

RURAL AFFAIRS COMMITTEE

Tuesday 2 November 1999
(*Afternoon*)

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RURAL AFFAIRS COMMITTEE

8th Meeting

CONVENER :

*Alex Johnstone (North-East Scotland) (Con)

COMMITTEE MEMBERS:

*Alex Fergusson (South of Scotland) (Con)
*Rhoda Grant (Highlands and Islands) (Lab)
*Richard Lochhead (North-East Scotland) (SNP)
*Lewis Macdonald (Aberdeen Central) (Lab)
*Irene McGugan (North-East Scotland) (SNP)
*Alasdair Morgan (Galloway and Upper Nithsdale) (SNP)
*Mr John Munro (Ross, Skye and Inverness West) (LD)
*Dr Elaine Murray (Dumfries) (Lab)
*Cathy Peattie (Falkirk East) (Lab)
*Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD)

*attended

THE FOLLOWING MEMBERS ALSO ATTENDED:

Mr Jamie McGrigor (Highlands and Islands) (Con)
Euan Robson (Roxburgh and Berwickshire) (LD)

WITNESSES:

Mr John Dowrie (Scottish Executive Development Department)
Mr Derek Feeley (Scottish Executive Rural Affairs Department)
Mr John Home Robertson (Deputy Minister for Rural Affairs)
Mr Hamish Morrison (Chief Executive, Scottish Fishermen's Federation)
Mr Martin Ritchie (Scottish Executive Rural Affairs Department)

COMMITTEE CLERK:

Richard Davies

SENIOR ASSISTANT CLERK:

Richard Walsh

ASSISTANT CLERK:

Tracey Hawe

Scottish Parliament

Rural Affairs Committee

Tuesday 2 November 1999

(Afternoon)

[THE CONVENER *opened the meeting at 14:00*]

The Convener (Alex Johnstone): Good afternoon, ladies and gentlemen. It is my pleasure to welcome everyone here to this meeting of the Rural Affairs Committee. I welcome members who are not members of the committee—Mr Jamie McGrigor and Euan Robson—who have come along because they expressed an interest in the business that we are conducting today. I invite both those gentlemen to participate in this meeting, should they want to do so.

I welcome the Deputy Minister for Rural Affairs with responsibility for fisheries, Mr John Home Robertson, who is here to give evidence on item 1. I also welcome Mr Hamish Morrison, the chief executive of the Scottish Fishermen's Federation, who is also here to give evidence on item 1. Finally, I express the committee's welcome to members of the public, who are here to observe the procedures of the committee. This is the first occasion on which this committee has met in the chamber. It is an interesting experiment, and I hope that it will be a success.

British Fishery Limits (Scottish Zone)

The Convener: The committee will hear evidence from Mr Hamish Morrison and Mr John Home Robertson. The background to this issue is as follows. On 29 June, the issue was raised before the committee, which decided to assess the scope for investigation of the impact of changes to the Scottish fisheries zone, following Executive consultation with the industry. At a meeting on 5 October, the committee considered a letter from the Scottish Executive rural affairs department. After discussing that, we agreed to seek evidence from the Scottish Fishermen's Federation and from the minister on the outcome of the consultation.

To that end, we have invited to today's meeting the two gentlemen who sit before us. I propose to begin by inviting Mr Hamish Morrison to make a presentation to the committee.

Mr Hamish Morrison (Chief Executive, Scottish Fishermen's Federation): Thank you, Mr Johnstone. Ladies and gentlemen, it is good of you to invite me here to address you on this

subject, which continues to cause difficulty for, and considerable irritation to, fishermen.

First, I shall introduce the Scottish Fishermen's Federation to those of you who are not familiar with that organisation. We represent the eight main fishing associations in Scotland, which, between them, account for around 90 per cent of the country's total catching capacity. What I shall say to the committee today was discussed at our executive committee, which contains representatives of all eight of our associations. That meeting took place last Friday. I do not mean to weary the committee with the history and the ins and outs of this issue, which have been rehearsed in this Parliament and elsewhere ad nauseam. However, I shall make one or two points that I think are important.

Fishermen throughout Scotland have found the introduction of this measure—this new sea boundary for fisheries off the east coast—offensive, in the manner in which it was introduced. Putting it kindly, the implementation was a presentational disaster. There was no consultation before the event, nor was there any explanation after it. Fishermen and their representatives, myself included, discovered entirely by accident that this measure had been enacted.

I wish you to understand that fishermen are routinely consulted by Government on everything that affects them. Before I left the office last night, I checked and found that there are four draft statutory instruments that are currently the subject of consultation between ourselves and Government. We would have expected to have been consulted on the matter of a new line. Oddly enough, during the week that I found out about the new median line, we had a letter from the then Scottish Office agriculture and fisheries department telling us that there was about to be a change to the fishing boundary between the Faeroes and Scotland. The letter pointed out that that change would result in a small loss of territory and told us why it was happening. There was not much need to inform us of that.

The second problem that we have with this measure is that it is illogical. We do not think that it is appropriate to have recourse to an international convention to establish an internal boundary in a unitary state. The way in which the Government chose to employ that convention is inappropriate. The convention is often used where two land masses are opposite, such as inlets, straits or channels. In cases similar to this, where the border runs more or less at right angles to the land mass, the convention is almost never used. We are puzzled by that.

Above all, this matter was unnecessary. There are two pre-existing lines along which the line

could have been drawn. We do not dissent from the fact that a line was needed—we have always accepted that—but why generate a new one when there was a choice of two? We went to see the secretary of state and he said that there was no fisheries boundary and never had been. I thought that there was one. The Scottish Fisheries Protection Agency thought that there was a boundary—it used to publish that in its annual report, although I notice that it has not done so this year. Many people thought that there was a boundary, but we must take the secretary of state at his word.

There is, however, another line—a civil jurisdiction line—that creates a perfectly acceptable division between the two countries. We have wondered why, in this day and age and bearing in mind that we are still a unitary state, we need two borders between England and Scotland that are 60 miles apart. Why not use one line, the original jurisdiction line for offshore activities? The fishermen would be perfectly happy to accept that line as marking the division, and I offer that proposal to the committee and to the Government in a spirit of co-operation and in the hope that we can resolve this matter and move on.

The Convener: Thank you, Mr Morrison. I propose to go straight on to the presentation by John Home Robertson, the fisheries minister.

The Deputy Minister for Rural Affairs (Mr John Home Robertson): Thank you, convener. Before I go any further I should introduce the officials who are with me. On my immediate left is Derek Feeley, the head of sea fisheries in the rural affairs department. With him are his colleagues David Ford and Martin Ritchie.

I thank the committee for the opportunity to come and discuss this matter. I served on a select committee in Westminster for a long time and spent a lot of time in the position that you are in today. I am keen to have a good relationship with members of the committee and with our friends in the Scottish Fishermen's Federation. It is entirely appropriate that I am sitting shoulder to shoulder with Hamish. The only thing that I am uncomfortable about is the fact that I am sitting on what are usually nationalist benches. I hope that there is nothing contagious about these seats.

I welcome the chance to address the subject of the east coast boundary, which needs to be clarified. The matter is close to my heart. My constituency is East Lothian and, in the past, I represented part of Euan Robson's committee. I have regular contact with fishermen from Eyemouth and have other direct connections with that part of the country.

The issue has generated a lot of confusing and downright sensational comments to the effect that

the English have stolen 6,000 square miles of Scottish fishing waters. That sounds alarming, but there is no truth in it. It would be helpful if all of us could accept, as Hamish did, that when most of us—yourself excepted, convener—voted for a Parliament for Scotland with responsibility for Scottish fisheries, a demarcation line had to be created where none had been before.

I suggest that the most appropriate place to set a boundary line is on a median line. That is what was done. That leaves the Scottish Parliament with responsibility for two thirds of Britain's fishing waters: 127,000 square miles of fishing grounds. That is quite a lot. Most important of all is the fact that the demarcation line does not affect our fishermen's right to fish where they have always fished, whether in the area that we are talking about today or anywhere else.

We should all concentrate on developing the prospects of Scotland's fishing communities in the Scottish zone and elsewhere. That is the important issue. Anybody who read the papers recently might be concerned that our fishermen were being denied access to areas that they had fished in the past. That is not true.

Hamish raised three points. The first was the manner of the fixing of the line. I accept that it is best that there should be open discussion about anything that affects the fishing industry and I spent most of this morning in meetings on different issues that relate to the industry. I look forward to working closely with Hamish and his colleagues. Sometimes I will be able to give them the answer that they want and sometimes I will not, but I want to be open with them.

In fairness to my colleagues who dealt with these matters before the establishment of this Parliament, I will mention a press release that was issued on 8 March 1999. It was circulated to 55 press sources, and I am assured that a copy went to the Scottish Fishermen's Federation. It explains that a boundary is to be introduced, for the reasons that we have been discussing, and says that the boundary that was set out in the draft order relies on the widespread convention of establishing median lines.

I accept that issuing a press release is not always the best way of getting things into the public domain. From my experience at Westminster, I know that one has a better chance of getting things into the press if one marks them "confidential" and leaves them in a wastepaper basket. In fairness, though, that press release did go out. I would have preferred it if there had been a meeting at which the matter could have been discussed face to face. Clearly, a lot of people were not aware of what was happening.

14:15

That was stage 1. The order then went through committees of the House of Commons and was considered in committee on 23 March 1999. The report of that meeting is published and is available in the vote office in the House of Commons. Any member from any party can attend committees and can take part in debates. The order was debated and I was aware that it was going through. Because I was satisfied that the median line was appropriate and that there were guarantees that our fishermen would continue to have access to the areas that they had always fished, I was not concerned. The order went through with proper notification and scrutiny in the House of Commons. That is my first point.

My second point concerns the location of the line. I do not accept that a median line is illogical. A median line is the fairest way of creating a new boundary line. I am a little nervous about the question of historic demarcation patrolling lines, because I am advised that, on the west coast, the Royal Air Force was conducting patrols for the Ministry of Agriculture, Fisheries and Food up to a line just north of Campbeltown. If we were to accept the patrolling line on the east coast as the right boundary, we might find that we had surrendered—well, let us not go down that road. That would be pointless. I honestly think that a median line is the best option.

A range of hypothetical problems about civil jurisdiction and oil installations has been flagged up. However, I am satisfied that the median line is appropriate. That has been done in accordance with their responsibilities by our colleagues in Westminster. I hope that, in the light of the evidence, the committee will agree that there is no sensible case for demanding that waters that are closer to the English coast than they are to the Scottish coast should be transferred to the Scottish zone. With two thirds of the UK's territorial and fishing waters, we have quite enough to be getting on with. The most important responsibility for me as fisheries minister, as well as for the Executive and for Parliament, is to ensure that we protect the best interests of our Scottish fishing communities. That is what I intend to do.

The Convener: Thank you, minister. There will now be an opportunity for members to question the minister. We must be careful about how we conduct our questioning. Comments should be addressed through the convener and there should be no direct argument between witnesses. With that in mind, I shall allow members to pursue their lines of questioning. Mike Rumbles would like to begin.

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): Why do the minister and the Executive go to great lengths to defend the new

demarcation line, when the responsibility for its imposition lies entirely with the Westminster Government? The Scottish Executive had no responsibility whatever for imposing the order, so I am rather puzzled by the minister's attitude.

Mr Home Robertson: Mr Rumbles is quite right. The establishment of the boundary line is entirely the responsibility of the Westminster Parliament. Notwithstanding that, if I felt that Scotland was being done down, I would not hesitate in going to the barricades to defend Scottish interests. Since I am satisfied that the line is appropriate, I am content to stick to it.

