

RURAL AFFAIRS COMMITTEE

Tuesday 5 September 2000
(*Afternoon*)

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RURAL AFFAIRS COMMITTEE

23rd Meeting 2000, Session 1

CONVENER

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

DEPUTY CONVENER

*Alasdair Morgan (Galloway and Upper Nithsdale) (SNP)

COMMITTEE MEMBERS

*Alex Fergusson (South of Scotland) (Con)
Rhoda Grant (Highlands and Islands) (Lab)
*Richard Lochhead (North-East Scotland) (SNP)
*Irene McGugan (North-East Scotland) (SNP)
*Des McNulty (Clydebank and Milngavie) (Lab)
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:

John Scott (Ayr) (Con)
Mike Watson (Glasgow Cathcart) (Lab)

CLERK TEAM LEADER

Richard Davies

SENIOR ASSISTANT CLERK

Richard Walsh

ASSISTANT CLERK

Tracey Hawe

LOCATION

The Hub

Scottish Parliament

Rural Affairs Committee

Tuesday 5 September 2000

(Afternoon)

[THE CONVENER *opened the meeting at 14:05*]

The Convener (Alex Johnstone): Ladies and gentlemen, I have been asked to remind everyone in the room to switch off their mobile phones. I am told that sound interference could be caused by a mobile phone. It may also cause a difficult situation if phones ring during a debate.

Apologies have been received from Rhoda Grant, John Munro and Cathy Peattie. Des McNulty will be a few minutes late. No other apologies have been received.

Item 1 on today's agenda is the issue of shellfish poisoning. It has been suggested that, as Rhoda Grant and John Munro are in a meeting with representatives of the scallop fishing industry, it may be appropriate, if the committee agrees, for us to consider taking this item later in the meeting, when we will be able to ask them to address us on the issues that have been raised at that meeting. I have no definite view on that suggestion. If anybody has an alternative view, I would be delighted to hear it.

Richard Lochhead (North-East Scotland) (SNP): That is fine.

The Convener: I propose that we discuss that item after item 5 on the agenda, immediately before we discuss future business. Are we agreed?

Members indicated agreement.

Protection of Wild Mammals (Scotland) Bill: Stage 1

The Convener: Item 2 on the agenda is the Protection of Wild Mammals (Scotland) Bill. We have in front of us some of the written evidence that has been submitted to the committee in the form of letters and presentations. There are 3,080 items in the bundle that we have before us. Those are not the only items that have been submitted; they are those which have been catalogued and listed so far. There are 700 items remaining, which have yet to be catalogued, and that will be done in the not-too-distant future.

We also have before us a substantial bundle of evidence that has been copied for members to read. Members should have a paper with my name on, which covers the position as it stands and makes a suggestion—at item 5—that, in view of the quantity of written material that we have before us, we might consider making no decision immediately on the way in which we want to proceed. We could take two weeks to read and digest the evidence that has been presented to us, after which we could consider in detail how we want to proceed towards the preparation of a stage 1 report on this issue.

Are there any comments on that paper or on anything else that might be relevant?

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): I have always said that this committee should give due weight to all the evidence that has been presented to us. I am on record as saying that, and I have always felt that. However, having seen much of the written evidence that has been forwarded to us by the clerks and having read the bill and considered its general principles as presented to us and not as they might be amended, I think that, with due respect to Mike Watson, who has lodged the bill, it is not competent in its present form.

The bill is not competent because it is illiberal and it does not hit the targets that Mike Watson said it would hit when he presented the bill to us in April. It hits many more targets than was intended. Considering the evidence that we have received would be a waste of the committee's time, given that it is clear that the bill is not competent. Rather than put consideration back two weeks, as you suggest in your paper, convener, the bill is so badly structured that we should move straight to setting a date for reaching our conclusions on the evidence. The bill is so bad that any further oral evidence would be a complete waste of our time. Rather than postpone this further, we should set a date when we can produce a report to recommend to the Parliament not to approve the bill.

Dr Elaine Murray (Dumfries) (Lab): I am more inclined to go along with the convener's suggestion that we spend more time considering the evidence that has been submitted to us. I have been reading the tome of documents and was halfway through section O when the train pulled into the station this morning, which means that I have yet to read about a quarter of the written evidence. Many organisations have put a lot of work into compiling evidence. I would like to have the opportunity to read through and cogitate on it before we decide how to progress.

