

RURAL DEVELOPMENT COMMITTEE

Tuesday 18 December 2001
(*Afternoon*)

Session 1

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RURAL DEVELOPMENT COMMITTEE

30th Meeting 2001, Session 1

CONVENER

*Alex Fergusson (South of Scotland) (Con)

DEPUTY CONVENER

*Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP)

COMMITTEE MEMBERS

*Rhoda Grant (Highlands and Islands) (Lab)
*Richard Lochhead (North-East Scotland) (SNP)
*Mr Jamie McGrigor (Highlands and Islands) (Con)
*Mr Alasdair Morrison (Western Isles) (Lab)
*John Farquhar Munro (Ross, Skye and Inverness West) (LD)
Irene Oldfather (Cunninghame South) (Lab)
*Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD)
Elaine Smith (Coatbridge and Chryston) (Lab)
*Stewart Stevenson (Banff and Buchan) (SNP)

*attended

WITNESSES

Nick Bailey (Scottish Executive Environment and Rural Affairs Department)
Neil Fleming (Scottish Executive Environment and Rural Affairs Department)
Robert Geddes (Solway Shellfish Hand Operator Co-operative)
Jim Smith (Dumfries and Galloway Council)

CLERK TO THE COMMITTEE

Richard Davies

SENIOR ASSISTANT CLERK

Mark Brough

ASSISTANT CLERK

Jake Thomas

LOCATION

The Hub

Scottish Parliament

Rural Development Committee

Tuesday 18 December 2001

(Afternoon)

[THE CONVENER *opened the meeting at 14:01*]

The Convener (Alex Fergusson): Ladies and gentlemen, welcome to this unusual setting for the Rural Development Committee. I should perhaps explain to our witnesses that we do not usually meet in quite such formal surroundings, but I hope that our proceedings will be as informal as possible. The other room in the Hub is so small that it is almost unbearable; this room may have the opposite problem. It is nice to have you with us. I make the usual warning that mobile phones should be switched off.

Subordinate Legislation

Inshore Fishing (Prohibition of Fishing for Cockles) (Scotland) Amendment Order 2001 (SSI 2001/449)

The Convener: For agenda item 1, I have invited witnesses to give evidence on one of the statutory instruments that we are considering under item 2. I welcome our witnesses: Robert Geddes of the Solway Shellfish Hand Operator Co-operative; Mr Jim Smith, who is a planning officer with Dumfries and Galloway Council; and Nick Bailey and Neil Fleming, who are Scottish Executive officials.

The agenda says that your name is Neil Fleming but the name-plate says Nick Fleming. Which is it?

Neil Fleming (Scottish Executive Environment and Rural Affairs Department): It is Neil Fleming.

The Convener: I apologise for the mistake.

Serious concerns have been raised by some hand gatherers in the Solway area that the order could result in the loss of about 80 jobs. I am sure that Mr Geddes will mention that in his presentation. We have asked this group of witnesses to speak to the committee so that we can make a balanced decision on the evidence that we are about to hear. I ask the witnesses to make a brief presentation lasting two or three minutes. We will allow time for questions from committee members, after which we will debate the subject.

Jim Smith (Dumfries and Galloway Council): I am a planning and environment manager for

Dumfries and Galloway Council. My council has been involved in the matter since about 1992, when the fishery was first closed to mechanical means of harvesting. My council has taken, and continues to take, an interest because it has an economic development role and is one of the agencies responsible for safeguarding the environment. The council has played a lead role in trying to bring together various interests both from the cockle-gathering side and from the environmental side.

We have been putting into place a management regime. On behalf of the Solway Shellfish Management Association, which has been set up to regulate the fishery, we are preparing to make an application for a regulating order so that the fishery can be managed locally. I am pleased to answer any questions on that issue. The council supported the proposal to close the fishery to hand gathering, because it considered that the stocks had reduced to such a level that further commercial exploitation was not in the best long-term interests of the fishery.

The Convener: Thank you, Mr Smith. I invite Mr Geddes to speak.

Robert Geddes (Solway Shellfish Hand Operator Co-operative): I quote from the letter from the newly formed co-operative. The letter is for the attention of the Scottish Parliament Rural Development Committee and refers to the closure of the Solway cockle fishery. It says:

“Dear Sir/Madam.

With reference to the above proposed closure of the Solway Firth cockle fishery as of 01.01.02.

Dumfries and Galloway cannot afford at this present time the loss of 80 major exporting jobs.

After the devastation to local businesses this year, due to the foot and mouth epidemic in Dumfries and Galloway, our county is still reeling from this disaster.

The five established businesses have worked hand in hand throughout this period with Scottish Enterprise Dumfries and Galloway to create a major selling campaign and to promote our region as a centre of excellence in our hand gathered live cockles. Our hard won foreign customers are now placing orders every week for our product.

It is one of the most sought after commodities in its field. Local businesses have repeatedly requested help from the Scottish Executive and Scottish National Heritage to have legal closed seasons and minimum landing sizes of 30mm, but to no avail over the past three years.

Recently we were told that we will have to close our established businesses as scanty scientific information has shown a marginal decrease in cockle stock.

If this down turn is to be believed and is so serious that the closure is the last resort why did the monitoring by F.R.S. not come sooner rather than later.

From this last statement therefore we must deduce that monitoring by the cockle bed must be more frequent

(monthly) funded by the Scottish Executive

F.R.S. information is a major part of the industry, it must therefore work hand in glove with the local established businesses and not work at arms length.

This is a desperate plea from the 80 hand gathering families and the 5 employers to allow the fishery to remain open under these special set of circumstances until 15th April 2002 or the businesses will be lost as we cannot survive after the foot and mouth epidemic."

I read that letter on behalf of our members.

The Convener: Thank you very much. Both the witnesses have been commendably brief. Would either of the gentlemen from the Executive like to comment at this stage?

Neil Fleming: Do you want me to make my introductory remarks, convener?