Mr Rumbles: You do not feel that it should be changed?

Mr Home Robertson: I see no reason to change it, for the reasons I have given.

Mr Rumbles: Many local MPs want to change it. Archy Kirkwood, the MP for Roxburgh and Berwickshire, is about to lodge a bill on it. Do you not think it would be appropriate for the Executive to back away and allow Westminster to sort it out?

Mr Home Robertson: It would be out of order for anyone in this Parliament to suggest what the Westminster Parliament should do, except for those of us who are members of it, of course. Archy Kirkwood, who is my constituency neighbour, is well able to raise points at Westminster that he feels are of concern.

I would add that I represent Dunbar and, while I have had representations from fishermen there on other issues, I have not had representations on this issue. That is because Scottish fishermen continue to have full access to fish not only the 6,000 square miles we are talking about, but the rest of the United Kingdom waters. That is the important issue, and we have ensured that it is safeguarded.

Lewis Macdonald (Aberdeen Central) (Lab): Hamish, what opportunities have you had to raise the matter with ministers in the Scottish Executive and the UK Government?

Mr Morrison: The day after the matter was discussed in the Scottish Parliament, we had a meeting with Mr Finnie, the Minister for Rural Affairs, at which Mr Home Robertson was also present. It was decided that Mr Finnie would get in touch with Dr Reid, the Secretary of State for Scotland, to facilitate a meeting between him and the Scottish Fishermen's Federation. That meeting took place, but it did not make as much progress as I would have liked. It was followed by a rather disjointed correspondence that concluded on 15 September, I think, when Dr Reid decided against revisiting the matter at Westminster. After that, I wrote to Mr Finnie to report the outcome of the exchange and that is where the matter was left,

until today.

Lewis Macdonald: You were kind enough to show me some of that correspondence. John Reid asked you to address whether the change in the boundary made a material difference to the interests of Scottish fishermen. Will you tell us your response?

Mr Morrison: I made two main points. Mistakenly on my part perhaps, I thought that when a democratic Government made an innovation it had a responsibility to explain what it had in mind and why it was a good idea. That did not happen in this case. There are real difficulties created for the fishing industry. If a fisherman is accused of an offence in the disputed zone, the summons will have to be answered in England. That is not a nationalistic point, but a very practical one as Scottish lawyers and solicitors do not have the right of appearance in English courts. As a result, fishermen have to go to a degree of time, trouble and effort to defend themselves whereas, before, such prosecutions would have happened within Scottish jurisdiction.

Secondly, perhaps in the very near future, different fishing codes might arise either side of the new boundary, because why else would we have such a division? A different code might include aspects such as conservation measures, net sizes, and gears. The problem with this line—"elegant geometry" though it may be, as Mr Home Robertson says—is that it intersects the Berwick bank, which means that someone might be obliged to change gear halfway through a tow. I am sure that even non-fishermen will understand the impracticality of that.

Furthermore, there is the whole question of who will be consulted or compensated, if that is what it comes to, when oil and gas structures in that zone are decommissioned. In the longer term, Scotland's present constitutional state might develop to the point where we have an independent Scotland. The federation has no view on whether that would be likely or desirable, but it has to take into account the fact that, if such a situation arose, fishing rights would indeed be reassigned. The boundary line would then become an influential component in such a decision.

Those are the short-term, middle-term and long-term risks to which Scottish fishermen are exposed by this measure.

Lewis Macdonald: That is helpful. I want to take up two points with the minister. The first concerns the rights of appearance in English courts of Scottish lawyers. What is the current practice for offences committed by Scottish fishermen in the English zone and vice versa? Secondly, on the different fishing codes, what is the difference between Scottish and English

legislation on mesh sizes and so on?

Mr Home Robertson: Although I would love to address all Mr Morrison's points, I will focus on the two that Mr Macdonald has highlighted. I have to tell the committee that all these anxieties are hypothetical. The question of the prosecution of offences is perhaps all the more hypothetical. According to all the information that we have been able to trawl through, if I can use that verb, there have been no cases of anyone being prosecuted for offences in such an area. However, more often than not, people are prosecuted for fishing infringements in the port where they land, because that is where the fisheries officer does all the detailed work on the fish that have been caught. If any evidence comes to light at port that a Scottish boat fishing in a boundary area has broken the rules, the prosecution would take place in that port. We are enforcing European law, which applies right across the board.

However, that is very hypothetical, as no such incidents have happened yet. I suppose that fishermen might be hauled into Berwick magistrates court instead of Duns sheriff court over something flagrant such as a hot pursuit—those towns are only about 11 miles from each other. However, although I take the point about rights of appearance for Scottish solicitors, we are not talking about a very big deal.

There will be no difference in fishing codes. It would be ludicrous for the department to create difficulties by stipulating different mesh sizes on the Scottish section of the Berwick bank. That would be madness. I cannot imagine that anyone with my responsibilities would contemplate such a proposal. As a result, that point is equally hypothetical.

I would love to talk about gas and independence, but I have not been asked to.

Alasdair Morgan (Galloway and Upper Nithsdale) (SNP): Minister, are you in a position to give us any indication about how the boundary was drawn up? Did the Government say to civil servants, "We accept that we need a boundary because of legislation. Draw the line and come back with it", or were the civil servants given more of a steer about how to draw up the boundary? Furthermore, who precisely came up with the boundary line?

14:30

Mr Home Robertson: At the time, I was not a minister at Westminster. I was not directly involved, so I honestly do not know. That is something that you could pursue with Westminster, if you wanted.

Alasdair Morgan: Regardless of that, you will

accept that we are now in the situation of having two boundaries: one for the order that we are discussing and the other for the Civil Jurisdiction (Offshore Activities) Order 1987. Do you think that that is a sensible or sustainable position, and can you think of any precedent for it? Are there any other two jurisdictions for which there are different boundaries?

Mr Home Robertson: Off the cuff, I cannot think of any. Civil jurisdiction is an internal UK matter, but the Scottish Parliament has separate responsibilities for fisheries. I put to you again that the point about civil jurisdiction is somewhat hypothetical. As far as I know, there are three decommissioned oil installations in the area that we are discussing, which was certified a couple of years ago as safe for normal commercial fishing. There are two further installations in the area, which will be disposed of in the same way. There should be no question of vessels getting snagged on them and there being consequential proceedings for civil compensation.

Alasdair Morgan: We are being told that both boundaries are hypothetical. The fisheries boundary is hypothetical, because nobody gets arrested offshore, and the Civil Jurisdiction (Offshore Activities) Order 1987 is hypothetical, because everything has been dealt with. However, the fact is that there are two jurisdictions. Both exist because on one side of a line Scots law or regulations that are made by the Scottish Parliament apply—in that sense, they are analogous. Why on earth do we not have the same boundary for both?

Mr Home Robertson: That is outwith my responsibility, which is for fisheries. However, if someone were to say that it was anomalous that territory that is closer to England than it is to Scotland falls under Scottish jurisdiction, I might be forced to agree—although that is none of my business.

Alasdair Morgan: If I may press you on that, are you suggesting that the new fisheries boundary be adopted as the civil jurisdiction boundary?

Mr Home Robertson: I am suggesting nothing at all. I am just saying that there is a civil jurisdiction boundary that places territory that is closer to England than it is to Scotland under Scottish jurisdiction. That is not a big deal, because it does not affect anyone significantly, but if someone wanted to do some tidying up, they might reach different conclusions. I do not know.

Alasdair Morgan: There are various principles that can be applied in drawing up boundaries. Do you agree that the fact that the water is closer to one piece of territory than to another is not the only determining factor?

Mr Home Robertson: There are various ways of fixing boundaries. The most straightforward and the commonest is to take the median line, which has been used here. That seems to me to be fair, particularly given that the decision does not impinge in any way on access to fisheries.

Alasdair Morgan: Is the median line the most common way of fixing boundaries between adjacent states rather than opposite states?

Mr Home Robertson: My understanding is that it is the most common way of fixing boundaries. I am not briefed to go into enormous detail. I am not sure how boundaries are fixed between certain American states, and so on.

Alasdair Morgan: In pursuit of that point I would like to bring up something that Henry McLeish said, when he was UK minister, in a committee debate on the order in question. He said:

“Certain devolved functions may be exercisable within the territorial sea, such as the enforcement of criminal law”.

He also said:

“The boundary that is specified in this draft order does not automatically apply to such functions, but it provides an obvious line of demarcation for the exercise of appropriate functions by Scottish Ministers or public authorities in future.”—[*Official Report, House of Commons, Third Standing Committee on Delegated Legislation, 23 March 1999; c 5.*]

He was clearly indicating that, although the boundary was only intended to apply to fisheries orders, it might establish a precedent for boundaries in other areas. Is it the Executive's view that that should be the case?

Mr Home Robertson: I have no doubt that Mr McLeish meant exactly what he said, but I am here to talk about the fisheries boundary, which I think has been set on a correct median line. Given that that does not impinge on our fishermen's rights to fish, there is not a lot more that I can say.

Euan Robson (Roxburgh and Berwickshire) (LD): Thank you for allowing me to be here today. I think that the minister will accept that, prior to the new boundary being established, there was very little in the way of dispute over, or even discussion of, the old custom-and-practice boundary. Will the minister also accept that the boundary was included in the annual reports of the Scottish Fisheries Protection Agency, among others? Could he explain why it was not seen to be appropriate to use the boundary that was acknowledged in public documents, and why the median line was used instead?

No doubt Mr Home Robertson will be aware of the references in the Scottish Fisheries Protection Agency's annual reports. People are baffled as to why the custom and practice line that was established by public documents was changed.

Can the minister enlighten us as to why there should be any need to change from what was acceptable previously?

Mr Home Robertson: I am grateful to my constituency neighbour for raising those points because of his use of terms such as established boundary and custom-and-practice line. There was no boundary. There was a limit to the patrolling area of the SFPA on the east coast as on the west coast. Earlier, I mentioned that our neighbouring authorities patrolled much further north on the west coast, but that is no big deal. There was no boundary, but it became necessary to introduce one when most of us voted to establish this Parliament because we had to take responsibility for fisheries in Scotland. It seems to me to be perfectly appropriate that the median line approach was adopted.

Euan Robson: My constituents were accustomed to what they considered to be a boundary. The nub of the issue is that, had there been consultation prior to the introduction of the median line, it would have been clearly established that they were accustomed to a boundary. Although technically there was no boundary, to all intents and purposes all of those concerned knew where they stood. If one accepts that there was no line there previously, one must accept the median line, but a number of us do not accept that there was no line there before.

The minister will be aware that this is a matter of confidence among members of the fishing community. We have heard that the Scottish Fishermen's Federation has real concerns, particularly about the future. The minister is saying that all this is not a matter for consideration—that there are no serious issues, that there is no effect, that in practical terms it does not matter, that we have established a line and that there will be no practical or financial impact on fisheries. If that is accepted, and if it is accepted that there has been a loss of confidence in the fishing community, why cannot the boundary line be changed? If it is all insignificant, why cannot the boundary be put back where it was, to restore confidence in the fishing community?

Mr Home Robertson: Anything can be changed, but not by this Parliament. The Westminster Parliament could change it, if it decided to do so. If somebody could take groans to colleagues in the Westminster Parliament and suggest that the median line is in some way unfair, that could be a concern, but it is not a matter for this Parliament. That is something we must accept.