Alasdair Morgan (Galloway and Upper Nithsdale) (SNP): I support your recommendation, convener. As Mike Rumbles suggests, it is not a case of our taking extra evidence. We are not deciding either to waste or to usefully employ anyone's time by bringing them in front of the committee. However, certain members have indicated that they want to spend more time considering the evidence that has already been submitted. It would be discourteous to the people who have submitted evidence if committee members do not have enough time to weigh the arguments from both sides. For the sake of a fortnight, we should support the convener's recommendation.

Richard Lochhead: I also support the recommendation. The use of the word "illiberal" by Mike Rumbles is entirely subjective. He is entitled to that point of view, but it is not a waste of the committee's time to consider more than 3,000 submissions. Surely we are here to consider the submissions and, as Alasdair Morgan said, we should have the courtesy to do so.

Alex Fergusson (South of Scotland) (Con): As I am sure you will be aware, I agree with much of what Mike Rumbles says. When Mike Watson originally put his bill to the committee I invited him to withdraw it, very much on the grounds that Mike Rumbles has just stated. That invitation has not yet been taken up, and I do not suppose that it will be at this stage.

However, Mike Rumbles said, quite rightly, that people have gone to a lot of trouble. We have always said—and I agree—that we must give as much weight as possible to everybody's evidence. Some 4,000 people have taken the trouble, uninvited, to write in on the issue. It is incumbent on the committee to give that evidence as much respect as we can. For that reason I agree that we should give the matter a fortnight's grace. We have had the papers in our hands for only eight or nine days. It is right that we should have another fortnight to study them properly.

The Convener: If there are no further comments, and considering the views that have been expressed, I propose, as the paper suggests, that we take a fortnight, during which

committee members will have the opportunity to read in detail the written submissions that have been copied to them. They will also have available to them a summary of the contents of the 3,080 items that are before us, in addition to the 700 that are still to be processed. The originals of those documents will be made available in the Scottish Parliament information centre, so that at any time anyone can see or use them. We will discuss all the issues surrounding the bill at the committee meeting in two weeks' time and decide at that point how we wish to proceed.

Do members agree?

Members indicated agreement.

Petitions

14:15

The Convener: Item 3 on the agenda is related to item 2, in that it covers a substantial number of petitions concerning the Protection of Wild Mammals (Scotland) Bill. They have been grouped together so that we can consider them at the same time as the bill itself.

A summary sheet is available, which should have been circulated to members. The originals of the petitions have not been made available. There are copies of the petitions here. Does everyone have the paper referring to item 3 on the agenda?

Alex Fergusson: I do not have the petitions.

The Convener: No, the petitions have not been circulated. The summary paper indicates that the subject matter of the majority of the petitions is similar. At this stage, I would like guidance from the committee as to how we should proceed with the petitions. One option is to note them and to consider them no further. The alternative is to consider the petitions together with the written submissions. We could ask the information centre to consider the scope for further research on the subject.

Mr Rumbles: I was contacted last night by one of the petitioners, who was extremely concerned that they had just been informed that the committee would address their petition today. That individual wanted to be here to hear our deliberations, but could not attend. There is something wrong with the system. It is a courtesy to the petitioners to notify them—that should be taken on board by whoever is responsible. It is not a satisfactory situation.

The Convener: I was made aware this morning that many of the petitioners were notified too late that their petitions were to be placed on the agenda. That is why it is not appropriate at this stage for us to deal with them in detail. However, I would like the committee's guidance on whether it is appropriate for us to include them with the written submissions.

Dr Murray: I would support that course of action. It seems sensible to consider the petitions at the same time as the evidence on the bill.

Alex Fergusson: It appears that the petitions are asking for further research to be carried out, in addition to that which the Macaulay Land Use Research Institute was asked to do. Given our decision that we will not decide how to proceed with the bill for another fortnight, I do not see how we can take a decision on this matter for another fortnight either. Whether we take the petitions any

further will depend on how thorough we decide the evidence should be.

The Convener: I agree, but do you feel that the petitions should be included with the written submissions so that they can be considered together in the next fortnight?

Alex Fergusson: Yes.

The Convener: As there are no further comments, copies of the petitions will be bundled together and circulated to members for consideration in conjunction with the written evidence.

Item 4 on the agenda relates to petitions PE186 and PE240. We have received a number of petitions about rural post offices, the most recent examples of which are PE186, which is from the National Federation of Sub Postmasters, and PE240, which is in the names of George Lyon MSP and Ray Michie MP. The paper to which the petitions are attached and which has been circulated to members is inaccurate, as it refers to Ray Michie as an MSP. This issue has been raised in the committee on occasion, but, as a result of these petitions, it has come back on to our agenda again.

PE186 asks us

"to influence, in whatever way possible, the Westminster Government"

and to consider the issue in the context of our inquiry into the impact of change on employment patterns in rural Scotland.