The Convener: Yes, please do so.

Neil Fleming: The Scottish Solway cockle fishery was closed to fishing vessels in 1992 and to tractor dredging in 1994 in the interests of the long-term viability of the cockle stocks and of the populations of birds and wildlife that are dependent on them for food. Hand raking on the Scottish side is the only fishing method that has been permitted since then. All cockle fishing has been banned on the English side of the estuary since 1993.

The Fisheries Research Services marine laboratory in Aberdeen has carried out annual analysis of the Solway cockle beds since 1989. The recommendation of its September 2001 report stated:

"There has been a dramatic fall in the overall biomass of cockles in the Solway since the last survey. Against a background of widespread decline in the cockle stocks on the larger grounds and generally poor recruitment it is recommended that the current closure remain in place and be extended to include all hand gathering activity."

We have been aware for a number of years of the efforts of fishing, environmental and local government interests in the Solway to move towards improved local management of cockles on both sides of the border through regulating orders and have been awaiting an application. We understand that the organisation formed to make the application, the Solway Shellfish Management Association, has recently appointed consultants to take the applications forward with community fund grant assistance. I understand that the work is due for completion at the end of January. We expect the application to suggest measures to control the fishery, through methods such as licence numbers, tonnage limits and minimum landing sizes. It is hoped that the regulating order will allow fishing in the future in a managed and controlled way.

Unregulated commercial hand gathering has grown substantially in the area in recent years and

the Executive has come under pressure to address the issue. For that reason, and because the success of any regulating order is dependent on a healthy stock, closure is seen as the only practical measure in the short term.

The Convener: How long is the closure order envisaged to last?

Neil Fleming: We intend to revoke the order once a regulating order is in place or when the scientific analysis of the stock shows that it is sensible to reopen.

The Convener: Does that mean when the management plan comes into being?

Neil Fleming: It means once the regulating order is made or when the science shows that it is possible to start fishing.

The Convener: How long will that take? Is the answer that you do not know?

Neil Fleming: I am afraid that, on both counts, we do not know.

Fergus Ewing (Inverness East, Nairn and Lochaber) (SNP): What is the Scottish Executive's estimate of the tonnage of cockles taken by hand gatherers over the past few years?

Neil Fleming: It is difficult to be precise about that. We have been aware of an increase in the number of hand gatherers over the past two or three years, but the amount taken is highly dependent on such things as the tide and the weather.

Fergus Ewing: Yes, but presumably you have obtained some sort of information about the quantity of cockles that have been extracted by hand gathering in each of the past, say, four years. You must have, otherwise you would have no real idea of whether it is necessary to make the order, because you would not know how many tonnes had been taken in the first place. I have certain figures, but I would like to see what figures you have so that I can compare them.

Neil Fleming: We have tried to make estimates. Hand gatherers do not need permits and do not have to make returns of the amounts that they gather.

Fergus Ewing: So what are your figures?

Neil Fleming: The estimates are very difficult. We have heard figures of 1,500 tonnes.

Fergus Ewing: When you say that you have heard figures, you must mean that those figures were given to you by somebody. If so, by whom?

Neil Fleming: There is a variety of different estimates from different groups of fishermen, from natural heritage organisations and from our own scientists.

Fergus Ewing: I am simply trying to extract a fairly straightforward piece of information. Does the Scottish Executive feel that it has information about the number of tonnes that have been taken by hand gatherers in the area over, say, the past four years?

Neil Fleming: The short answer is no.

Fergus Ewing: Right. Well, the Solway Shellfish Hand Operator Co-operative has that information. It tells me that, in 1997, when hand raking started again, between 500 and 600 tonnes were gathered. In 1998, the figure was 1,300 tonnes; in 1999, it was 1,500 tonnes. In 2000, nearly 2,000 tonnes were gathered. Those figures show an increase. However, in comparison with the estimates in the Executive note, which says that there is

“a reduction in overall Scottish biomass ... from 13,415 tonnes in 2000 to 6,467 tonnes in 2001”,

it seems that the quantities extracted by hand gathering are relatively small in relation to the estimated biomass. What I am puzzled about is how you have got such clear figures, down to the last unit of tonnage, in respect of the biomass, but apparently no figures in respect of what the hand gatherers are doing.

Neil Fleming: I shall let Nick Bailey answer that question.

Nick Bailey (Scottish Executive Environment and Rural Affairs Department): Our surveys are conducted entirely independently of the fishery. The reason why the figures given for the decline caused by hand gathering are different from our estimates is that most hand gathering takes place in the Mersehead sands and Barnhourie bank area, whereas our estimate is for the whole of the Solway—which our remit requires us to cover. We include places such as North bank and Wigtown bay. In our most recent report, we make it clear that at North bank and Wigtown bay there are declines that we cannot attribute straight away to hand gathering—natural causes are involved as well.

Some declines—especially those at North bank—are dramatic. The stock has declined greatly. We have reached the point at which the Mersehead sands area is one of the remaining areas of cockles that has the potential to restock most of the rest of Solway, or large areas of it. Mersehead sands is where most hand gathering is taking place.

Our information is not from fishery figures—I accept that. However, we must not concentrate solely on removals by a commercial fleet; we are considering the overall state of the population and we have to consider the wider implications of the decline in the cockle stock. We must ask whether

it is sensible to carry on exploiting that stock.

14:15

Fergus Ewing: I appreciate that this is a complex topic and that we received information on it only today. You have admitted that hand gathering is not necessarily the problem and you have admitted that you do not know the quantities that hand gatherers take, so how on earth can you be so certain that banning hand gathering is the answer?

Nick Bailey: Would you like me to carry on?

Fergus Ewing: Answer the question, if you can.