I used to represent a chunk of Mr Robson's constituency. I still live in his constituency and I have a lot of good friends in Eyemouth. I fully understand that alarm has been raised in some

areas. People have suggested that our fishing waters have been stolen. The implication is that our people may be denied access, or may be subject to harassment by the Royal Navy, or may be subject to different regulations. Put in those terms, the situation sounds alarming. Mr Robson says that there are real concerns in the fishing industry, but I put it to him and the committee that although there are perhaps hypothetical concerns in the fishing industry and, in certain circumstances, problems could be created, it is my job to ensure that problems do not arise—and that is what I intend to do.

Euan Robson: I have two quick remarks to make, although I am conscious that other members want to participate in the discussion.

I accept what the minister says about it being for Westminster to make any change. That is well understood—the order was made under the Scotland Act 1998—but it must be made clear to the minister that if all this amounts to nothing in particular in the Executive's view and the Westminster Government's view, and it is not a significant matter, it should not be a problem to change things back. If practical concerns were at issue, there would be an argument to restore the boundary to its former position. Without those concerns, that argument cannot be deployed to say that the boundary line must stay where it is. That is the point that I am trying to address.

I accept what the minister says, particularly about Westminster and misconceptions in some quarters, but it is wrong to use the argument that, as it does not amount to much, we will not change the boundary. That is an argument for putting it back where it was, to restore confidence.

Mr Home Robertson: Be careful: you must not believe your own rhetoric all the time. You are saying that the boundary should be put back where it was, but it was not where you think it was—there was no boundary. Yes, the Scottish Fisheries Protection Agency patrolled down to that line, just as people from the Ministry of Agriculture, Fisheries and Food patrolled up to another line elsewhere. That was not the boundary. There are all sorts of lines on maps, but they are not all boundaries. There was no boundary. There had to be a new boundary as a consequence of the fact that we have a Scottish Parliament, and that boundary is the median line. Provided that the boundary does not impinge on the rights of our fishermen, no useful purpose would be served by stoking the matter up further.

Alasdair Morgan: I have a brief supplementary question. The minister rightly says that it is a matter for Westminster. If the Scottish Executive were to say to the Secretary of State for Scotland that it felt that a reversion to what people previously understood to be the boundary would

be a good thing, I am sure that the Secretary of State for Scotland would take that seriously. Would the minister and the Executive be prepared to make those representations?

Mr Home Robertson: This committee will reach its own conclusions on the matter. As I think I said earlier, if I felt that this arrangement gave rise to any difficulties of any kind, I might well seek to return to it, but I do not feel that. The preface to your question was right—where the boundary lies is a matter for the Westminster Parliament. It set it; it could change it. I can see no useful purpose in doing so.

14:45

Mr Jamie McGrigor (Highlands and Islands) (Con): If there was not a boundary before, how is it that drift net salmon fishing was banned in Scottish waters but not in English waters? What was the difference between Scottish waters and English waters?

The fishing industry is about 15 times more important to the Scottish economy than it is to the English economy. Is it not extraordinary that Scottish fishermen were not consulted? The boundary was set just before the Scottish Parliament came into being. Why was it rushed through Westminster two months beforehand? Fishermen would obviously have been consulted if the Scottish Parliament had debated it.

What happens if the policies of the Scottish and Westminster Parliaments differ on the fishing laws and directives from Europe—about mesh sizes, for example—which change all the time? Would fishermen have to change their gear if they went from one sector into another?

What will happen to fishermen who have had lucrative sub-contracting work with the oil and gas industry? The industry has a non-poaching agreement between England and Scotland, which it may lose. There are practical issues to consider. I am, however, very glad to hear you say that anything can be changed. That is a start. I hope that we can go back to Westminster and sort out what appears to have been a bad mistake.

Mr Home Robertson: You have asked an awful lot of questions; I will try to remember them, but please jog my memory if I miss anything out.

Mr McGrigor: Of course. I am sorry if asked too many at once.

Mr Home Robertson: Your final point was about taking the matter back to Westminster. Reading the *Hansard* report of the committee that deliberated on this, I notice that a number of your party colleagues suggested that the line had been set too far south and ought to go further north, so please be careful on that one.

Mr McGrigor: I do not agree with them at all—I have to make that very clear. I was fully aware of where the line was—it went out from Marshall Meadows and had done since 1100 and something. English ships were always kept behind that line whenever they sent regents up to try to rule Scotland. When they were pushed back, there must have been some sort of boundary. Their support ships fished too, so there were fishing boats.

Mr Home Robertson: Good Lord—the idea of Royal Navy vessels fishing—but let us leave the regents out of it for the time being and try to focus a little.

I fully accept that fishing is a very important industry for Scotland. That is why it is such a good thing that this Parliament and this Executive have so much responsibility over such a wide area. I have already acknowledged your point about consultation. In fairness to my predecessor, Lord Sewel, a mass of consequential regulations and statutory instruments had to go through Parliament as a result of the establishment of this home rule Parliament. I cannot tell you the total number, but there were an awful lot. I do not blame anybody for the fact that some people missed some of the information that was going around.

I have given an undertaking to Hamish Morrison and his colleagues that we will ensure that we consult them on anything that affects the industry in the future. As I have already said, we spent the morning doing that on a couple of issues that will directly affect the Scottish fishing industry. I look forward to working with it closely.

Mr McGrigor: I appreciate what you say about Lord Sewel; he was certainly overworked. He did not have much time for agriculture either, at that time. [*Laughter.*]

Mr Home Robertson: I am not commenting on that. [*Laughter.*]

Mr McGrigor: Surely it must have been known that this was going to cause a riot and a rumpus.

Mr Home Robertson: It did not cause a riot.

Mr McGrigor: You cannot say that Lord Sewel did not have time so he just put it out of the way and forgot about it.

Mr Home Robertson: That is not what I suggested. Everything was done by the book—a press release was produced and a statutory instrument was published. Anyone who wanted to know about this had access to it.

Mr McGrigor: But it was during the election campaign, at which time people tend to be busy, as Lord Sewel was.

Mr Home Robertson: I have acknowledged that, as far as I was concerned—

Mr McGrigor: But we did not have any Scottish—

The Convener: Please allow the minister to answer the questions.

Mr Home Robertson: I want open consultation on this. It was in the public domain. It went through a committee of Parliament and was not done in secret. A lot of people did not notice it and if anything like this were to happen in future I would have a face-to-face meeting with the Scottish Fishermen's Federation and other people about it.

I reject the suggestion that it was sneaked through in secret—it was not.

Richard Lochhead (North-East Scotland) (SNP): I have a supplementary question on this subject. The minister said that people knew what was happening. Is it not the case that the people on the committee in the House of Commons did not fully appreciate the consequences of the legislation when they were debating it?

For instance, Robert Smith, one of the MPs on the committee, expressed concerns about the complexities involved, including the terminology. Russell Brown, the MP for Dumfries said:

"When I picked up a copy of the order and looked at the co-ordinates . . . I was totally confused by some of it." [Official Report, House of Commons, Third Standing Committee on Delegated Legislation, 23 March 1999; c 11]

Is it not the case that the committee did not appreciate what it was passing?

Mr Home Robertson: Read the whole story. I would always advise Mr Lochhead to do that to get issues clarified. Certainly the statutory instrument included a list of map references which, considered by themselves, would have been virtually incomprehensible, but a map that showed the line was available with it. Reading the text of the statutory instrument would be entirely baffling. In the presence of Mr Lochhead, I will refrain from using the term boring as he might put words into my mouth again. The text of the statutory instrument would be difficult to follow, but the map with it was clear and showed where the line is.

Richard Lochhead: The minister has said that there is a lot of confusion surrounding this issue. Part of the confusion relates to a comment he made in Parliament on 3 June. He said that

"after 300 years we have at last achieved a Parliament with responsibility for the whole Scottish fishing industry and 140,000 square miles of our adjacent waters." [Official Report, 3 June 1999; Vol 1, c 251.]

In May, the fisheries minister for the UK Government in Scotland, Lord Sewel, said, in response to this issue, that 140,000 square miles of the British fisheries limits had been transferred from the UK Government to the Scottish Parliament. In his opening remarks, however, the

minister said that 127,000 square miles had been transferred to the Scottish Parliament. He also mentioned 127,000 square miles in Parliament on 7 October. I am confused by the figures and perhaps my colleagues on the committee are as well.

Is it the case that, since the Scottish Parliament was established, we have lost a further 13,000 square miles of Scottish waters, or was that a mistake by the Scottish Executive?

Mr Home Robertson: That is a fair cop. I was initially advised that the total area of the Scottish zone is 140,000 square miles. Subsequent clarification, or more precise measurement, has led to advice that it is 127,000 square miles. Whether someone was measuring in nautical miles and somebody else was measuring in terrestrial miles I cannot tell you, but I am assured that 127,000 square miles is the correct figure. It is two thirds of Britain's fisheries and it is quite a lot to have responsibility for.

Richard Lochhead: Does the minister accept that ministers can make mistakes in connection with this matter?

Mr Home Robertson: Yes, and Opposition spokesmen sometimes make mistakes too.

Dr Elaine Murray (Dumfries) (Lab): I am anxious to understand in more detail the exact concerns of the fishing industry. Mr Morrison, I would like to address some of the points that you raised. I will paraphrase the answers the minister gave in a letter to the convener to find out how you feel about those issues and what your views are on the minister's responses.

You mentioned the risk of being prosecuted in England. The response that we have had is that offences would be detected at the point of landing, rather than at sea, and that offenders would be tried at the point of landing rather than where the offence took place.

The second point is in respect of collisions. We are told that the location of the collision is not the only—or even the most important—consideration, but that the home or business addresses of the parties might be the overriding concern. Does that reassure you?

There was a bit of confusion as to how many former oil and gas installations are in the area. The minister advises us that there are three decommissioned installations and two that are still in use which will be decommissioned at some other time. We had advice that general compensation for loss of access was unlikely because there was not likely to be a loss of access. Rather, legislation would centre on damage. What are the industry's anxieties on that issue?

Finally, my understanding of the definition of the limits is that it refers to the purposes of the Scotland Act 1998, which brought this devolved Parliament into being. Presumably everything would be up for renegotiation in the event of a change in constitutional arrangements for Scotland.

Mr Morrison: That is quite a range of subjects. First, I will deal with the specific examples that I gave of situations that concern us. The minister said that those were hypothetical. He is quite right: all risks are hypothetical. That does not mean that you do not take out insurance against them. We would be doing less than our job if we did not try to ensure that risks facing fishermen are headed off as far as possible. That covers oil debris, changed fishing codes and the issues that Dr Murray raised. I agree that the risks are hypothetical, but I repeat that all risks are hypothetical. We should look to their consequences and cover ourselves against them. That is all that we are trying to do.

Some of the other points that were raised are not terribly relevant—for example patrolling. The minister talked about aviation patrols. The Scottish Fisheries Protection Agency publishes the surface lines to which it works in its annual report. I know that it works to those lines; it always has and it still does. The idea that the agency never went further south than Campbeltown would be a great relief to some of my friends—if only that were true. *[Laughter.]* But come on, we are trying to be realistic here.

I return to what I said earlier. A ridiculous situation has arisen. There are two boundary lines between England and Scotland that are 60 miles apart and are separate and distinct. Where is the logic in that? In order to clear this up, the fishermen are perfectly willing to accept not the old fishing line, but the civil jurisdiction line.

We are quite happy to live with the line that is enshrined in statutory instrument 2197, the Civil Jurisdiction (Offshore Activities) Order 1987. That suits everybody's purposes perfectly well and would allow us to clear the matter up so that we can move on.

The minister insists that the median line is the fair way of drawing the boundary. Of course it is where there are opposing landmasses, but the situation is certainly not as clear and straightforward as that in cases of what is known as lateral adjacency. Everyone must first agree on the basing points from which the median line is to be measured. One need only look at the coastline of England and Scotland to realise that there is endless scope for disputing what would be a sensible base point to use in drawing the line.