Do members have comments on this issue? I know that certain members of the committee had views on it in the past.

Irene McGugan (North-East Scotland) (SNP): I remain committed to exploring this issue and to obtaining a resolution to it.

There may be a slight confusion within the Enterprise and Lifelong Learning Committee, as the extract from the *Official Report* notes that previous petitions on rural post offices have been sent to the Rural Affairs Committee

"because it is conducting an inquiry into the matter."—
[*Official Report, Public Petitions Committee*, 4 July 2000; c 567.]

While we agreed that rural post offices would form part of our inquiry into changing employment patterns, the Enterprise and Lifelong Learning Committee may believe that we are conducting an inquiry into the future of rural post offices. Perhaps we should point that out to that committee.

It is appropriate that we consider this matter, as it impacts more on post offices in rural areas than on those in other geographical areas. Given that we are about to consider the final draft of our

inquiry report, would it be appropriate to do so bearing in mind whether we have addressed the issue adequately enough to satisfy the petitioners? If we have not done so, we could decide at that stage that we might need to take further action. In the first instance, we should consider how well we have covered the issue in our draft report on employment patterns.

Alasdair Morgan: I will slightly contradict one of Irene McGugan's points, although I agree that the majority of post offices under immediate threat are probably in rural areas. However, that is not exclusively the case. In fact, the petition from the National Federation of Sub Postmasters refers to Edinburgh specifically, and there are not many rural post offices in Edinburgh. We know that many small post offices in suburban areas and in some of the larger housing schemes are also under threat, particularly because so much of their business is to do with welfare benefits and therefore they are particularly vulnerable to this kind of pressure. Although we do not want to keep passing the buck, we should point out to the Enterprise and Lifelong Learning Committee that this issue is not exclusively rural.

The Convener: If there are no further comments, and given that there is a request for us to do what we can to bring this issue to the attention of the Westminster Government, would it be appropriate for the concerns expressed by the committee both today and previously to be put in a letter and sent to the relevant Westminster minister?

Des McNulty (Clydebank and Milngavie) (Lab): How much information does this committee have about the Post Office's proposals? Have we had all the relevant information about the latest sets of proposals that have come from the relevant minister's office during the past three or four weeks? I say that in the precise context of Alasdair Morgan's comments and in the context of Irene McGugan's suggestion.

My constituency is in no sense a rural area, but I have had a fairly extensive correspondence with the Post Office. Would it be helpful to obtain as much information as possible about the proposals and the direction in which they might go in order to consider them more systematically, rather than simply making representations, which are less likely to carry weight? If we were to consider the issue more carefully, what we have to say might be more salient.

The Convener: Yes, we could do that. Are there other views?

Dr Murray: The petition from George Lyon and Ray Michie is slightly different, as it does not ask us to make representations to Westminster. I am sure that MPs will be making representations as

they see fit. PE240 asks us to do whatever is in our power to secure

"a viable future for Argyll and Bute's rural sub-post offices".

That would also be true for Dumfries and Galloway and other rural parts of Scotland.

There may be other encouraging steps that the Scottish Parliament could take. For example, when the Horizon project comes on line, are there ways in which we could support post offices by encouraging local councils and the Scottish Parliament itself to use them to disseminate information in rural areas? There may be other steps within our remit that the Scottish Parliament could take and that could help to support rural post offices.

Des McNulty: The decline in service provision from banks goes with the decline of post offices and is important in my constituency and, I suspect, in other constituencies. The decline of post offices, to the extent that they can be used for banking purposes, may have implications for people with limited financial means and limited access to different forms of credit, if that decline comes on the back of the loss of banking facilities located within a reasonable distance. That is another issue, which has to do with the loss of service provision in rural areas.

The Westminster Government's proposals have implications, and we should consider those implications in detail, rather than simply making representations purely on the basis of the interests of the postmasters. We should treat this matter more broadly.

Alasdair Morgan: I quite agree with Des McNulty. The detail of how the Government's proposed universal bank would operate is by no means clear to me and in July I heard that some of the banks were not exactly happy with the proposal either. Therefore, it would be helpful if we could try to find out the latest information and how concrete some of the proposals are.

The Convener: Would it be appropriate to make contact with one or two agencies to ensure that we have the latest information? Richard Davies has just hurriedly scribbled a suggestion that we could ask Ross Finnie if the Executive's ministerial committee on rural development has considered this issue. Which other organisations or individuals should we approach for further information?