Nick Bailey: Our observations on various visits to the beach indicate that hand gathering is taking cockles from the beach. Various reports by other organisations have attempted to quantify the numbers of people entering the beach at different times, from which the typical amounts raised by an individual hand gatherer can be deduced. Total estimates of around 1,000 tonnes would not be unreasonable—that figure is in line with some of the figures that members have been given. However, the cockle population on the Solway is declining for all sorts of reasons and we are concerned that allowing exploitation is perhaps unwise. That is why the advice is as it is.

The Convener: Mr Smith has been keen to come in for some time.

Jim Smith: The difficulty of providing a clear answer to the member's question on how many cockles have been hand gathered is that no one knows. Hand gathering is completely unregulated. It does not need to be regulated in the current circumstances. No one is regulating the number of hand gatherers on the sands and no one is measuring the catch.

I have no reason to dispute the figures for hand gathering that have been given this morning. However, I can say with a degree of certainty that they may not be the only figures. During the early part of this year, a plea was made to local hand gatherers to come off the beaches to allow the cockles to spat during the spat season—in other words, to have sex and reproduce. It is obviously the height of bad practice to carry on a fishery during the spat season.

The local gatherers came off the beaches but, as soon as they did, other squads from other parts of the UK prosecuted the fishery. We do not know how many cockles they took off the beaches in that time, because no one required them to provide figures.

The veracity of any figure is questionable, because nobody knows. The fishery has been unregulated, which is why giving a straight answer

to the member's question is difficult.

Robert Geddes: As regards tonnage, we use movement orders for all our cockles. We get those orders from Dumfries and Galloway Council. The documents are there, in black and white.

Jim Smith: On that point, I have discussed with my colleagues whether information on the amounts of cockles is available. It is not. Through its environmental health department, Dumfries and Galloway Council provides an order that allows cockles to be shifted. It is not required that the amount of cockles that are moved, or where they are going, be recorded. Therefore, although we have records of when cockles have been transported, we have no record of the amount of cockles that has been shifted in that way. I have asked my colleagues for an answer to that, but we do not have the information.

The Convener: Mr Geddes, please lean forward into the microphone, as a few members did not pick up what you said. Perhaps you could repeat your answer to the last question.

Robert Geddes: You asked Mr Smith about a movement order. All the questions about quantities, destination and so on are on the form—everything that you require is there.

Fergus Ewing: It seems that we are being asked to ban an industry and axe 80 jobs on the basis that it is perhaps unwise to continue with it. That seems to be an abysmally insufficient basis on which to axe 80 jobs in rural Scotland.

Jim Smith: The figure of 80 jobs has been discussed. It could be higher than that or lower—we do not know precisely how many people have been engaged in the fishery, because of its unregulated nature. In any event, those jobs are likely to go as soon as the cockle stocks fall dangerously below existing levels and gathering cockles on the sands is no longer a viable commercial activity. Because of the unregulated nature of the fishery, the jobs are transitory. We will be able to manage the fishery in a sustainable way only when it can be properly regulated: when total allowable catches can be set; when the share of the fishery can be properly allocated among the various parties; when we know precisely how many cockles are coming off the beds; and when we can introduce a seasonal fishery.

With the cockle stocks at their current level, unless there is a closure of the fishery—if the unregulated hand gathering of cockles continues—we will return to the state that we were in in the early 1990s, when the fishery had to be closed to mechanical means. It took seven years for the fishery to get back to a state in which fishing could take place. I regret having to say that, because my council is conscious of the cockle-fishing jobs in Dumfries and Galloway and

the money that they generate.

The fishery will not be viable until we get proper regulation into place, which is being attempted elsewhere in Scotland. Until we can do that, the jobs will disappear of their own accord, because it will not be viable to pick cockles—there will not be enough cockles on the beds to make the job of picking them worth while. It is a hard job, which, when a certain level is reached, will not be worth doing.

Nick Bailey: I support that comment. The estimates from our survey indicate that the next two year classes—the young ones that are coming in from the year 1999-2000—are very small. Inevitably, there will be quite a gap in the flow of cockles.

Mr Jamie McGrigor (Highlands and Islands) (Con): You say that about 80 people are employed. However, I believe that the figure goes up considerably at special times. Those people make, on average, between £30 and £60 per day. I am told that about 2,000 tonnes of cockles are taken, which go to the buyers for export. The value of that to the local economy is about £2 million.

The Executive's note says:

"The Department awaits a formal application from the Solway Shellfish Management Association for a locally managed cockle and mussel fishery under a Regulating Order. This would allow the local management of a cockle fishery prosecuted by boats and hand gatherers."

Surely the point is that hand gathering is by far the most conservational mechanism, because hand gatherers tend not to take cockles under 30mm or more than 65 cockles to the kilo.

I know that the boats have grading systems, but there is no way of ensuring that those systems do not damage the cockles or of preventing everything being sucked up—big cockles and small cockles, including during the spawning season. The boats were banned first, in 1992, and the dredgers were banned in 1994. Surely if one is contemplating having local management and a regulating order, priority should be given to the hand gatherers, as they are the people who provide the most jobs in the local industry. At this stage we should not even consider reintroducing boats and dredgers.

An industry of this sort should be promoted on a sea-farming basis. It would be sensible for the spats from the areas in which it is not possible to hand gather to be taken to the areas where hand gathering is taking place. If we licensed the hand gatherers, we would have some control and would be able to know what was coming in and what was going out. I do not think that it is sensible to bring back dredgers and boats as part of a local management plan.

Jim Smith: I have a great deal of sympathy for what the member has said. However, we must face the fact that, in 1992-93, a number of fishermen were operating boats and making a living from cockle gathering. When the boats were removed, a number of tractor dredger operators made a living from cockle gathering. Those have since been sidelined and, because of the closure order, they have not been able to participate in the cockle fishery. When we began to put together the management plan for the fishery, we had to take account of the fact that in the early 1990s a number of legitimate fishermen were banned from pursuing their trade. If we had put together a plan that militated against them, that would have been subject to challenge. The fishermen would have had reason to object to the fact that the fishery was being reopened without their being able to play an active part in it. We had to take account of that in the management plan.