15:00

Dr Murray: I understand the concerns about differences in fishing codes. If codes were different in England and in Scotland, there could be problems. Would not that be a problem regardless of the location of the line?

Mr Morrison: The point that I was making was that the line runs through the Berwick bank, which is an important fishing ground. The old line—I beg your pardon, I ought to say custom-and-practice line—was well clear of any discrete fishing banks.

Rhoda Grant (Highlands and Islands) (Lab): Regardless of the hypothetical questions that have been raised, the boundary has now been in place for more than six months. What losses has the industry sustained in that period because of the boundary?

Mr Morrison: As far as I know, there have been none at all. Nor have there been any boardings or prosecutions. I believe that that is a dividend of the high profile of the issue. I believe that it will be a long time before any vessel is boarded.

Mr Home Robertson: It is quite a long time since any vessel was boarded in the area in question anyway, because we have very law-abiding fishermen in our part of the world.

Mr Rumbles: Earlier, I asked the minister why the Scottish Executive is defending the line so enthusiastically when its imposition was entirely the responsibility of Westminster. He replied that he could see no disadvantage to the Scottish fishing industry. With Hamish Morrison sitting right beside him, I would like the minister to take as much time as he likes to list the extensive advantages the new line gives the Scottish Fishermen's Federation.

Mr Home Robertson: It gives neither advantages nor disadvantages.

Mr Rumbles: So there are no advantages whatsoever?

Mr Home Robertson: Nor are there any disadvantages.

Mr Rumbles: The Scottish Fishermen's Federation and other bodies representing fishing interests are registering protests, are they not?

Mr Home Robertson: I refer back to my constituency experiences and, going a little further afield, to my contact with people in Eyemouth. I apologise to Mr Robson for referring to that, but there are certainly issues that are of concern to fishermen. Nobody from my constituency has expressed—

Mr Rumbles: Let me get this right so that I understand your line of argument. Do you recognise the fact that the Scottish Fishermen's

Federation and the whole industry are up in arms about the issue, whether you agree with them or not?

Mr Home Robertson: With respect, that has not been my experience. I know that there is a political agenda and I make no complaint about that. Opposition parties and individual members are quite entitled to express opinions and I know that some sectors of the press have been making much of it. However, individual fishermen have not complained to me or, as far as I am aware, to my department.

I recognise that there are pressures within the Scottish Fishermen's Federation and that Hamish Morrison is quite rightly expressing that fact.

Mr Rumbles: Are you saying that you can identify no advantages whatsoever?

Mr Home Robertson: The establishment of this Parliament will be of considerable advantage to Scottish fishermen, if I have my way. The proportion of the population involved in fishing is much greater in Scotland than it is in the rest of the United Kingdom.

Mr Rumbles: Forgive me, minister, but that does not answer my question. I asked about the line, not the Parliament.

Mr Home Robertson: With respect, Mr Rumbles, we cannot have one without the other. If the Scottish Parliament is to have responsibility for the fishing industry, there has to be a demarcation between Scottish and English waters.

Mr Rumbles: Yes, but my question is quite specific: can you, as the minister responsible for fisheries, identify any advantage whatsoever in the positioning of the line?

Mr Home Robertson: I can identify the advantage that the Scottish fishing industry gets from having a Scottish zone and if there is to be a Scottish zone, there has to be a boundary. There is neither advantage nor disadvantage in terms of the location.

Mr Rumbles: Then why defend it?

Mr Home Robertson: Would it be in order for me to ask a question of a member of the committee, convener?

The Convener: Given that you are a member of the Parliament, I suppose that it would be appropriate.

Mr Home Robertson: If the line is not placed on a median line, where should it be placed, Mr Rumbles?

Mr Rumbles: The Scottish Fishermen's Federation, Euan Robson, members of this committee and I have bombarded you with advice

that people in Scotland are unhappy with the location of the line. I understand that you do not have responsibility for the matter and my point has always been that the matter should be addressed to Westminster.

What I fail to understand is why the Executive is attempting to defend the indefensible. You said that there were no advantages in the placing of the line.

Mr Home Robertson: Do not put words in my mouth.

Mr Rumbles: Earlier, you said that there was no advantage and then you got a civil service note—I noticed that. When I asked you directly if there was an advantage to the placing of the line, you were silent for a while and then you said no.

Mr Home Robertson: There are neither advantages nor disadvantages. There has to be a line and the median line is a fair line to choose. It would be a grand affair if we could shift the line down to Newcastle but I suspect that our colleagues in England would be unhappy about that.

The Convener: With great apologies for taking so long, I invite Irene McGugan to ask a question.

Irene McGugan (North-East Scotland) (SNP): I want to pursue the issue that Mike Rumbles is pressing you on, minister. We have heard Hamish Morrison state the number of organisations, agencies and fishermen he represents. Not one of the people he represents supports the new situation. Can you tell us the name of anyone in the industry who is content with the situation?

Mr Home Robertson: I have no doubt that many in the industry would love to shift the boundary further south. They are entitled to suggest that, but I have not yet heard a cogent case for shifting the boundary.

Irene McGugan: With respect, that does not answer my question. People are lining up to tell the committee their objections to the moving of the boundary line. You have implied that people are content with it, but you cannot name them and we are not convinced that they exist in any great number.

Mr Home Robertson: You said that the boundary line has been moved, which is an example of the use of language that has created the problem that we are dealing with. It is not true to say that the boundary line has been moved because there was no boundary line before.

Irene McGugan: That is semantics. I asked you to identify anybody in the industry who is content with the new situation.

Mr Home Robertson: No one has expressed that view. It would be wonderful if we could have

even more of the fishing waters, but I see no sensible case for arranging that.

The important thing for our fishermen is that they have access to all their historic fishing grounds. Under the principle of relative stability, they will continue to have that access; it is my job to ensure that.

Irene McGugan: Were records checked, to determine who fished mostly in the disputed area—whether Scottish or English vessels?

Mr Home Robertson: We lack information on that. There has been light policing of that territory, and there is precious little evidence of boardings or sightings of vessels from any country in that area. We do not have detailed information on that.

Irene McGugan: Not even from the Scottish Fisheries Protection Agency, which patrolled that area?

Mr Home Robertson: That is what I was referring to. Would it be in order for Mr Feeley to comment on that?

The Convener: Yes.

Mr Derek Feeley (Scottish Executive Rural Affairs Department): If the question is whether we know whether Scottish or English vessels have fished in that area, the answer is that that information could be established by examining prior records of catch statistics. That information could be made available, although such things are always dependent on the accuracy of the record that is provided by the fishermen.

Irene McGugan: It would have been sensible for that information to have been factored into the equation when the line was redrawn, to determine which nation's vessels had fished primarily in that area. I am surprised that that was not done.

Mr Feeley: The decision predates my involvement, so I am unable to say whether such considerations were taken into account.

Mr Home Robertson: There will be other areas that are a long way south of the line, which I am determined that we should keep. Determining the balance of fishing effort in an area is not necessarily the most relevant way of approaching the issue.

Irene McGugan: Does Mr Morrison have a view on whether fishing interest in the disputed areas was primarily Scottish?

Mr Morrison: I am busy hunting in my notes, as I received correspondence from the Scottish Fisheries Protection Agency on the subject. However, I do not appear to have brought that correspondence with me today. As you can imagine, the issue has generated a mountain of paper. I will send those notes to you.

Rhoda Grant: I return to fishermen's views. Are all Scottish fishermen members of the Scottish Fishermen's Federation?

Mr Morrison: The figure that I gave was 90 per cent of catching capacity. Members must bear it in mind that many Scottish fishing vessels are less than 10 m in length, and are not typically registered with the Scottish Fishermen's Federation; they tend to be creel men and day-boats. We could, with reasonable confidence, say that, of the 7,800 fishermen in Scotland, around 4,500 use vessels that are affiliated to the federation.

Rhoda Grant: Have you balloted your members on the issue? Have you a feeling of their collective view?

Mr Morrison: No, we do not operate in that way. The associations are democratic within themselves and have a weighted representation in the federation.

Lewis Macdonald: I return to the four hypothetical risks that you identified, relating to appearances in court, different fisheries' codes, oil and gas decommissioning, and independence. Do you agree that the other three would become more significant if the risk of independence were that which we had to confront?

Irene McGugan asked whether the number of boats from Scotland and England were taken into account, as if we were heading for independence. Have you had discussions with the SNP on its intentions on the access of Scottish fishermen to English waters and of English fishermen to Scottish waters, if it were to achieve independence?

15:15

Mr Morrison: Our policy is not to discuss or seek to influence political parties' policies. We deal directly with the Government, although we are at all times anxious to assist all parties to a better understanding of the fishing industry and our policies.

Alasdair Morgan: Forgive me if I am misinterpreting what you said earlier, John, but you seemed to indicate that in practical terms the boundary would make little difference. I heard what you said about net sizes and so on, but over time Scottish fishing legislation will diverge from that of England and Wales, in detail or in major ways.

For example, this afternoon we are discussing the Lobsters and Crawfish (Prohibition of Fishing and Landing) (Scotland) Order 1999, which I think is the first statutory instrument to apply to the new boundaries. That order will not have a significant effect in the area that we are talking about, but do

you concede that legislation will not be the same in all jurisdictions, so there will be a material difference, whether for good or ill, between conditions and rules applied to fishing on one side or the other of the line?

Mr Home Robertson: It could happen, and not only on either side of the line, as some types of regulations might be applied locally. Consideration of regulations on net sizes or gear types for that sector of the North sea would have to be co-ordinated closely with our colleagues south of the border, and in other North sea countries, for that matter. If we move towards regional management of the common fisheries policy, that is a possibility. It is important that there should be co-ordination to avoid the aggravation to which Alasdair Morgan and Hamish Morrison have referred.

Alex Fergusson (South of Scotland) (Con): Until now I have said nothing as I do not consider myself an expert on the subject, but I can do so no longer. The word "confusion" has been used several times—I am not much less confused than I was an hour and 17 minutes ago.

You have suggested that the concerns raised by the Scottish Fishermen's Federation are largely hypothetical. Where there is a new boundary, any concern about it is bound to be hypothetical, because it has not been there before. You mentioned that oil-related debris has been certified as safe. So was Chernobyl. I do not think that that satisfies anyone's concerns.

There is a fine line between a limit and a boundary. What was previously seen as a limit you suggest was not, although it is obvious that fishermen considered it a boundary, as would most people. Is it not the case that the statutory instrument was hastily drawn up, without consultation—as appears to be admitted by most people—and rushed through, and you are left in the unfortunate position of having to defend it?

Mr Home Robertson: It is not my job to defend anything. My job is to take responsibility for the fishing industry in Scotland in the area that we are talking about.

I have acknowledged that I would have liked much more proactive consultation about the designation of the new boundary when it happened, but the line on which the UK Parliament decided is now in place. I have also acknowledged that it would be possible for the UK Parliament to change the boundary, if it thought fit. If I thought that there were some strong reason to make representations for a shift in the boundary, I, not least as a member of the UK Parliament, might well do that.

The oil industry was mentioned. Three sea bed structures were given official sea bed clearance certificates in 1995, to show that they were free of

debris and acceptable for normal commercial fishing. Were there to be a problem with those structures, the civil jurisdiction legislation would allow fishermen to raise an action against the company concerned.

Alex Fergusson: I have no further questions. There is still confusion. If the measure was taken because of devolution—I understand that—it seems extraordinary that the Scottish Parliament never got the chance to debate it. I do not know what the procedure is, but if this committee has the right to ask Parliament to debate the matter, the committee should do so.