14:30

John Scott (Ayr) (Con): I am sure that the committee will have considered the wider implications. Should you ask the Social Inclusion, Housing and Voluntary Sector Committee to consider the implications of the withdrawal of post offices from rural communities?

The Convener: That is a fairer expression of something that I have written down as a note. Given the broad nature of the issue and the fact that, in some respects, it is not a rural issue, but a cross-cutting issue, should we seek advice on the appropriate place for post office issues within the parliamentary committee structure?

Des McNulty: It would be useful for every committee member to get information from the Government and the Post Office about the broad range of proposals that might affect the future of post offices in Scotland. We could perhaps consider such matters as the future of the Horizon project and the universal bank proposal.

Scotland has a different balance of urban and rural areas compared with south of the border. The issues arising from the current proposals, and how rural areas in Scotland will be affected, would be a valid piece of work for us to consider. It would be equally valid for us to highlight to other committees of the Parliament that there are also issues for them to consider—relating to social inclusion or economic development, for example.

We should not simply pass the buck; we should get the appropriate information and start to consider the interests and issues that are in our remit, signalling to the other committees that we are doing that and that we would welcome their considering the issues that affect their areas of interest.

The Convener: In the meantime, would it be appropriate for us to seek the information and consider the matter again at a future meeting?

Members indicated agreement.

The Convener: We are preparing our report on the matter and Richard Davies has indicated that the second draft is available for circulation today. We should, as Irene McGugan suggested, consider the issue in relation to the draft report.

One of the things that the petition from the Post Office people asks us to do is to bring the matter to the attention of the Westminster Government. Do members think that we should act on that in any respect, or will we consider that later?

Alasdair Morgan: The Westminster Government has had the matter well and truly brought to its attention.

The Convener: That was in the text of the petition, which is why we needed to consider it. Shall we do that once we have considered the information?

Members indicated agreement.

Seed Potatoes (Scotland) Regulations 2000 (SSI 2000/201)

The Convener: Item 5 on the agenda is subordinate legislation. A paper has been circulated covering the Seed Potatoes (Scotland) Regulations 2000 (SSI 2000/201).

I must admit that, when we were considering the agenda for today's meeting, we thought that a nice, simple piece of subordinate legislation would be a great idea, that we could nod at it in the passing and that that would be that. Unfortunately, it is unlikely to be that simple, given that the report submitted to us by the Subordinate Legislation Committee comprises some six pages of concerns in relation to the regulations.

Alasdair Morgan: Having read the Subordinate Legislation Committee's report, I am not clear whether one of its suggestions—getting the appropriate officials to come before us—would really enlighten us further. The statutory instrument seems to be a bit of a mess, and I think that the best thing would be to lodge a motion to annul it. If the Parliament accepted that, the Executive could then return with a redrafted statutory instrument.

The Convener: Like Alasdair Morgan, I have read the report from the Subordinate Legislation Committee, and I note the serious concerns about the regulations. If the committee approves, it would be appropriate for a member, on the committee's behalf, to prepare a motion for annulment of the instrument and for us to make time available to debate that motion at our meeting next week.

Des McNulty: What would be the effects of annulment on the seed potato industry? Given that we might proceed on the basis of the work that has been done by the Subordinate Legislation Committee, rather than our own work, might it be appropriate for us to refer the matter back to the Subordinate Legislation Committee, for one of its members to lodge an amendment on its behalf?

The Convener: We are the lead committee on the regulations; this is the only committee in which a motion of annulment may be considered.

Given the views that have been expressed in the Subordinate Legislation Committee's report, our options are very limited.

Des McNulty: Could we get some advice on the implications for the industry?

Dr Murray: It might be worth asking the Executive to provide somebody to answer questions such as that which Des McNulty has raised. It might be difficult for us to know what the

effects of annulment would be.

I am not absolutely clear whether the Subordinate Legislation Committee is saying to us that it thinks the instrument should be annulled. The Executive seems to have attempted to answer some of the questions, and it thinks that some of the issues are not as important as the Subordinate Legislation Committee seemed to think.

I found some of the recommendations a little bit confusing—in fact, very confusing. It was a detailed argument about what was the matter with the instrument. It might be worth getting somebody from the Executive to answer our questions.

Alasdair Morgan: That is what will happen if we lodge a motion to annul in this committee. The ministers will come before us to defend their statutory instrument; in effect, we will kill two birds with one stone.

Mr Rumbles: I am just a practical soul. Annexe A in front of us is entitled “Extracts from the 28th report of the Subordinate Legislation Committee”. I am wary about annulling anything on the basis of an extract. I have not seen the full report. Are we now being asked to annul?