It is not proven one way or the other whether hand gathering is more environmentally friendly than either boats or tractor dredging. In 1998, Scottish Natural Heritage carried out a study of tractor dredging. We have taken account of the results of that study in the management plan. The study suggested that tractor dredging is just as viable and environmentally sound as hand-gathering operations, which can have fairly serious social consequences for communities that live along the coast. Such activities have been the subject of a number of representations from communities situated along the Solway coast. We understand that no such representations have been made about the activities of boats or tractors.

This issue is not cut and dried. In our management plan we have tried to take account of the various manifestations of the different forms of fishery, to ensure that the Solway cockles are shared out equitably if stocks return to a reasonable level. If a properly regulated fishery and TACs are to be put in place, those will have to be resourced and paid for. There will have to be some form of inspection, enforcement and monitoring on an annual basis. All the different forms of fishery will have to pay to some extent, either through licence fees or through a levy on the catch, to enable the fishery management regime to be established. The costs of that regime will have to be shared. If only hand gathering is to be permitted, the hand gatherers will have to fund the entire management system for the Solway.

Robert Geddes: I object to what Mr Smith said. I have been a fisherman for 30 years and I was part of cockle gathering when it was done with boats. Ten years down the line, we still cannot fish for cockles, because of the devastation that that caused the first time. Will no one learn the lessons?

My men and my sons have adapted from working with boats to hand gathering, which we can take on every year. We can harvest and manage it—it is a good resource that is worth looking after. Boats can work only six weeks a year, yet they would devastate the Solway firth, which is also a special place under European law. Dredging should never be allowed back on the Solway firth. You should not have to take another shot at it to learn the lesson from before. The environment will be lost.

14:30

Nick Bailey: I return to the figure of 2,000 tonnes. At the moment, in the area where densities can attract commercial gathering, the biomass is already down to just over 3,000 tonnes. Two thousand tonnes is a significant portion of that. We estimate that the overall biomass left in the Solway is about 6,000 tonnes, which is scattered widely among all the other grounds. We are talking about significant proportions being removed. In any of the other fisheries in the European Union, such figures would be laughed off the table. They would be dramatic proportions to remove.

As for the gear that is being used to exploit stocks, several places in the UK and elsewhere have hand-gathering, suction-dredging and tractor-dredging fisheries that operate successfully. The issue concerns the amount of effort that is exerted on a ground, concomitant with the amount of resource that is present.

Hand-gathering activity is assumed to be benign, but that is because people have not paid it much attention. Studies that were conducted at the University of Wales Bangor and reported on this year suggest that the damage that raking causes to the smallest spats and juvenile cockles is three times as high in areas that are unfished as it is in areas that are fished. The activity disrupts local populations of other organisms in the area about as much as some other methods, so it cannot be assumed that hand gathering is benign.

Mr Alasdair Morrison (Western Isles) (Lab): This is a subject about which I know. I have worked cockle strands informally since my boyhood and I know that people are trying to develop the industry in other parts of Scotland. I appreciate some of the questions that Fergus Ewing asked and why he asked them. I also appreciate some of the responses that officials gave, which relate to the unregulated and informal nature of cockle gathering. If the practice is anything like practice in other parts of Scotland, I appreciate why it is difficult to have a firm grasp of accurate figures.

Everyone round the table is of a mind on

achieving a sustainable future for the fishery and other fisheries. We must address the facts. If the fishery is being seriously depleted and scientific evidence justifies that position, the committee would abdicate its responsibilities if it did not take cognisance of the situation.

My questions relate to the science behind the assessment. Given the massive variable of the informal gathering of cockles, how often are assessments made? How many years back do they go? Can we plot a graph that someone without a scientific background can follow? Can that graph put into context the reality that faces the fishery?

Nick Bailey: Resources allow us to conduct an annual survey and that is what we are commissioned to do. We would love to do more surveys in the Solway firth. Most scientists would love to do lots of work in most places. The time series runs back to 1989. We can produce a graph—it is in the report—which sets in context where we are going.

I keep returning to the fact that we concentrate on the biomass. It is important to consider also the structure of the population. If the population has few large, old animals left, it has little potential for future recruitment. Future recruitment is the future of the fishery. I urge everyone to consider not only the headline biomass, but the general structure of the population. The report contains a time series to show in context where we are heading and there are accompanying tables indicating the age structures.

The Convener: Unfortunately, that report has not been circulated to the committee and members have not had the privilege of reading it.

Nick Bailey: I am referring to the marine laboratory report. I can make copies available to the committee. I am sorry that I did not bring enough copies for everyone today.

Mr Morrison: From your experience, if a fishery were to be closed, what would be the recovery rate? What would be the time scale for a proper sustainable recovery?

Nick Bailey: You will think that I am hedging the question, but I have to say that we know that the next two year classes are poor. Word from the area is that the 2001 settlement is pretty good. It would be unwise to open a fishery and assume that everything will be fine in two or three years' time on the strength of one year class. Ideally we would look for a more balanced year class. At the least, sustainable recovery would take two to three years; beyond that, it would depend on subsequent recruitments. That would still be shorter than the period of the last low cockle abundance, in 1989-90.

Jim Smith: I know that scientific evidence of cockle stocks will be important. In the management plan and the business plan for the Solway Shellfish Management Association—the regulatory body—we have indicated that we will carry out additional scientific assessment so that we have twice the amount of information annually. That will supplement the information that is already being gathered by the Scottish Executive team. It is important for us to know that we have the best information available before we set our management regime for the fishing season.

Robert Geddes: There are two points that I want to clarify. If the management plan allows boats to come in, it will give six boat owners 70 per cent of the TAC.

The Convener: With every respect, we are not really here to discuss the management plan.