The Convener: At the risk of being accused of favouritism towards my own group, we will take Jamie McGrigor.

Mr McGrigor: Given that the way in which quotas are produced changes from time to time, that 5 to 6 per cent of Scottish fishing waters have been lost, and that that percentage is full of rich fishing grounds, will the fact that the catch returns that used to be attributed to Scottish waters will now, presumably, be reported as catches in English waters have any effect on future quota recommendations for Scottish fishermen or boats?

Mr Morrison: Quotas do not quite work in that way.

Mr McGrigor: I know that they do not at the moment.

Mr Morrison: There is a UK quota, which is divided among producer organisations throughout the UK. Members of those organisations get a part of the quota.

Perhaps you are alluding to the long haul, when quota trading becomes even more intense; there are individual transferable quotas and so on. That is an important debate, but it would take far too long to go into it here and now.

My only real concern is that if the UK ceased to be a unitary state, the question of quotas would loom large and the boundary would influence how quotas were carved up.

The federation is extremely anxious that the new line should not be regarded as a precedent. It is all very well for people to say that independence will never happen, but it is not so long ago that people were telling me that there would never be devolution. I have to assess that hypothetical situation and calculate the risk. The lost water represents about 20 per cent of area IVb, which is one of the richest fishing grounds in Europe.

Richard Lochhead: We are discussing the location of the boundary rather than the need for a boundary, so we have to ask the minister about the conventions that were used to establish the location of the boundary. Henry McLeish in the

House of Commons, and other UK and Scottish ministers, said that international conventions were used to draw up the boundary.

However, as the committee will be aware, at least one political party commissioned a legal opinion, and Dr Iain Scobbie of Glasgow University, who is an expert on these matters, said that

“the justifications offered for the choice of this line have relied on international law. Even a cursory examination of that law clearly undermines these justifications.”

Furthermore, Alan Perry of D J Freeman in London—another lawyer, who is internationally renowned and has 25 years’ experience in these matters—entered the debate of his own volition by saying that the use of international conventions to defend the new location was “disingenuous in the extreme”.

Finally, Professor James Crawford of Cambridge University—again, an internationally renowned expert on these matters of federal and international law—mentioned the dispute of his own volition during a lecture at Edinburgh University last week. He said that the critics of the boundary adhering to international conventions had a fair point and that the boundary was untenable.

The ministers who drew up the boundary said that they did so adhering to international conventions, yet independent legal experts are lining up to say that those conventions are flawed and that that defence of the boundary is flawed. Is not the minister concerned that the ministers got it wrong?

Mr Home Robertson: The first point to make is that this is not an international boundary. If I have any say in the matter, it never will be an international boundary. Mercifully, 73 per cent of the people of Scotland voted for parties that want to ensure that we remain part of the United Kingdom.

Given that we required a boundary to demarcate a Scottish fishing zone within United Kingdom waters, and within the European Union, it seemed to colleagues in Westminster that a median line was the fairest and most appropriate to use. Mr Lochhead is right: there are other ways of setting boundaries. However, this way seems sensible. I am sorry to bore the committee by repeating myself, but to my mind the most important thing, from the fishermen’s point of view, is to ensure that they continue to have access to all their traditional fishing waters, wherever they may be—even if they are off the south coast of England. That is what we intend to do.

Richard Lochhead: Is it not the case that the ministers who drew up the boundary used international conventions? They chose to do so,

and that choice has been deemed to be flawed by independent legal experts. I am not saying that it is an international boundary, but ministers used that basis for drawing it up.

Mr Home Robertson: I was not a member of the UK Administration at the time but, like Mr Lochhead, I have read the *Hansard* report of the committee, and I understand that using the most common means of establishing boundaries at sea—the median line—was the basis adopted. That is what has been done. It is open to the UK Government to change it if it sees fit, but I have yet to hear any strong grounds for making a change.

Richard Lochhead: As the minister is expressing a view on the issue, is he satisfied that it was correct to adhere to international conventions, bearing in mind the independent opinions that are being expressed by legal experts?

Mr Home Robertson: I am not a lawyer—mercifully—although from my long experience in politics and elsewhere I am well aware that one can always find lawyers to say different things to different clients, and perhaps even different things to the same client from time to time. I am not saying that that is what has happened here, but it might have.

The Convener: If we have come to the logical end of the questioning period, it is my duty to express the gratitude of the committee to Mr Hamish Morrison for giving his submission today and answering questions. It is also a pleasure to thank John Home Robertson and his team for coming along and taking part in the discussion. John has a little more to do—he is involved in the next item on our agenda, so we will not let him escape just yet.

As a committee, at this point we must decide how to proceed. I have an idea of how best to do so, but I am keen to hear opinions from the committee.

Alasdair Morgan: In view of the length of the agenda and the long session that we have just had, perhaps we should take time to look over the evidence and defer consideration of our next steps until the next meeting—but that is just one opinion.

The Convener: Is that an acceptable suggestion?

Members indicated agreement.

The Convener: In that case, we will defer consideration of the issue until our next meeting, when we will decide how we wish to proceed.

Fisheries Council

15:30

The Convener: Item 2 on the agenda is a discussion of the outcome of the EU Fisheries Council meeting. I think that we were all present when the minister, John Home Robertson, gave a statement in the chamber last Thursday. It was mentioned at the time that, in future, it might be appropriate for such statements to be given to the committee rather than to the full chamber.

This item was included on the agenda to give us the opportunity to address any issues that we felt should be developed more than they were last week. It would be inappropriate to ask John to repeat last week's statement, but I invite him to make any additional comments that he feels are necessary.

Mr Home Robertson: Thank you, convener. I think that everyone here was present for last week's statement. It was a great privilege to be at the European Council as the first minister responsible for Scottish fisheries. Although it was an inconclusive agenda—someone, somewhere described it as boring—some important preliminary points were made.

If we can take as read last week's statement and exchanges, I understand that members would like me to expand a little more on one or two specific points. The first is the Commission's proposal for improved dialogue with the fishing industry. We regard that as very important indeed. We are keen on dialogue with the fishing industry here in Scotland, and it is obviously all the more important that there should be good dialogue between the fishing industry and the European Commission. The Commission made an initial presentation on the issue, but there is a lot more work to be done on that.

This Parliament's European Committee was particularly helpful, in accordance with the United Kingdom's agreed line; I had a paper from Hugh Henry before I went to the council. The important thing is that future discussions on the nature of the advisory committee on fisheries do not compromise what we want in relation to regional meetings. We are keen on getting a more regional approach to the management of fisheries, for example, in the North sea. Some progress has been made in that direction and there has been some discussion with ministers on that issue, which has been remitted for further consideration. I intend to ensure that Scottish interests are taken into account.

I referred to the major issue of herring tariffs in last week's statement. I was pleased to represent Scottish interests on that issue in the council; I

recognise the sensitivity of that species for Scottish interests. The initial proposal for a tariff suspension was not acceptable from a Scottish perspective. There will, I am afraid, be imports of herring from outside the Community, but they need to be properly managed and, as far as I am concerned, minimised. The alternative of an autonomous tariff quota is acceptable, as long as the amount is not significantly above that of the current year. I suggested a threshold of 10,000 tonnes. That is obviously a matter for negotiation and the council will come back to that at the November meeting.

I am aware of the outcome of the consultation exercise on Agenda 2000 and the financial instrument for fisheries guidance, which is part of structural funds. There were no great surprises. In fact, the current FIG proposal sits fairly comfortably alongside the outcome of the consultation exercise—there is some overlap, which is helpful. The final text of the FIG regulation has yet to be agreed, so it is difficult to be specific about how the money will be spent and how it will be distributed within the industry. However, we want to go ahead with the prioritisation, within available resources, and we will consult the industry on that. We have successfully bid for extra resources for FIG in the objective 1 plan.

Those are the main points that I want to cover at this stage, but if any member wants to raise specific points with regard either to the previous or to the next council meeting, I will take those on board. As I said last week, when substantive decisions are taken or major issues raised at the council, I will take every opportunity to report to the Parliament. On other occasions, it might be more convenient for me to report back to this committee, although there might be some overlap in responsibilities between this committee and the European Committee, which will need to be thrashed out.

The Convener: Would anyone like to ask questions about the minister's report?

Richard Lochhead: I welcome the minister's commitment to regionalisation of the advisory committee structure and the structure of our committees. I am sure that this committee will support that and wish the minister well with his efforts.

I have two brief questions. First, what is the source of the figure of 10,000 tonnes that was cited in connection with herring imports? Secondly, does the minister anticipate any measures that will allow the Scottish industry to take advantage of fleet renewal and modernisation programmes? Will he support such measures, and Scottish fishermen getting access to EU funds, given that state aid will be required for that?

Mr Home Robertson: I am grateful to Mr Lochhead for his comments on our approach to regional management. I want to preface my remarks by saying that I am absolutely certain that he will be totally committed to supporting Scottish fishing interests and Scottish fishing communities. It would be helpful if he acknowledged that I am similarly committed. There is not much to be gained from issuing press statements alleging that colleagues from any party are hostile to Scottish fishing interests. Mr Lochhead might want to come back on that.

The figure of 10,000 quoted for herring imports is a negotiating figure. As the member probably knows, the current level of imports into the Community is about 20,000 tonnes. I wanted to put down a strong marker that we do not want that to increase, but we want it to be reduced. If the Danish, Dutch or other processing industries want more herring, we want them to buy it from within the European Union and, indeed, from Scotland—our catching fleet can supply us with substantial amounts of herring—rather than to import it from elsewhere.

The main difficulty with fleet renewal is that other member states may take advantage of public funding to increase the catching capacity of their fleets. That would fly in the face of all our efforts to restrict catching capacity and bring it into line with the sustainability of stocks. Our main concern is to ensure that other member states—I will leave it to colleagues on the committee to identify which states we have in mind—do not try to increase their capacity. Having enunciated that principle and argued that we want any funding that is made available for fleet renewal to be subject to a 30 per cent reduction in capacity elsewhere, we would have to apply it to ourselves. When we know what the FIG scheme entails and what the resources are, we will address—in consultation with our friends in the Scottish Fishermen's Federation—how best to use those resources.

Richard Lochhead: To avoid importing party politics to the committee, I will keep my final comment brief. Given the industry's current unacceptable age profile, many other issues connected with fleet renewal and modernisation, such as safety, are crucial.

Mr Home Robertson: I accept that point, and my colleague Elliot Morley made that point in the Fisheries Council. The UK negotiating position is that there should be no inhibition against the use of appropriate FIG schemes to increase vessel safety. However, some borderline cases exist in which something that is done nominally for safety purposes might in fact be directed towards increasing the vessel's catching capacity. We need to keep a close eye on that, not so much from our point of view, but from that of certain

other member states.

Mr McGrigor: The matter did not appear in your statement, minister, but did you discuss the problems that our fish processing industry will face in light of the proposed directive that will impose very low dioxin limits in fish meal?

Mr Home Robertson: The Fisheries Council agenda covered structures, markets, industry consultation and statistics, therefore your point would not have been appropriate or in order. However, I assure you that representations have been made, directly and indirectly, to the Commission about that problem. You are quite right. If the original proposals were to be implemented, the use of fish meal for feeding on fish farms would, in effect, be banned and that would be rather absurd.

The Convener: Do members have any further questions relating to the minister's statement? If not, the clerk has suggested that we consider the matter of the minister reporting back to this committee and to the European Committee. Do we need to consider the demarcation lines between the committees' responsibilities? Or do we need to ensure that the committees can meet jointly to receive reports when that is appropriate?