The Convener: My understanding is that the annexe is in fact an extract of a report that followed a Subordinate Legislation Committee meeting, at which more than one issue was covered. The extracts in front of us stem from the entire part of the meeting that related to the instrument.

Mr Rumbles: So what we have before us is complete?

The Convener: Yes.

Alex Fergusson: If I understand paragraph 6 of the senior assistant clerk’s general procedure note on the regulations, we have the option to ask to “hear evidence from Officials at the next meeting”.

Is that correct? I understood the deputy convener to say that, if we move to annul, that would happen automatically. Or is it a case of either/or?

Irene McGugan: That is covered under paragraph 5.

Alex Fergusson: It is paragraph 6 on my paper.

Irene McGugan: But an explanation is given in paragraph 5.

Alex Fergusson: I see—sorry.

Dr Murray: I appreciate that paragraph 5 says that we

“would have to invite Ministers to debate the issue . . . should a motion for annulment be proposed”.

However, if it transpired that the effect of annulment on the seed potato industry would be

sufficiently disastrous, and we felt that annulment would be a worse option, would we then have the opportunity to withdraw that motion for annulment? Would it be worth asking the questions first?

The Convener: A motion to annul a statutory instrument could be defeated. The committee has had experience of that. A decision to annul the instrument would be taken on the basis of the minister’s evidence and the conclusions that the committee drew from its debate on the matter.

Alasdair Morgan: Paragraph 2 of the paper states that the time limit for parliamentary action expires on 19 September. Does that refer to the parliamentary action in the chamber that would have to follow the decision of the committee?

Richard Davies (Clerk Team Leader): Yes.

Alasdair Morgan: In that case, if we are to annul the order, we will have to get our skates on. If we do not annul it, we are in effect approving it. We cannot do nothing and time is running out for us to do something, one way or the other.

The Convener: This is a negative instrument, so if we do nothing, we approve it.

Irene McGugan: I think that the instrument has significant defects. We are not talking about one or two minor points that could be amended easily. I was struck by paragraph 38 of the paper that gives extracts from the Subordinate Legislation Committee’s report, which is in bold. It says that

“as these Regulations implement Community obligations, defective drafting could also constitute a breach of a Community obligation to incorporate correctly the provisions of the relevant Directives into domestic law”.

There are far-reaching implications if the instrument is implemented in a badly drafted or defective format. We owe it to the industry to get it right and should not just hope that it works out okay in the end, as I do not think that it will.

Dr Murray: Nobody is arguing that that is what we should do. I would be interested to hear the Executive’s view on that assertion.

Mr Rumbles: I agree with what the report says, especially in the paragraphs in bold, but I would like to know why the Subordinate Legislation Committee did not recommend that the committee move to annul the order.

The Convener: I do not have the answer to that.

Mr Rumbles: We are groping in the dark here, as we do not have the information that we need.

The Convener: Given the time scales that are involved, we have only a limited range of options. Our discussion hinges on whether we think that a motion to annul will produce adequate scrutiny of the instrument in the committee in the presence of the minister.

Alasdair Morgan: Clearly, if we move to annul at our next meeting, and the Executive declines to send anyone to the meeting to defend the instrument, we will be entitled to take the view that the Executive, too, believes that the order is defective. If the Executive sends someone to the meeting who defends it successfully and convinces us, we can vote down the motion—I do not see any problem. If we do not put a motion to annul on the agenda for next week, the order will stand.

Mr Rumbles: Can we request some more information from the Subordinate Legislation Committee?

The Convener: Standing orders state that it is the responsibility of the Subordinate Legislation Committee to

“determine whether the attention of the Parliament should be drawn”

to an instrument; there is a list of grounds for doing that. The Subordinate Legislation Committee’s responsibility is largely to draw details to our attention rather than to make recommendations.

Mr Rumbles: Okay. In that case, I agree with Alasdair Morgan.

Des McNulty: I feel that I am in a difficult position—I tried to express this point earlier. I think that the Subordinate Legislation Committee is engaged in a fight about the way in which statutory instruments are drafted. The instrument happens to be one that that committee has picked for that fight. The report expresses a degree of exasperation and keeps referring to earlier instances.

14:45

The Subordinate Legislation Committee’s objections do not have much to do with seed potatoes, but are about the ineffective way in which legislation is drafted. The Rural Affairs Committee could be drawn into another committee’s fight, on a subject that may not be the most appropriate one on which to have that fight. We would be in an unfair and unsafe position if the mechanism for dealing with the instrument forced us to propose annulment on grounds that had more to do with someone else’s problems.

