter as if they were arrangements entered into by the water undertaker in question with the relevant authority under section 87(1) above.

(2) The relevant authority may request such modifications to the arrangements as it considers necessary in order to give effect to subsection (1) above, for example to insert the terms mentioned in section 87(7) above.

(3) If the relevant authority and the water undertaker fail to agree the modifications requested by the authority—

(a) subsection (2), (3) or, as the case may be, (3A) of section 87A above shall apply as if the parties had failed to agree the terms of arrangements requested under section 87(1) above; and

(b) following determination of the modifications—

(i) the relevant authority shall give notice of the determination to the water undertaker; and

(ii) the arrangements shall be deemed to have been modified as so determined with effect from the day after the date of the notice.

(4) Sections 87(8D) and 89(1) above (which relate to consultation) shall not apply to the deemed entry into, and modification of, arrangements by virtue of this section.

(5) References in this Chapter to arrangements entered into under section 87(1) above shall include arrangements treated as entered into by a water undertaker by virtue of subsection (1) above.

(6) In this section—

"the appointed day" means the day on which section 61 of the Water Act 2003 comes into force; and

"relevant pre1985 arrangements" means arrangements in pursuance of which a scheme for increasing the fluoride content of water was being operated by a water undertaker by virtue of paragraph 1 of Schedule 7 to this Act immediately before the appointed day.".

**The Chairman:** With this it will be convenient to discuss Government amendment No. 347.

**Miss Johnson:** I will endeavour to be quick in the hope that we will reach the last group.

Amendment No. 345 deals with existing fluoridation schemes. We have included provisions on fluoridation in the Water Bill because of the flaws in existing legislation that originated in the Water (Fluoridation) Act 1985. The flaws have prevented the introduction of any new schemes since 1985, so all current schemes are pre-1985. The amendment will provide for schemes to be treated as if they have been established under the Water Industry Act 1991 as amended by the clause. There is a lot more detail that I can go through, if hon. Members want me to do so.

**Mr. Wiggin:** The whole Bill is a series of amendments, so I am curious about why amendment No. 345 was not included initially.

**Miss Johnson:** I am not sure that I can answer that.

New subsection (1) provides schemes to be treated as if they have been established under the 1991 Act as amended by the clause. New subsection (2) provides

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for the strategic health authority to request the water undertaker to modify the arrangements under which the existing schemes operate. New subsection (3) gives strategic health authorities access to the arbitration arrangements that we have introduced in new section 87A if they are in dispute with a water undertaker about terms of modification. New subsection (4) disapplies the requirements for consultations that apply to proposals for new schemes. This is because the existing schemes were the subject of consultations prior to inception and their commencement cannot be contingent on consultation.

**Mr. Wiggin:** I want the Minister clarify one point. Does the new version of the consultation, which we have debated today, supersede that provision, or was it prescriptive on this initially?

**Miss Johnson:** I am not clear about the hon. Gentleman's question.

**Mr. Wiggin:** Was the consultation process already in legislative form? Was it provided for in a previous Bill, which means that it has not been superseded? Or was it up to the Secretary of State, as we are now legislating?

**Miss Johnson:** I may have to write to the hon. Gentleman. The lawyers are looking in their books, but I am afraid that I do not have the answer.

**Mr. Wiggin:** They are not looking very hard.

**Miss Johnson:** They are, but they are not looking at the right ones.

New subsection (5) provides for all references in the relevant chapter of the Water Industry Act 1991 to apply to the existing schemes as if they had been introduced under new section 87(1). New subsection (6) explains the new status of the existing schemes that will come into force. Amendment No. 347 provides for certain outstanding applications, and new subsection (11) gives the criteria for selection.

The provisions are needed because the health authorities consulted on several proposals to fluoridate their water in the 1990s that were supported by the local population, and in several instances, the water undertakers were sympathetic but could not accept the application for technical reasons. For example, they were uncertain about the indemnities available to them.

To answer the earlier question, the Water Industry Act 1991 contains consultation provisions, which are presumably being superseded by these provisions.

**Mr. Wiggin:** That does not answer the question, and I would be grateful if the Minister wrote to me.

**Miss Johnson:** I will be delighted to write to the hon. Gentleman.

It being Five o'clock, The Chairman proceeded, pursuant to Sessional Order C [29 October 2002] and

**Column Number: 484**

the Orders of the Committee [16 September and 21 October 2003], to put forthwith the Question already proposed from the Chair.

Amendment agreed to.

The Chairman then proceeded to put forthwith the Questions necessary to dispose of the business to be concluded at that time.

Amendments made: No. 346, in

clause 61, page 80, line 16, at end insert—

'( ) In section 213 (powers to make regulations), after subsection (1) there is inserted—

"(1A) But on the occasion of the first exercise by the Secretary of State of the power to make regulations under each of sections 89 and 90 above, the instrument containing the regulations shall not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.".'

No. 347, in

clause 61, page 80, line 18, at end add—

'(9) With effect from the commencement day, any relevant application shall have effect for the purposes of subsection (1) of section 87 of the WIA as a request made by a relevant authority under that subsection.

(10) Any other application made before the commencement day ceases to have effect on that day.

(11) In subsections (9) and (10)—

"commencement day" means the day when this section comes into force; and

"relevant application" means an application which—

(a) was made before the passing of this Act;

(b) has not been withdrawn; and

(c) has not been rejected in writing by the water undertaker to which it was made.

(12) In subsections (10) and (11) "application" means an application made under section 87 of the WIA as it was in force at the time when the application was made (and includes an application made under section 1 of the Water (Fluoridation) Act 1985 (c.63) and having effect as if made under section 87 of the WIA).'.—[Miss Melanie Johnson.]

Motion made, and Question put, That the clause, as amended, stand part of the Bill:—

The Committee divided: Ayes 14, Noes 6.

Division No. 15]

AYES

Ainger, Mr. Nick Baker, Norman Brennan, Kevin Burden, Richard Doughty, Sue Iddon, Dr. Brian Johnson, Miss Melanie Key, Mr. Robert King, Andy Knight, Jim Morley, Mr. Elliot Organ, Diana Palmer, Dr. Nick Tipping, Paddy

NOES

Drew, Mr. David Lansley, Mr. Andrew Liddell-Grainger, Mr. Ian Osborne, Mr. George Swire, Mr. Hugo Wiggin, Mr. Bill

Question accordingly agreed to.

Clause 61, as amended, ordered to stand part of the Bill.

Bill, as amended, to be reported.

**Column Number: 485**

The following Members attended the Committee:

O'Brien, Mr. Bill (Chairman)

Ainger, Mr.

Baker, Norman

Brennan, Kevin

Burden, Richard

Cunningham, Tony

Doughty, Sue

Drew, Mr.

Iddon, Dr.

Johnson, Miss Melanie

Key, Mr.

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King, Andy

Knight, Jim

Lansley, Mr.

Liddell-Grainger, Mr.

Morley, Mr.

Organ, Diana

Osborne, Mr. George

Palmer, Dr.

Swire, Mr.

Tipping, Paddy

Wiggin, Mr.