Members indicated agreement.

The Convener: I will approach the convener of the European Committee to secure his agreement.

Euan Robson: As was evidenced by the minister's statement, a number of members did not have time to participate. I encourage the minister to consider continuing to make statements to the full chamber. Fisheries is of great interest to a number of members and it would be helpful if he was prepared to make such statements when significant issues are involved.

Mr Home Robertson: I am enthusiastic about doing so. Of course, statements to the Parliament have to be dealt with through the Edinburgh equivalent of the usual channels. There are competing bids to make statements and time is limited.

I will say, in passing, that two important Fisheries Councils are coming up. The one in November will wrap up the business that was started last month, while the one in December will deal with total allowable catches and other important issues. I hope that it will be possible before then to have a full debate on fisheries in Parliament, so that I can listen to what colleagues from all quarters are saying and take account of that before fixing the UK negotiating position and, indeed, before going to the council.

The Convener: Okay. If we have covered the issue as required in the agenda, it is my pleasure to thank the fisheries minister, John Home

Robertson, for helping us with a number of issues today. Furthermore, I thank Derek Feeley and David Ford for accompanying the minister.

We shall now proceed with our long agenda.

15:45

Lobsters and Crawfish (Prohibition of Fishing and Landing) (Scotland) Order 1999 (SSI 1999/88)

The Convener: We have copies of this order together with explanatory notes, and Mr Martin Ritchie from the Executive is here to explain the terminology if need be.

Mr Home Robertson: Mr Feeley could give a brief statement on this rather technical issue, if that would be useful.

The Convener: Before we ask the gentleman concerned to proceed, I should say that the committee simply seeks an explanation of the background of and technical issues involved in the instrument. We do not require any great detail, just that we understand what it is that we are about to pass.

Mr Feeley: As Martin Ritchie has been involved in instructing solicitors on this order, he will be in a better position to address any technical issues.

The purpose of the order is to support v-notching schemes that are carried out by the fishing industry and other interests. V-notching involves the clipping of a v-shaped notch on to the tail of a mature shellfish. The creature is then returned to the sea to continue the breeding process. It is most common for mature females that are berried—that is, carrying young—to be v-notched and returned to the sea.

Mr Home Robertson: That is b-e-r-r-i-e-d.

Mr Feeley: Yes. The shellfish are not wearing French hats.

A proposed scheme that we understand will start in the Western Isles in spring or early summer next year will be Scotland's first v-notching scheme. Demand from Western Isles fishermen to have the order in place to support their voluntary scheme provided much of the impetus for taking this order ahead of other associated technical conservation orders. An order has been brought forward for Scotland and there are two other orders, one for English and Irish waters and the other for Welsh waters.

The Scottish order will make it an offence for any British boat to land a v-notched lobster or crawfish in Scotland, which will support any v-

notching schemes being run. The order also prohibits fishing for v-notched creatures by Scottish boats anywhere and by other British boats within the Scottish zone. In recognition of the fact that fishermen will occasionally catch v-notched creatures quite unintentionally, the order enables fishermen to avoid committing an offence if they simply return the lobster or crawfish to the sea.

The order itself is relatively straightforward.

Alasdair Morgan: You said that the order is tied up with initiatives from Western Isles fishermen. Has there been consultation with fishermen elsewhere and have other representations been received? If so, have any changes been made to the order as a result?

Mr Feeley: We discussed the issue at some length in the fisheries conservation group, which is a UK group involving the fisheries departments from Scotland, England, Northern Ireland and Wales and fishermen and fishermen's representatives from all four countries. The issue received a lengthy airing in that forum.

Alasdair Morgan: You mentioned fishermen's representatives and that reminded me of something that Mr Morrison said about the membership of the Scottish Fishermen's Federation. He said that that organisation tends to deal with the larger boats. How many lobster fishermen are represented?

Mr Feeley: The fisheries conservation group is relatively wide ranging. For example, associations that are members of SFF are represented as well as those that are not, including those from the Western Isles.

Mr McGrigor: Where are the lobsters going to be v-notched? How are fishermen to be paid for v-notched lobsters? How are the lobsters to be returned to the place in which they were caught?

Mr Feeley: The lobster is notched on the tail. Martin Ritchie has a diagram—

Mr McGrigor: When I said "where", I meant where will the lobsters be landed.

Mr Feeley: They will be taken on board the vessel—

Mr McGrigor: Yes, but where will they be v-notched?

Mr Feeley: They will be v-notched on the vessel using a special implement and immediately returned to the sea.

Mr McGrigor: I thought that they had to be taken to shore to be v-notched and tagged.

Mr Feeley: They are v-notched on the vessel and returned immediately to the sea.

Mr McGrigor: So how do the fishermen get compensated? I thought that they were getting £8 a lobster.

Mr Feeley: They keep the notch extract.

Mr McGrigor: And they get paid on the notch extract? Is that how it happens?

Mr Feeley: The compensation element of the Western Isles proposal is not covered by the order. All that the order does is to make it an offence to land a v-notched lobster. I do not have chapter and verse on how those administering the Western Isles scheme will manage the process, but good luck to them.

Alex Fergusson: How much is the compensation for each lobster and what is the estimated cost of the scheme?

Mr Martin Ritchie (Scottish Executive Rural Affairs Department): The rate for the Western Isles scheme will be about £8 per lobster. That is roughly the market price, but it will vary depending on the time of year.

Alex Fergusson: It will be based on market prices.

Mr Ritchie: That is right.

Alex Fergusson: How many lobsters do you hope to v-notch?

Mr Ritchie: The Western Isles scheme proposes to v-notch about 10,000 in the first two years.

Mr John Munro (Ross, Skye and Inverness West) (LD): People have asked how much consultation there has been with various fishing bodies about the order. I understand that there has been extensive consultation over several years and that there is a general acceptance among the fishing fraternity that the compensation is less important than the conservation of the stock. There has been consultation with fishing colleagues in Ireland and on the east coast of the United States and Canada, and there is general support for the conservation measure in all those fishing communities and among our own fishermen.

I have noticed an anomaly in the part of the order that deals with where an offence is committed. Paragraph 5 (1)(a) states that a sea fishery officer may exercise powers

"anywhere in relation to any Scottish fishing boat".

That is fine, but paragraph 5 (1)(b) goes on to say

"in any waters adjacent to the United Kingdom and within the Scottish zone in relation to any relevant British fishing boat."

What happens if the boat is not a British-registered fishing boat?

Mr Ritchie: We are covered by article 17 of council regulation (EC) 894/97. However, this is a national measure that can be applied to UK vessels only. We cannot apply it, under those terms, to foreign vessels.

Mr Home Robertson: It is important to take the point that foreign vessels would not be fishing within our six-mile limit, which is where the lobster fishery is. We can safely take foreign vessels out of the calculation.

Mr Feeley: Some deep-water lobster fishing may take place outwith the six-mile limit, but the bulk of such fishing will be within that zone. However, as Martin says, this is a national measure that cannot be applied to foreign vessels.

Mr Munro: In that case, should we not include all fishing vessels that have the notch-tailed lobsters aboard, and accept that that is committing an offence?

Mr Feeley: That would go beyond the scope of a national measure.

Mr Home Robertson: We envisage that such schemes would be operated within the six-mile limit. Foreigners would not be fishing there.

The Convener: I ask Mr Ritchie to speak to the paper that we have received, unless we have covered everything that he was going to talk about in the previous questioning period.

Mr Ritchie: I prepared the paper to lead us into the discussion, but we have covered most of the issues that we wanted to raise.

The Convener: Therefore, the committee must decide whether it is content with the proposal. If it is content with the proposal, there is no need to make any recommendations in our report to the Parliament. Is the committee content?

Members indicated agreement.

The Convener: Thank you very much, gentlemen.

EU Regulation

The Convener: The committee will now consider item 4, a proposal for a European Council regulation that will open a tariff quota for imports of boneless meat from bovine animals. The Scottish Executive's covering note is attached at the end of the papers from Europe and Westminster. We should note that the Scottish Executive's information says that the regulation has no Scottish interest. Does the committee have any views on that?

We have with us Mr John Dowie, who is able to clarify any issues that might arise. [*Interruption.*] I thought that Mr Dowie was here to speak to the covering paper, but I was misguided. Do we

require any clarification on the item concerning the importation of boneless dried beef?

Alasdair Morgan: Tell us where we can buy viande des Grisons. It would be interesting to try it.

The Convener: Are we content that this matter is largely irrelevant to the Scottish market?

Members *indicated agreement.*

The Convener: We note the report and will advise the European Committee accordingly.

Beef Exports

The Convener: The next item on the agenda was raised in a letter that I received from a colleague in the Scottish Parliament—Mr David Mundell, an MSP for the South of Scotland—which has been copied for committee members. In this letter, David Mundell brings to our attention the issues that were topical last week. We thought that it was appropriate to include the letter, which was the only communication that we had with Mr Mundell, so that members of this committee who wanted to make comments on the contents of the letter, or the issues surrounding it, could do so today.

16:00

Alex Fergusson: Mr Mundell has asked me to point out the fact that the agenda is incorrect in saying that the letter is about the French ban on British beef. I think that you will agree, having read the letter, that it is not about a ban, but it raises concerns that have been put to him, and to us all, and he felt that those concerns should be discussed in this committee.

Dr Murray: I am sure that all members of this committee will share Mr Mundell's disgust at the fact that beef producers were feeding sewage to their livestock. We are all dismayed at the hypocrisy that is being shown by other European countries that refuse to accept Scottish and UK beef at the same time as their methods of production are under scrutiny.

I am not, however, sure what Mr Mundell is asking this committee to investigate. The sewage issue would be more properly investigated by the Health and Community Care Committee, as it is an issue of public health that falls under the jurisdiction of the minister for health. There are, however, other issues that we wish to examine: whether there is a level playing field, which is about more than the refusal of France and Germany to accept British beef; whether spinal cord material is removed from the feed of animals in other European countries as it is here; and animal welfare, particularly in relation to pig farming.

There is also an issue about the labelling of foodstuffs: not only about labelling that includes the countries of origin of the food that we eat, but about the labelling of animal feedstuffs. Farmers in this country will advise us that they were not aware that they were feeding dead beasts to their cattle. That is because of the way in which feedstuffs were labelled with information about protein content, carbohydrate content and so on. Farmers, therefore, did not know the origins of what they were feeding their cows. That is part of the problem that started the bovine spongiform encephalopathy crisis. I doubt that French farmers have labels that tell them that their cattle feedstuffs contain sewage or human waste.

Mr Rumbles: As Elaine has correctly said, there are huge issues to be addressed, but they are far too complicated for us to examine now. We should note the contents of that letter and move on, as we have a full agenda. I hope that that suggestion has resonance with the other committee members.

Alex Fergusson: Can I be reminded of our time scale for examination of agriculture? The economic state of our farmers is, as everybody knows, so parlous as to be a disaster. This committee should examine that urgently. I know that we have a full agenda, but the situation is so bad. Farm incomes are going to total less than £100 million for the first time. Five years ago, farm incomes totalled £600 million. That is an enormous drop for the rural economy.

The Convener: We must establish a time scale for that and it would be appropriate for us to discuss that now.

On the subject of Mr Mundell's letter, we had reached a point at which it was suggested that we note the contents of the letter. In addition to that, and given that health issues are raised, does the committee think that we should communicate to Mr Mundell that he should approach the Health and Community Care Committee?

Alasdair Morgan: I think that that is giving it too much weight. I am sure that Mr Mundell is very capable of writing to the Health and Community Care Committee without our prompting.

The Convener: Okay. We will note the contents of Mr Mundell's letter.