The Convener: It is not necessary for us to stray so far into the matter. We are saying that we would like the minister to come to the committee to defend the instrument.

Richard Lochhead: The reason why the Subordinate Legislation Committee has to report to us is so that we receive such comments. We cannot ignore them because they come from another committee. Therefore, I support Alasdair

Morgan’s suggestion that we lodge a motion to annul and invite the minister to defend the instrument.

Des McNulty: My concern is whether the comments in the Subordinate Legislation Committee’s report are sufficiently specific to the instrument or whether they are the expression of a more general concern, in which case that committee should sort out the matter itself instead of putting the onus on us.

Alex Fergusson: That view would surely not justify our passing, in effect, a defective statutory instrument. It must be right to accept Alasdair Morgan’s proposition.

Alasdair Morgan: It is clear from the part of standing orders to which the convener referred that the Subordinate Legislation Committee—whether it has a bee in its bonnet or not—does not have the power to overturn statutory instruments. It is up to the subject committees to do that. Increasingly, large areas of our lives are being regulated by statutory instruments, which, until the establishment of the Scottish Parliament and the National Assembly for Wales, received no scrutiny whatsoever. We are duty bound to pay attention to reports that suggest possible defects.

Dr Murray: I am happy that we should proceed as Alasdair Morgan suggests, so long as we have the opportunity to withdraw the motion for annulment should the minister, or whoever the Executive sends to speak to us, manage to refute all the allegations and it transpires that we are worrying about wording rather than substance.

Our meeting next week will take place a week before the time limit for parliamentary action expires. Will that allow sufficient notice for the instrument to go before Parliament in the following week if we decide to proceed with annulment?

The Convener: Yes. It would be more convenient to have the debate next week than to hold it in the following week.

Dr Murray: We will have enough on our plate on 19 September.

If we agreed that the instrument had to be annulled, action would have to be taken in Parliament within the next week. Is that correct?

The Convener: Yes.

Does the committee agree that we should lodge a motion—in the simplest possible terms—that the instrument should be annulled, and that a debate on that motion should take place at our next meeting, at which the minister will be present to defend the instrument?

Members indicated agreement.

The Convener: The wording of the motion

should state simply that SSI 2000/201 be annulled. Does the committee wish me to lodge that motion on its behalf, or does it wish a particular member to take on that responsibility? Alasdair Morgan suggested that I do that.

Mr Rumbles: I would not want any motives to be misconstrued, so I think that the convener should lodge the motion.

The Convener: I will lodge the motion on behalf of the committee.

Shellfish Poisoning

The Convener: At the beginning of the meeting, we agreed that we would return at this stage to item 1. We have moved through the agenda at quite a speed, and Rhoda Grant and John Munro have not returned from their meeting. I think we should take this opportunity to discuss the shellfish poisoning problem, given that it has appeared on our agenda several times.

A paper on the matter has been circulated. Does everyone have the briefing note to the Rural Affairs Committee on fishing closures due to shellfish poisoning?

Mr Rumbles: If there are spare copies, I would like one.

The Convener: Before we go on to discuss this item I should say that it is difficult to discern the marked areas on the maps in the paper.

Alex Fergusson: I had no idea that there were marked areas.

The Convener: If you look carefully, you will see that there are marked areas on the west coast.

Alex Fergusson: They do not show up on my copy.

The Convener: On the amnesic shellfish poisoning map I can see a marked area, but on the paralytic shellfish poisoning map I can see no marked areas at all.

Alex Fergusson: If I use some imagination, I can make out one or two areas, but that is all.

The Convener: I am told that there are one or two extra copies that are printed more clearly and can be read more easily.

Alasdair Morgan: Perhaps this is how the boundary changes to Scottish territorial waters got through.

Mr Rumbles: We have had that discussion.

The Convener: I am told that we do not have the spare copies.

Alex Fergusson: Is a huge number of boxes marked?

The Convener: If you look carefully at the ASP map, it is possible to make out the marked area. On the map referring to PSP, the area that is marked is around the Orkney Islands. If you compare the copy that I have with those that have been circulated, it is just possible to make out the marked area. Are members content that they understand the marks that should be on the maps? I do not know whether this is particularly relevant to the discussion that we will have, but we

should have the maps in front of us and a rough idea of the circumstances.

As I said, a briefing note has been circulated on the fisheries closures that result from shellfish poisoning. This issue has been put back on the agenda because it has been one of the committee's priorities. If I remember correctly, on 31 August last year we devoted the majority of our meeting to amnesic shellfish poisoning and took evidence from a number of parties. This issue has become relevant again, and has remained so to the committee, in the context both of the current closures and the on-going dialogue on the issue that we have had with the Deputy Minister for Rural Affairs during the past 12 months. Would anyone like to comment on the current situation or the briefing note?