Robert Geddes: We are talking about biomass. I believe that the drastic figure of a 52 per cent decrease that everyone has grabbed out of the air is wrong. In 1999, there was a 14 per cent increase above the average increase, which has been healthy since dredging stopped. The graph has shown a steady growth. In 2000, the increase was 25 per cent above the average. Now there is supposedly a sudden drop of 52 per cent. That means that we are back at the figures for 1998-99, when we were fishing for cockles with no problem at all. There were no threats of bans in 1998. The overall drop is only 14 per cent. We are above the 1998 figures and the decline is not as serious as has been made out.

Stewart Stevenson (Banff and Buchan) (SNP): I get the impression that we do not have an adequate case for approving the order today. The phrases that are being used, such as "not proven" and "not certain", demonstrate that. I hear that the stock is depleted on North bank and Wigtown bay, but that is not where the extraction is currently taking place. I have not heard of any link between the suspension of the current fishery for cockles and an improvement in the areas of concern—North bank and Wigtown bay.

I hear that on the southern bank of the Solway firth—the English bank—there is a total closure. What is happening there? I do not know, do not understand and have heard nothing about the migration patterns that might lead to cockles moving to North bank or Wigtown bay. There is considerable divergence on the numbers involved, because they are gathered in different ways—I accuse no one of bad faith in that respect.

We are looking at one issue, although it is important that we understand the background and the future intention for a regulated fishery. I cannot get my hands round what underlies the issue but, at this stage, I am supposed to ask a question.

How will the proposed closure of the fishery deliver a benefit to North bank and Wigtown bay? I understand that the whole firth is to be closed, but in essence the closure is of the fishery that Mr Geddes and his colleagues are working.

Nick Bailey: There can be no certainty about recoveries in any of the areas. It would be unwise for any scientist to make such predictions about any of the cockle stocks around Europe. Recoveries are uncertain things. It is unlikely that transfer of larvae would happen in any of the places that I have mentioned. The adult cockles do not move very much.

I suspect that there are strong links, or that there could be strong links, between North bank and the Barnhourie area. We do not know the answers to those questions—I will not pretend that we, or anyone else, do. However, these days, we are encouraged to adopt a more precautionary approach to our management of fisheries and of Scotland's resources. That transcends many of the fisheries into which we have input.

In the absence of knowledge, until now we have not stopped fisheries, but we have urged a precautionary approach. We have reached a point at which we need to impose a closure in order to give the cockle beds a chance. I accept that that is in the absence of a lot of knowledge.

Neil Fleming: What we think we know about the biomass of cockles is based on existing science. Research has shown that stocks last year were about 12,000 tonnes whereas this year they are down to 6,000 tonnes. Even if we use the figures that the gatherers are using of 2,000 tonnes per year, clearly that is a circumstance. Two lines on the graph are going in the wrong direction. We cannot sustain that and that is why the order has been introduced.

Robert Geddes: The TAC for last year was 2,700 tonnes. That was a conservative estimate—20 per cent—and we did not even touch it. It is unfair that the Executive should condemn us for taking less than its own figures show needs to be taken in order to close us down. The Executive cannot say that its scientific data show that we can take 2,700 tonnes and then close us down when we have got only halfway to that figure. That argument does not hold water.

Nick Bailey: The population has declined. If we had redone the estimate, the situation for this year would have been different. Any future management plan, whether it is run by the Scottish Executive or a local regulating order, will have to respond to changes. There will be occasions when the fishery will have to close.

Stewart Stevenson: My difficulty is simple. I have not yet seen a link established, even in terms of a projected explanation, far less a scientifically

rigorous explanation for the closure of the area that is currently being harvested and the restoration of stock in the area that Nick Bailey has identified is causing concern on the North bank and Wigtown bay.

I understand the precautionary principle all too well. We are looking at particular areas, but I do not see the linkage between the action that we are being asked to take today and the desired result, which is improvement in the North bank and Wigtown bay. If that linkage can be demonstrated, it will be possible to move me in the direction in which you wish me to move.

Robert Geddes: Nick Bailey said that big cockles do not move far, but cockles can move up to two miles. The Solway firth proves that, as its channels constantly change—this year, they moved a mile and a half in a matter of four months, from Carsethorn to halfway across to the east of Caerlaverock. We have seen cockles come in off the North bank two miles away from Gillfoot after a north-easterly gale. On the following day, we find 50 tonnes of live cockles lying on that beach under the sand. I fish there every day, whereas Mr Bailey is looking there 10 days of the year. Surely there must be a balance somewhere.

14:45

Nick Bailey: If that observation is true, I suggest that it supports my argument rather well. We should be looking after those areas because cockles are likely to move to other places, such as North bank.

I wish to pick up on the point about the precautionary principle. I was careful to talk about a precautionary approach. Had the approach towards the whole fishery been precautionary, the fishery would never have opened in the first place, because of the lack of information. The precautionary approach tries to be much more pragmatic.

Let us forget for a moment about the Mersehead sands area, where the fishery is taking place, contributing anything to North bank. What about the area where the fishery is taking place at present? Removals are high and are likely to be high compared with the existing biomass.

Stewart Stevenson: I was simply responding to the specific identification of the North bank and Wigtown bay as key areas of concern.

Robert Geddes: The cockles that we take are 30mm plus. They are old cockles; their removal does not affect rejuvenation—apart from the fact that the cockles are predators of the spat. That can be proved without a doubt by the French scientists whom we employed. They have 50 years' experience and they just work with cockles.

Their information is readily available—it is there for anybody to see. They work totally as cockle specialists, and we are working with their information. As far as we are concerned, SEERAD has given us information, but it is not conclusive.