Alex Fergusson raised the issue of the time scale of our investigation into the state of agriculture. I accept that it is a connected issue. Up to this point, we have looked at things issue by issue. However, Alex has a valid point. Because of the continuing decline in agriculture, it would be appropriate for us to develop a structure for our investigation, giving balanced representation to each sector of the industry. Would it be appropriate for us to consider that for a moment now?

Cathy Peattie (Falkirk East) (Lab): I agree that we need some kind of overall strategy. At the moment, we are considering each area where there is a problem. Effectively, someone else is creating our agenda, and we are not getting an opportunity to consider all the issues of interest right across Scotland. As we have heard, there is a need for a strategic approach. I think that we should discuss that. It is not good enough to say that there is an issue here and an issue there, to spend a day looking at them, and then to put them off because something else comes on to the agenda.

The Convener: At the moment, we are holding a structured investigation into housing, poverty and unemployment in rural areas. Would it be appropriate for us to develop a similar structure for our investigation into the problems that are facing agriculture in Scotland? Should we ask the clerks to work on that?

Alasdair Morgan: Does the Parliament have sufficient resources, especially for the clerks, to do that?

The Convener: That is a difficult question to answer. I do not know whether it would be appropriate to put the onus on to our clerking team at this stage. Can you comment, Richard?

Richard Davies (Committee Clerk): We will attempt to cope with whatever you ask us to do.

Alasdair Morgan: This is potentially a very big issue. There is a problem that requires immediate attention. If we undertake a very big investigation, we will be beyond the immediate problem and into the effects of the immediate problem, if that turns out to be as bad as we fear it might. If we go into the bigger question, we go into the future of the common agricultural policy. How do we limit our investigation, what parameters will we use and what time scale are we considering?

Rhoda Grant: Regardless of what sector of the industry you speak to, two issues often come up. One is the need for a level playing field, which is a point that comes up again and again. We need to discuss whether there is substance to that point, and what we can do about it. The other is labelling.

I understand that the Minister for Rural Affairs is appointing someone to look at the industry. I do not think that there is much point in our duplicating what is happening in the rural affairs department if it is doing a study of the future of the industry. We can surely tap into its work and get a report. However, the two issues that I mentioned might be a good starting point for our investigation. We could make a difference by looking into them.

The Convener: Initially, this committee acted to ensure that topical issues were raised and dealt

with quickly. By proceeding that way, we may appear to be taking a piecemeal approach. We ought to avoid that. We need a structure. To make progress, we can take advantage of the investigations that we have already held and use them as part of a larger structured look at the industry and the effects that current circumstances are having on it. We will ask the clerks to suggest a structure, which we can discuss at the next meeting of the committee.

Rural Areas (Transport)

The Convener: The next item on the agenda is transport in rural areas. That is why Mr John Dowie is here—I apologise to him for what happened earlier.

We note that lead responsibility for rural transport lies with the Transport and the Environment Committee, but this committee has always said that it believes transport is an important issue in which it wishes to be involved.

We have received a submission from the Scottish Executive development department. Mr John Dowie will speak on this issue.

Mr John Dowie (Scottish Executive Development Department): That is correct.

The Convener: I am glad that we have got that sorted out.

Mr Dowie: I will not say very much by way of introduction as I want to take questions on the paper that we submitted to you. The transport and planning group in the Scottish Executive development department under Sarah Boyack leads on rural transport issues, but we work closely with colleagues in the rural affairs department.

A range of transport measures is directed at and is specific to rural areas. There are measures for lifeline links, particularly to the remote islands and, of course, mainstream programmes such as the roads programme have a bearing on rural areas and other parts of Scotland. Rural issues are diverse and occupy the time of a diverse range of people in the development department.

I will be happy to take questions arising from the paper.

The Convener: Are there any comments or questions on the Scottish Executive's background note on rural transport?

Alasdair Morgan: Are vapour recovery exemptions for rural petrol stations permanent, or is an annual gallonage—litreage nowadays—limit set?

Mr Dowie: I do not know the detail of that exemption. My understanding is that it was for a

period of time.

Alasdair Morgan: So the exemption is temporary and then petrol stations have to fit vapour recovery equipment.

Mr Dowie: I would not want to commit myself on that as I am not sure. I will clarify that point if that would be helpful.

Alasdair Morgan: Yes.

Dr Murray: Section 20 on the logistical requirements of the Scottish forestry industry says:

"Amongst options being investigated is the potential for moving more timber by rail."

I am aware that local authorities in areas with a large amount of forestry, such as Dumfries and Galloway, are concerned about how they will be able to make sufficient money available to upgrade roads to the requirements of the forestry industry. Although trying to move more timber by rail is admirable, the timber has to get to the railhead, so roads will still have to be upgraded.

Can you give more detail on how some of those improvements might be financed without putting an undue burden on local authorities, which already have problems maintaining their road systems?

Mr Dowie: The main way in which the Scottish Executive can contribute is through freight facilities grants which, as you correctly say, kick in only once timber reaches the railhead. Circumstances differ in different parts of the country depending on the proximity of forests to the railhead. Funding of £6 million over three years is available, some of which could be used to install equipment to help with the transfer of timber at the railhead. Colleagues are considering a number of bids for funding to do that.

You are absolutely right: that does not help with the movement of timber to the railhead. In the first instance, it is for the local authority to consider the priorities across its road network and to prioritise in ways that fit with the future forestry crop.

16:15

Mr McGrigor: There is an enormous amount of timber on the west coast of Scotland, but further north there are very few rail links. Surely we should be using coastal shipping for that, as we used to in the old days. Would there be any chance of bringing back the tariff rebate scheme? A few years ago, a lot of timber was carried by ship. That timber is now carried by road. The scheme would save an enormous amount of wear and tear on the roads and I am sure that it would pay for itself very quickly.

Mr Dowie: There are no plans to extend the tariff rebate subsidy to cover that sort of cargo, but

the Executive plans to legislate—either in Scotland or via Westminster—to permit subsidies to be given to facilitate the carriage of timber and other goods by coastal shipping. That will allow the £6 million I mentioned earlier to be invested in equipment at docks to allow the transfer of timber and other goods.

Mr McGrigor: The freight facilities grant is all very well for capital schemes, but not when it comes to running costs—something else is needed. If, for example, 200,000 tonnes of timber, were taken off the west coast, it would save around 7 million or 8 million road miles and would cost about £2 million. That does not seem much in terms of the damage that is being done to the roads.

Mr Dowie: The Executive hopes that if we can pump-prime the initial capital investment, we will be able to facilitate commercially viable transfer from the roads to coastal shipping. That is what happens with the freight facilities grant on the rail network—once the equipment is installed, moving freight by rail becomes commercially viable.

Alasdair Morgan: Am I right in thinking that freight facilities grants have been available for some time? It is not an innovation. Can you give us a candid assessment of how successful those grants have been in rural Scotland?

In Kyle of Lochalsh, a siding or something was installed recently. I have been told that only one train ever went out of it and that it has now been junked. Have the grants been a realistic proposition?

Mr Dowie: I suspect that the example you are thinking of does not involve a freight facility grant. The problem that we have had hitherto is that the take-up in Scotland has been zero. However, during the past 18 months much more progress has been made in securing good quality bids and in making awards. One such award was made to the Sainsbury's Inverness link, which is an extremely good project.

We have been making more progress. Previously, the budget has been underspent, but we are now on target to spend the money on good value projects. The situation is much more promising than it was a few years ago.

Alasdair Morgan: I have another question on railways. You mention the feasibility study into the Borders rail link. If it recommends that the north passenger section from Melrose to Edinburgh is worthy of support, is any money available for it?

Mr Dowie: Ministers will have to consider overall priorities in the budget in the light of the conclusions of the feasibility study. It would not be a cheap project.

Alex Fergusson: I would like to add to the point

that Dr Murray made, because it is important that the Executive understands how important the problem is. Some forestry companies have applied for extract licences for timber, only to find that—for understandable budgetary reasons—local authorities are not able to upgrade the roads to the necessary standard. The economic return on forestry is not great. Local authorities are suggesting that forestry companies pay for road upgrading, but the companies cannot afford it. We are in danger of developing blocks of forestry that have reached their maturity but will not be extracted, even though they are in accessible areas. The trees will go to rot and will constitute a great waste of taxpayers' money. The situation is unacceptable.

Mr Dowie: I recognise the problem generally and the problem with maintenance at a local authority level. Local authorities are provided with block funding for their capital requirements across the range of local authority functions. They must decide what to prioritise out of the competing demands of education, housing, roads and so on. The Executive recognises that, in recent years, transport has been losing out in that process of prioritisation.

Dr Murray: The grant-aided assistance figure applies to the roads for which the local authority is responsible, not to additional roads. In that sense, a burden is being placed on local authorities because they are having to extend the road network while receiving finance only for existing roads.

Cathy Peattie: I am looking at the item in terms of rural partnerships and social inclusion partnerships. There might be scope for the encouragement of joint delivery of public services in remote areas. There is nothing in the document about supporting voluntary organisations, such as councils for voluntary service in Scotland, that deliver services across vast distances. Transport costs are crippling for voluntary organisations, some of which are funded directly by the Scottish Executive. Has any thought been given to how they will be supported?

Mr Dowie: Voluntary organisations have a crucial role to play and in many cases it is those local organisations that get money for specific schemes.

Cathy Peattie: In that case, the document should refer to voluntary and community organisations rather than public bodies. It is important that the work that such groups do—particularly in rural areas—is acknowledged.

Mr Munro: Mr McGrigor made a suggestion about getting some freight onto rail and into the harbours. You used a different word: docks. We do not have docks in the remote areas of

Scotland; we have little fishing harbours that are sometimes used to transport freight.

Some excellent initiatives are being promoted in relation to Mr McGrigor's suggestion, although they are at an early stage. I heard mention of the initiative that was promoted in Kyle of Lochalsh, on which a great deal of money was well spent. The enthusiasm was there to deliver the freight—particularly timber—by rail to Kyle of Lochalsh. Sadly, most of the freight that comes in to the western isles comes by road. Why that should be, I do not know: the facility is there to handle the freight. The freight handling company of British Rail is dragging its feet and should be encouraged to get more freight onto trains.

Last weekend, I heard that one of the big freight-to-rail initiatives, involving a supermarket company delivering to the north of Scotland, had adapted a magnificent container system for the route. That system takes goods to the north, to Inverness, from where it is transported to the peripheries and the far north. An initiative was proposed locally to back-load the containers with dairy products from Inverness and the Sutherland region to take them to the central belt. Apparently, that is not permitted under the regulations. The container is coming back empty. That seems stupid. Because of the grant award, the containers are dedicated to freight for the supermarket—and nothing else. This is an opportunity for sensible co-operation, which would generate some traffic on the rail network.

Jamie McGrigor made an excellent point about the small harbours and the rail freight handling facilities. We must not forget that we have to transport the commodity over substandard roads to get to the pier or the railway station. We must not forget the tremendous expenditure that is still required to support and extend the infrastructure.

Mr Dowie: My use of the word docks was not meant to imply large facilities only—any transfer point from land to sea is appropriate, excluding beaches. The issue of back-loading has been raised by many people and we are currently considering the possibilities. However, members will appreciate that there are rules to avoid cross-subsidy and to achieve value for money. It is not straightforward. I also acknowledge the point that one has to use the roads to get to a railhead or a dock.

The Convener: Are there any further questions? It has been pointed out to me that many of the questions have revolved around freight transport in rural areas. Do members think that we should be paying particular attention to that issue?

Members indicated agreement.

The Convener: We will note that and include it in our continuing investigation.