Richard Lochhead: I would like to make a few comments. About 10 days ago I spent two days in Mallaig meeting representatives of the fishing industry and, of course, the No 1 topic was the current crisis that is the result of boxes being closed for scallop fishing because of ASP. I can assure the committee that that crisis is devastating for the industry. Those in the industry are pulling their hair out because of the difficulties that are caused by the crisis and because they have again to go through what they went through a year ago. We must remember that Scotland has 50 per cent of the European Union scallop industry and virtually all of the UK's scallop industry, so it is an important fisheries sector, particularly for the west coast and many of our smaller communities.

As I said, many scallop fishermen are pulling their hair out through sheer frustration because they find themselves in a similar position to that in which they found themselves a year ago. They feel, however, that the Government has not helped them to move any further forward. Indeed, many feel that one step has been taken forward but two steps have been taken backward and that many matters are worse than they were last year. Some scallop fishermen currently face bankruptcy.

However, as we speak, a meeting is taking place between Government interests—the minister in charge of fisheries and the Minister for Health and Community Care—and the industry. MSPs from the coalition parties are also invited. Unfortunately, despite the fact that I was the first MSP to call for such a meeting, non-coalition parties are not allowed into this afternoon's meeting. As a result, it is important for the committee to discuss the matter.

The current crisis has a number of ramifications. As I have mentioned, people are facing bankruptcy. The few boxes that remain open are subjected to fishing from many more scallop vessels. Furthermore, some scallop vessels have returned to fishing for prawns, which is another

sector that is having difficulties. Prices are low in that sector and its problems are exacerbated when more boats fish for prawns. That means that the scallop crisis has ramifications for the rest of the fishing industry.

As the convener mentioned, the committee took the ASP outbreak in our waters so seriously a year ago that it undertook a considerable investigation and published a report subsequently. Of course, certain issues remain outstanding, and I—and the industry—believe that little has moved since the report and last year's crisis, which has led to an exacerbation of the current difficulties.

Regulations could be introduced to allow tier testing, which would mean that a whole scallop could be tested for ASP. If whole scallops were found to be above the recommended levels, the roe could then be tested and if it were found to be above the recommended levels, the white meat could be tested. If even part of the scallop was marketable, some of the industry could continue to work. The fact that the issue does not appear to be progressing is causing the industry much frustration.

Furthermore, there is the outstanding question of compensation. The committee drew the Government's attention to the fact that, from 1 January this year, the Scottish Executive has the option of giving financial packages or compensation to our scallop fishermen. That option has not yet been taken up. I should point out that, as the crisis broke some weeks ago, pig farmers were being offered compensation for having to slaughter pigs that have swine fever. That has caused much anger among the fishing communities, as they have been continually refused compensation for being unable to fish because of health risks.

The committee should reconsider the issue. Indeed, I can see only one way forward. We should request that the minister in charge of fisheries and the Minister for Health and Community Care come back to the committee to tell us what has happened since last year and since we published our report—which we put a lot of effort into—and to find out how they can help the scallop industry get through this crisis. The crisis might, unfortunately, prove to be the straw that breaks the camel's back for the industry.

Mr Rumbles: On that last point, it might be helpful for the ministers to come and explain the current situation.

Alex Fergusson: I support that suggestion. My understanding of the situation—which I will admit freely is not very deep—is that, although quite a few issues have moved on considerably in the year since we discussed the matter, Government action has not moved on much. For example, we

have been told that compensation is never given for a problem that results from natural causes. However, I have read a lot in various journals about whether ASP is due to natural causes and I want to question how much work is being done to find out the causes of the disease. Therefore I strongly support Richard Lochhead's suggestion.

Alasdair Morgan: There is much frustration in the industry because it perceives that nothing seems to have changed since last year's crisis. The situation got better in the winter, as it does, but the problem comes back every summer. The industry feels that it has suggested reasonable proposals for end-product testing instead of whole-fish testing and believes that the Government's response has been dilatory at best. We need to find out from ministers whether they think that they are acting quickly enough. The matter affects a substantial number of onshore jobs as well as fishermen's jobs; this is a significant Scottish export industry.

15:00

Mr Rumbles: Ministers would be coming to the committee to reassure us that they are taking every action—it is important that we hear that.

Alasdair Morgan: Absolutely.