Nick Bailey: We are beginning to get into the technicalities here. We have looked at the French scientists' papers, but they do not say that older cockles do not contribute at all to future recruitment. They say that efficiency is reduced, which we accept. Moreover, two-year-old cockles, which, in the French work, are expected to contribute a significant amount to the recruitment, enter the fishery. Substantial proportions of two-year-old cockles are more than 30mm. We have information from the commercial catch to show that. I am afraid that some of the observations made are not borne out by the facts for the population in question. I suggest that, in observations of what is a highly variable animal, with a biology that varies from place to place, comparisons with cockle populations in France or many other places are not always helpful.

Richard Lochhead (North-East Scotland) (SNP): This is a difficult issue for the committee. There seem to be two polarised views—and we received some of the paperwork only this morning. It seems that we are not moving from the position of minimal constraints, as voiced by the hand gatherers, to that of complete closure. For that reason, it is important that we have confidence in the science. I therefore ask why we are moving so suddenly to closure and why there is no provision for some in-between period.

We are not too sure about the economic impacts. According to the Executive notes, the fishery is worth perhaps £1 million. We are not sure, however, how many jobs will be lost, if any. Reference is made to the fact that the fishery is seasonal. How many people will go out of work?

I think that our papers say that five other consultation responses have been received from hand gatherers associations. One supported closure until the regulating order is made. What did the other four suggest? It appears that they suggested some sort of regulation, but the papers do not indicate what that was. Perhaps the Executive could comment on that.

In the scientific investigation, was there a margin of error to which we can refer? Is there any danger of displacement to other fisheries if the hand gatherers are not allowed to continue with their work? If so, what are the implications for the stocks of those fisheries?

The Convener: There are quite a lot of questions in there. Who would like to tackle that?

Neil Fleming: The issue is obviously highly complex. We know that hand gathering is

unregulated and that its incidence is increasing substantially—we think that it has been increasing for two or three years. I do not think that anyone suggests that it is not increasing. There is general agreement on that; even the hand gatherers agree. As Mr Lochhead said, a number of different hand gatherers groups are involved and they have different ideas on how the fishery should be managed. However, the increasing number of hand gatherers in a non-regulated fishery provides a good case for closure. Science shows that there has been a substantial decrease in the stock, which is trying to recover from the size difficulties of the mid-1990s. Because we do not have precise figures for the numbers that are involved and because the fishery is variable, it is difficult to give a precise answer.

The Convener: I am keen to make progress, because we are beginning to go beyond the allotted time.

Rhoda Grant (Highlands and Islands) (Lab): I am disappointed that fishermen and scientists are so far apart on the matter. I have a simple question. Both the area that is fished and the area that is not fished are monitored. What differences does the monitoring reveal?

Nick Bailey: Several areas are fished and several are not fished. Different populations have different characteristics. For example, Wigtown bay has an unfished population, in which there is a fairly broad age structure, although numbers of all ages have declined dramatically. The population of the North bank has declined dramatically and is now dominated by a small number of one-year-olds. In the fished area, the commercial year classes are predominant, although they are declining rapidly. Different areas provide different pictures—there is no consistent pattern, which is not unusual for cockles, as they are a patchily distributed organism with a biology to match.

Mr McGrigor: I have been to several aquaculture conferences at which the Association of Scottish Shellfish Growers pushed hard to provide jobs for communities in areas that are close to fishing grounds. It was repeated time and again that there should be coastal management of fisheries, which seems to me to point towards the hand gatherers' case.

I believe that second-year cockles are by far the most prodigious spawners. There are two spawning times in a year. A boat or mechanical digger cannot distinguish between cockles that are spawning and those that are not spawning, but hand gatherers can distinguish between them and can take the larger ones, which are not such prodigious spawners.

The FRS marine laboratory survey of the Solway grounds reveals some peculiar facts. In 1999,

there were 187 million first-year scallops. One would think that in 2000 there should have been fewer second-year scallops, but there were 304 million. In 1999 there were 101 million third-year scallops, but in 2000 there were 117 million fourth-year scallops. It appears to me that in some cases the figures increased. No scientific study has been done that justifies suddenly closing a fishery on that precautionary basis. In the areas that are not hand picked, there is no sign of the numbers improving. The hand gatherers do not seem to be doing the damage, so why should we pick on them?

Nick Bailey: I will answer the last point first, if I may. I do not think that anyone is picking on anyone. We are operating now on similar principles to the ones that we operated during the first closures in 1992 and 1994. At that time, there were few hand gatherers, but the decision was taken to close the fishery. We were aware that some hand gathering might take place and we were comfortable that, if it was at a low level, there need not be a problem. The issue was not legislated for at the time. However, the spirit of the advice was that there should be a closure and the stock needed to be looked after. We are in a similar position now.

The second question was about accuracy. Over time, the surveys have developed, enabling us to be more precise. The estimates are now plus or minus 20 per cent. That margin of error is not bad for most fishery assessments; for other species, 20 per cent is not bad. I also stress that the error is plus or minus. We could be overestimating the stock just as much as we could be underestimating it.

Mr McGrigor made a point about the table and the fact that numbers are apparently going up and down. That reflects the fact that different year classes coming through the fishery are big or small. From age 3 to age 4, there are big jumps.

Mr McGrigor: If there is a drop in the biomass in the first year, that drop will also show in the next year. Why are there more cockles in the second year?

Nick Bailey: Comparing biomass alone is not the only sensible way of considering the issue. The report also includes an indication of the quantities per kilometre squared. That is because, as Mr Geddes has pointed out, the grounds shift and change. From survey to survey, we are not able to survey exactly the same areas each time. The overall biomass figure is raised to the overall area for that year. A better figure is obtained by considering the abundance or biomass per unit area.

Richard Lochhead: How quickly could we make a regulating order?

Jim Smith: The Solway Shellfish Management Association has appointed consultants to prepare an application for the regulating order. The consultants are due to finalise their work by the end of January. We hope to be in a position to submit an application for a regulating order some time early in spring.