It has been drawn to my attention that the Enterprise and Lifelong Learning Committee is currently carrying out an inquiry into the issue of differential petrol prices. It has been suggested that two members of the Rural Affairs Committee could be appointed as reporters to participate in that discussion. Are there any suggestions as to which members might be appropriate?

Lewis Macdonald: It is a matter of particular concern to members from the Highlands, and I think that at least one of the representatives should be from the Highlands.

Alasdair Morgan: Is the inquiry on differential petrol pricing alone? Some of the earlier parts of the document that we have been discussing refer to the effect of the fuel price escalator on petrol pricing. I am not clear what it has to do with differential petrol pricing.

The Convener: The description I have been given indicates that we have a standard invitation to become involved in the committee's inquiry.

Dr Murray: As I am a member of both committees, I can clarify the issue. I understand that the Transport and the Environment Committee will consider the issue of the fuel price escalator. The intention of the Enterprise and Lifelong Learning Committee is to consider the effects of the pattern of different prices in different parts of Scotland. As I said at the last meeting of the Enterprise and Lifelong Learning Committee, that would be of particular interest to members of the Rural Affairs Committee, because rural areas suffer the disadvantage of the variation in fuel prices.

Mr Rumbles: I nominate John Farquhar Munro.

Lewis Macdonald: I nominate Rhoda Grant.

Alasdair Morgan: I nominate Irene McGugan.

16:30

The Convener: John Farquhar Munro, Rhoda Grant and Irene McGugan have been nominated. Do we have a view on how we want to be represented? I do not want to have a vote on this question.

Alasdair Morgan: This issue certainly does not just affect the Highlands and Islands. I accept that differentials are much higher on the islands, but there are significant differentials elsewhere, so a wider representation might be helpful.

Lewis Macdonald: As someone who lives in the north-east, I have the impression that the problem of differential pricing does not exist in the Aberdeen area to the same degree as in the Highlands and Islands. On Friday night I heard Alex Salmond say that his constituency had some of the lowest petrol prices in Scotland—I can only

take his word for that.

The Convener: Maybe Alex Salmond just knows the right place to go.

There is nothing to stop any member of this committee attending and being included in the business of meetings of the Transport and the Environment Committee. We are simply appointing reporters, who will report back to us. Given that there are a number of political balances in this committee to consider, would it be appropriate to have one reporter from within the Executive group and one from outside it?

Lewis Macdonald: Only from an Opposition point of view.

The Convener: The clerks have suggested that we appoint three reporters if we can get away with it. We will do that—if that course of action fails, we will have to reconsider.

I thank Mr Dowie, who is leaving the meeting now—he has been very helpful.

Rural Communities (Employment)

The Convener: Item 7 is the inquiry into employment patterns in rural communities. A briefing paper from the Scottish Executive has been circulated but, unfortunately, as a result of illness in the Scottish Parliament information centre team, the scoping report that we had expected to have by now is not available. We were rather depending on having that report, as it will lead to the questions that we have to ask in the inquiry.

I propose that we deal momentarily with the content of the Executive briefing paper and decide whether it contains omissions that we want to be addressed. However, in the absence of the scoping report, I propose that we continue discussion of this item at the next meeting.

Is there anything in the Executive briefing paper that requires to be developed, or—more to the point—is there anything that the paper does not address?

Cathy Peattie: I agree that we should go forward. I find myself at a disadvantage—I do not know about other people—because my first chance to read the papers was this morning. There is a lot here on which I would like to spend more time.

The Convener: Should we consider the Executive briefing paper in conjunction with the scoping report?

Cathy Peattie: Yes.

Dr Murray: I want to raise the matter of the

amount of time that people are getting to consider papers—we may discuss that later.

On another issue, as economic development in Scotland is a matter for the Enterprise and Lifelong Learning Committee, that committee's work will have an impact on this committee's investigations.

The Convener: Is it appropriate to consider this report in conjunction with other reports at a subsequent meeting of the committee? That is agreed.

That brings us to the end of item 7. Mike Rumbles wishes to raise an issue at this point.

Mr Rumbles: Before we move into private session, I want to say that I am not terribly happy that we have left the first agenda item up in the air—I hope that other committee members share that feeling. I do not think that it is particularly helpful to defer the item to a meeting in a fortnight's time. As we have already received the evidence, we need to decide what to do now. This is not an issue for the Scottish Parliament, so it would be helpful for the committee to recognise the fact that Archy Kirkwood is producing a bill to change the boundary back to its initial position.

The Convener: We have to find out whether standing orders will allow us to return to an agenda item for further discussion.

Richard Davies: My reading of the relevant standing order might not be the only interpretation of the rules of the Parliament; that is for members to decide. Rule 11.8.1 of the standing orders says:

"The convener of a committee or sub-committee shall determine the time at which members shall take a decision on any item of business."

The committee agreed earlier to continue consideration of the matter at a future meeting. Within the terms of the standing order, the committee could, if it wanted, take that decision.

The Convener: Does the committee want to progress the matter at this point?

Alasdair Morgan: Although I indicated that the committee should postpone the discussion, that was not out of any desperate desire to do so. We have a lot on the agenda and I thought that we might want more time to consider the issue. I am happy to reflect further on the item, if the committee so wishes.

Lewis Macdonald: I am of a like mind.

The Convener: The committee has decided to progress the matter now.

Mr Munro: What sort of representation do we make as a committee?

The Convener: Having decided to reconsider

the matter, we have to retrace our steps to the end of the evidence that we received earlier. We now have to decide how to progress the matter. My short summing-up of the evidence is intended to stimulate debate and committee members are welcome to express opinions.

This morning, we heard that there was a strong feeling that this issue should not be laid to rest. As I have perhaps jokingly suggested at previous meetings, the committee can always accept the situation that has arisen and push it no further. However, the majority of committee members have consistently taken the view that we should not take that course of action.

It was also made very clear in our earlier question-and-answer session with Hamish Morrison and John Home Robertson that several issues are connected with this, some of which stray well outside the remit of the Rural Affairs Committee. We were concerned specifically about those issues that affect the fishing industry, but on a number of occasions we found ourselves discussing matters that were not primarily rural affairs or fishing issues. For that reason, and given the balance of views that have been expressed, it would be appropriate for us to report to the Parliament on the discussion that took place. We could suggest that time be allocated in the Parliament for further debate.

Richard Lochhead: Given the committee's interest in the issue and the number of questions that we put to the minister and Hamish Morrison, it would surely be appropriate for this committee to make several recommendations.

Mr Rumbles: The measure can be changed only by the Westminster Parliament; efforts are being made to do that there. Practically, the most useful thing that we could do would be to lend our support to those moves. My suggestion is that we recognise that this is a responsibility of Westminster and that we lend our support to efforts to have the decision changed. That would bring the matter to a suitable conclusion.

Lewis Macdonald: It is appropriate that we recognise that any change in the fishery boundary is a matter for the Westminster Parliament. I do not endorse Mike's view that we should express our support for the proposed amending legislation. We should note that it is a matter for Westminster and the answers that we have received today. We could, as the convener suggests, also remind Parliament that it is free to discuss the issue further. We should leave it at that.

Alasdair Morgan: We all agree that this measure would have to be changed by the Westminster Parliament, because we are dealing with an intra-UK boundary. At issue is what we should do. It is a bit anodyne for us to recommend

to the Parliament that it debates the subject again. The committee should express a view; the question is what that view should be. Archy Kirkwood has a 10-minute bill, but that will fall when Parliament is prorogued in a couple of weeks.

Mr Rumbles: I have been informed that Archy Kirkwood is withdrawing that bill and intends to submit a stronger bill, which would restore the boundary to the line that previously existed.

Alasdair Morgan: Once Westminster reconvenes, whoever is first in the queue will get to bring forward a 10-minute bill. Of course, the Government could bring forward another statutory instrument, which would be a quicker way of rectifying this. We have to decide whether we should recommend to this Parliament that it supports moves in the Westminster Parliament to change the boundary as defined in the order, although there is no mechanism that allows the Scottish Parliament to support something at Westminster. Another option is for us to urge the Executive to lobby the Secretary of State for Scotland and other UK ministers to bring forward a statutory instrument to change the boundary. We could, perhaps, adopt both strategies.

Lewis Macdonald: I do not accept that it is the settled view of the committee that we want to support Archy Kirkwood's bill. If the matter is as significant as we have been told, any recommendation should come from the Parliament as a whole. From the evidence that we heard today—I have also had discussions with the Scottish Fishermen's Federation over several months—I am not satisfied that the federation has brought forward a compelling case that its material interests have been affected. On that basis, I would not want to subscribe to a committee recommendation that Westminster replaces the order. If we note that this is Westminster's responsibility and that measures are being discussed there, that will be appropriate and sufficient.

16:45

Richard Lochhead: I was relaxed about the fact that we were discussing this issue again, because I thought that we would be discussing the way forward, as opposed to taking an immediate decision. We had an excellent report on amnesic shellfish poisoning, which reflected the fact that we had heard evidence from other groups on other days. Why cannot we follow a similar path for this issue, at least to consider the options? We can make recommendations at a future meeting. We need a report and we need to consider our options.

Mr Rumbles: The issue has been debated in

Parliament. We have heard more representations today. This is not an issue for this Parliament. Almost everybody here would want the boundary to be put right, but the place to do that is Westminster. We do not need another in-depth report and to go through the motions again. We have a good opportunity here to flag up the issue and to recommend that action be taken in the Westminster Parliament, which is where responsibility for it must lie. If we do not do that, the affair will go on and on. We must deal with the issue now—that is why I asked for it to be debated again.

Richard Lochhead: Considerable evidence has been given today. We must do that justice by considering various recommendations. I am not suggesting that we produce a 100-page report, but we should make some recommendations. Various members have suggested different ways forward. We should consider them at the end of today's meeting and not take a snap decision.

The Convener: A couple of views have been expressed. How do other members feel about the issue?

Alasdair Morgan: I am sympathetic to both views. The state opening of the new parliamentary year at Westminster is not for some weeks yet, so we do not have to arrive at a conclusion before then. However, that timetable relates only to this committee. The other problem, if we assume that we are going to recommend to the Scottish Parliament that it should take a particular course of action, is that the Parliamentary Bureau would need to decide whether to select a motion for debate and to find a slot in which to debate it. We cannot control that part of the timetable.

Lewis Macdonald: In view of this discussion, it may be that we need to defer a final decision, despite Mike's stalwart efforts to bring the issue to a conclusion. There does not seem to be much common ground on how we take this forward, but clearly there will be some areas on which we can agree.

Dr Murray: If the committee is minded to make a recommendation, we need a little time to decide to whom it is appropriate to make it. We can make a recommendation to the Scottish Parliament, but I am not sure that we have any authority to make a representation to Westminster.

The Convener: I am inclined to agree with Mike Rumbles that there must be a sense of urgency, but the feeling that I get from members is that it would be appropriate to request a short draft report, highlighting the main issues that have been discussed. We need a range of options on how best to progress. The issue must be dealt with as a matter of urgency. A final decision must be taken at our next meeting. Mike, is that okay?

Mr Rumbles: I notice that you use the word “final”.

The Convener: We will therefore proceed on those terms and make a note of Mike Rumbles’s desire to see the issue dealt with as a matter of urgency.

Alasdair Morgan: We all want it to be dealt with as a matter of urgency—or at least relative urgency.

The Convener: That is the end of the part of the meeting that was to be held in public. The next item on the agenda is one that we previously agreed should be discussed in private, which is the final consideration of the draft report on amnesic shellfish poisoning. We will now, therefore, move into private session.

16:49

Meeting continued in private.

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