Des McNulty: I am quite happy with the proposal that the Deputy Minister for Rural Affairs, who has responsibility for fishing, should come to the committee to give evidence. However, there is also a health dimension to the matter. I wonder, therefore, whether it might be appropriate to invite a relevant specialist, such as a director of public health—someone whose status is equivalent to that of Sir David Carter, or whoever is the appropriate person. All that we would hear from the Minister for Health and Community Care would be the information that has been given to her department by the relevant experts, so it might be helpful for us to quiz directly somebody who has expert knowledge.

It might also be helpful to get some expert information on testing and on how the testing procedure has moved forward, if it has.

The Convener: It has been pointed out to me that, since we last discussed the matter at length—just over a year ago—the Food Standards Agency has been established. It might be appropriate to invite the head of the Food Standards Agency to answer our questions.

Des McNulty: It might not be appropriate for us to go through the full exercise that was undertaken previously. There might be three or four people who could give us the most relevant and useful information—the Deputy Minister for Rural Affairs, somebody from the Food Standards Agency,

somebody with a public health background and somebody who deals directly with testing procedures. Those people would be valuable to the committee, because they have been recording what is going on.

The Convener: The views of the committee were clearly defined when we reported on the matter almost a year ago. The questions that we want to ask this time are likely to be similar to those that we posed last time, so we need to invite the people who will be able to answer those questions. We would like particularly to ask about end-product testing, which is something that we recommended in our report, so we need someone who can tell us exactly why we could or could not progress in that direction. It might be appropriate to invite the head of the Food Standards Agency, accompanied by a relevant official.

Dr Murray: I support that suggestion. It is certainly disappointing to note that there does not seem to have been any progress made in discussions on end-product testing, despite a considerable period having elapsed since the report was put together. I see from the briefing note that the Deputy Minister for Rural Affairs—who has responsibility for fisheries—has indicated that he is willing to meet representatives of the industry. Perhaps we should ask him what plans he has to hold further discussions with the industry.

Alasdair Morgan: Is not a meeting taking place today?

The Convener: I think that it is.

Dr Murray: In that case, we should ask for a report from the minister on the nature of the discussions and on any action that he intends to take.

Richard Lochhead: As well as the Deputy Minister for Rural Affairs, we should invite the Minister for Health and Community Care, who would bring the FSA with her. She is, quite rightly, attending today's meeting with industry representatives and it would be useful to hear from the ministers responsible for both health and fisheries.

Mr Rumbles: As I shall explain when we come to the next item on the agenda, I would like to bring the Minister for Health and Community Care to the committee in relation to another matter, so we could deal with both issues at the same meeting. I understand what Des McNulty is saying and he is right to say that we should hear from the head of the Food Standards Agency.

The Convener: Does the committee feel that, if we are inviting the Deputy Minister for Rural Affairs, we should also invite the Minister for Health and Community Care?

Members: Yes.

Des McNulty: We should certainly invite the Deputy Minister for Rural Affairs, because he has responsibility for fisheries. I would also like to hear from specialists, but not simply as officers sitting alongside the minister. I would like to have the opportunity to ask officials directly about what is happening.

The Convener: I have reservations about that suggestion, because we have already gone through the process of asking for details about issues such as end-product testing and we have heard scientific interpretations. However, many of the issues that relate to the legality of end-product testing are political EU-wide issues and we need, therefore, to question somebody who is in a position of political responsibility and who can give us value judgments that are based on scientific views.

Des McNulty: I am sympathetic to that view, but I do not think that the two points of view are exclusive. We require a political answer as well as technical advice from the appropriate people.

Richard Lochhead: I agree with Des that there must be an array of expertise. The Deputy Minister for Rural Affairs would bring along scientists from the Marine Laboratory and the Minister for Health and Community Care would bring experts from the FSA. Communication between fishermen's organisations and the FSA is important and the health minister should be here to hear the industry's views.

Alex Fergusson: It is important that the FSA should be represented. One of the sad products of this whole sorry tale is that the industry seems to be losing faith in the Food Standards Agency—which is a pity so early in that agency's career.

The Convener: Would it be appropriate to invite the Minister for Health and Community Care and the Deputy Minister for Rural Affairs to discuss the issues surrounding the shellfish ban?

Members *indicated agreement.*

The Convener: We shall proceed on that basis at the earliest available opportunity.

Our final agenda item concerns future business. Members of the committee have copies of a rudimentary draft paper. I emphasise that nothing on the paper is written in tablets of stone; it is guidance for what might happen over the next few meetings. Members will also have an opportunity to raise any issues that are not in the plan, but which they think should be included. At this stage, I dismiss the official reporters.

15:07

Meeting continued in public until 15:19.

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