There could be a slight difficulty with that because we have to obtain consents from all the owners of the sea bed. We have the support of the Crown Estate commissioners for the work that we are doing. However, we are now aware that there are a number of barony titles on the northern shore of the Solway and we have to secure consents from the owners of those barony titles. There could therefore be a delay of a month or two in the work.

I hope that we will be submitting an application for a regulating order some time in spring, with a view to reopening a fishery—if it is possible with the number of cockles—some time in September.

Robert Geddes: All the hand gatherers have left the management plan. There is nothing in it for us. Under the plan, six boats will take the lot. We have advised Mr Smith that we have broken away. The regulating order could be three years away.

Neil Fleming: As I mentioned, we have not said that the opening of the fishery would depend on the order. It would depend on the science.

The Convener: I think that we are almost there.

Living in the area, I look at the issue with a certain amount of local knowledge—although not a great deal. This year's problems seem to have been caused not by the hand fisheries as much as by the number of hand fishermen that have come into the area from all over the United Kingdom. There were problems with the sheer numbers of people.

One of the strong local rumours is that many of the cockles that are gathered are taken to European cockle beds to reseed those beds. Can anyone confirm or deny that? If it is true, why do those beds need to be reseeded?

Robert Geddes: We cannot but deny that. My company has never sent away any cockles. If cockles are being sent to Europe, why are our own authorities not investigating? Nothing is proven.

The Convener: So you say that it is nothing but a rumour.

Robert Geddes: It is a rumour. Who can prove it? It is hearsay, which just tries to make the situation our fault. It is scaremongering—I do not believe it for one minute.

15:00

The Convener: We have had a full and thorough session, gentlemen; I thank you all for your evidence and for coming a distance to give it to us.

I ask the witnesses to retire from the table because we must now discuss how we wish to proceed. [*Interruption.*] We are about to consider the order—if anybody wishes to stay, they may do so. I asked only that the witnesses leave the table. It is my fault if there was a misunderstanding.

We move to consideration of the Inshore Fishing (Prohibition of Fishing for Cockles) (Scotland) Amendment Order (SSI 2001/449).

Stewart Stevenson: On the basis of the evidence session, it would be hard to approve the order today. I note that there is a time limit of 23 December, so we have a window, without compromising—

The Convener: We have to report back on 14 January.

Stewart Stevenson: I beg your pardon. It is my little brain. We still have a window though.

The Convener: I am sorry; it is 21 January.

Stewart Stevenson: I am confused enough already.

The Convener: I am looking at the wrong order.

Stewart Stevenson: We have a window within which we could ask that certain things be done. It is clear that the only way of securing a sensible future for the industry in the Solway firth is for there to be a management plan that reflects the current patterns of local employment, but there appears to be no prospect of that happening. The committee cannot instruct the council or the cockle fishers to act in any particular way. However, it is disappointing that there appears to be a breakdown between the council and the cockle fishers.

The committee should encourage both parties to get together as a matter of great urgency. They have a common interest in their local area and in this fishery. The alternative is that nobody wins. Although the committee has no power to compel the parties to get together, we should, as we usually do, encourage it.

The Scottish Executive, in introducing the order, has not made a robust case today. It has not presented evidence. I have heard conflict between one thing that officials are saying and another. The north bank and Wigtown bay have been mentioned as areas of concern, but I have not been given any comfort that the closure will address that issue. I would like a more rigorous understanding of the science. I would also like a

more rigorous understanding of the economic impact on the local community and the people who are involved in the fishery, who live and work in the local area. That is our primary focus. I am likely to support anything that puts control of a fishery—be it for cockles or anything else—into local hands. We should not allow the order to proceed as it is.

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): I have listened carefully to the evidence on both sides of the argument. Nobody seems to dispute the figures that have been presented to us, such as the fact in the Scottish Executive note that the overall biomass of approximately 13,500 tonnes in 2000 was nearly 52 per cent less in 2001. Paragraph 4 of the note states:

“it is safe to assume that hand gathering has contributed significantly to the biomass decrease and it is the prime source of cockle mortality for which there is a possibility of control.”

That is what we are talking about.

I sympathise with the fishermen, but we must be driven by the science that is available. It would be doing the industry a disservice if we ignored the evidence that has been produced. I disagree with Stewart Stevenson's conclusion.

Mr Morrison: We have to use the time that is available before we come to a view on 21 January. I agree with Stewart Stevenson that we are facing a difficult situation. I can appreciate the situation in which those who are prosecuting the fishing find themselves, and I can also appreciate the difficult position that the officials are in.

Without proper regulation, the question of the figures and the tonnage of cockles that is being removed from the areas concerned will always be subject to debate. In the context of other fisheries, we would use the word “misreporting”. I am not saying that that applies in this case, but unless we have a proper framework within which everyone can work, we will not have the definitive figures before us.

I confess that I am not familiar with the geography or the landscape of the cockle strands concerned. If it is at all possible in the time that is available, could we have further information on tidal flow and, if there is any, evidence on pollution and anything else that could contribute to cockle mortality?

The Convener: That would be helpful.

Mr McGrigor: I agree. I would like to see more scientific evidence; I have not heard enough to ban hand gatherers. The idea of a regulation order is a good one, but this kind of fishery should be pushed towards a natural farming system that respects spawning times and gets the best

possible added value from the catch. The easiest way to do that is by hand.

The Convener: My understanding is that that is the purpose of the management plan. The difficulty is how to regulate what is happening until the management plan comes along.

Mr McGrigor: Of course, the management plan refers to boats as well.

The Convener: Yes.

Rhoda Grant: Although the order is before us, we have been told that it will take some time to pull together a management plan because permission has to be sought from the people who own the seabed. I am a little concerned that there is a conflict there. How can all fishing be banned if that cannot be done without permission? It would be better to produce an order that reduced the number of people who are fishing, perhaps by restricting it to local people, who would need permits. I do not think that the science is behind the approach of banning all fishing, but I also cannot see how one type of fishing can be done with permission and one without permission.

Richard Lochhead: I agree. Clearly, the parties are poles apart. We will not get any new science before 21 January or our next meeting; that is a fact. We can use the breathing space, as has been mentioned by others, to send the *Official Report* of today's meeting to the people who responded to the initial consultation, and ask them to send in their responses to the issues that have been raised today. We could also encourage the Executive to host a meeting of all the concerned parties to see whether they can come up with a better solution between now and 21 January.

Fergus Ewing: I agree with Alasdair Morrison, Rhoda Grant, Richard Lochhead and Stewart Stevenson. I wonder whether Mike Rumbles was right when he said that no one had queried the estimates of the overall Scottish biomass. I thought that Mr Geddes had done precisely that, but perhaps I misheard his evidence.

There is talk of a management plan, but when I asked Neil Fleming when it was likely to come along, the answers became vague. I got the distinct impression that we will be waiting a long time—well over a year—and that the plan may never, in fact, arrive. That exacerbates my concerns, which other members share, that we do not have sufficient evidence to make any decision. If Richard Lochhead is right that that evidence will not be forthcoming by the end of January, that will remain the case.

I agree that we should send out the *Official Report* to all the consultees, of whom we have a list. I hope that that will happen. Perhaps we should have had from the Executive the report that

one of the Executive witnesses brandished today. It is unfortunate that we did not have that report. I am interested in why the Executive appears to be pushing dredging as an environmentally friendly possibility at the same time as proposing a ban. That is astonishing.

We should also have the opportunity to study the submissions that the consultees made. I am not sure that the Executive note canvasses the issue properly. The minister might wish to pursue Richard Lochhead's idea of a meeting between the minister and the industry. That is a matter for the minister. The matter for the committee is that we should make decisions only when there is evidence and when we are satisfied, as Alasdair Morrison rightly said, that not to make a decision might threaten the existence of cockles. If that were the truth, I think that we would all agree. However, we do not have the evidence.

The correct approach, in addition to all the other measures that have been suggested, would be to take evidence from the minister and to invite Mr Geddes to give evidence at the same session. We will certainly need further evidence from Mr Geddes after there has been an opportunity for the extensive consultation that we believe is still necessary. I would like the minister to give evidence, although there will be no opportunity for that until the new year. There are two opportunities then—on 8 January and 15 January. At the very least, we want the minister who is responsible for taking the decision to come to the committee, justify the decision and deal with the huge range of uncertainties and questions that have arisen from all members who have contributed.

The Convener: That probably meets the wishes of most committee members. We have a slight problem with circulating copies of the *Official Report* of today's meeting, because it will not be published until 9 January due to the recess. Circulating copies of the *Official Report* is probably a non-starter.

The last date on which we can discuss the matter is 15 January. If members agree, I am willing that we continue consideration of the order until 15 January and that we ask the minister to give evidence.

Mr Rumbles: We have just been informed that the *Official Report* will not be published until 9 January. We have only one opportunity to discuss the matter—on 15 January. That gives us six days. I do not see what purpose it would serve to delay the decision until then if it is not practical to do so. I would like some guidance on why you are proposing to do that if it is not practical to get any further information.

The Convener: Further information came into

my hands—and into yours—as we sat down for the meeting. We cannot pretend that we have had time to read or digest that information. My thinking is that we should take the recess to read that information.

There is also the marine laboratory's report. I do not think that any of us have seen it; I have not. That report obviously has a scientific basis. We are talking about making a decision based on the science. That is correct. The science that we need may be in that report, but we have not had the benefit of it.

Stewart Stevenson: In light of the fact that the *Official Report* will not be available until 9 January, I suggest that we invite the minister to withdraw the instrument and resubmit it when he has had sufficient time to consider the matter.

Richard Lochhead: Can we not speed up the *Official Report*? Are all *Official Reports* delayed until 9 January?

The Convener: I will have to ask the clerk.

15:15

Richard Davies (Clerk): The *Official Reports* of most of the meetings that are taking place today and tomorrow are due to be published on either 8 or 9 January.

Richard Lochhead: I am sure that we would be able to speed that up to ensure that the *Official Report* of this meeting is published first. The *Official Report* should not be sent to all consultees but only to those people who responded to our previous consultation.

The Convener: I do not know whether it is fair to put that question to the representatives of the official report who are present. [*Interruption.*] No, I do not think that it is—looks of horror all round. The clerk has just explained that, when we were dealing with legislation at stage 2, our *Official Reports* got priority. We are now at the back of the queue, because we are no longer dealing with legislation.

Stewart Stevenson: May I press my proposal?

The Convener: Your proposal is that we ask the Executive to withdraw this statutory instrument until—

Stewart Stevenson: For a month, for the sake of argument.

The Convener: Does that meet with the committee's approval?

Members indicated agreement.

The Convener: We shall ask the Executive to withdraw the instrument. By the end of the week, we will circulate to members any further

information that comes to hand. For example, there is an RSPB Scotland report, and we will lay our hands on the marine laboratory report.

Mr Rumbles: I am confused about what that means, convener. If we ask the Executive to withdraw the instrument, does that mean that we are taking a conscious decision not to approve it? I think that there is a distinction.

The Convener: Yes, there is. We are not approving the instrument, nor are we not approving it. We are asking for a month's delay, so that we can make a more informed decision in the light of information that will be circulated to members in the shortest possible time. We have now concluded our discussion of the Inshore Fishing (Prohibition of Fishing for Cockles) (Scotland) Amendment Order 2001 (SSI 2001/449).

Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuff) (Scotland) Amendment (No 3) Regulations 2001 (SSI 2001/435)

The Convener: The next statutory instrument is the Pesticides (Maximum Residue Levels in Crops, Food and Feeding Stuff) (Scotland) Amendment (No 3) Regulations 2001 (SSI 2001/435). No members have expressed a desire to speak to the regulations. Are members content with the instrument?

Members indicated agreement.

Beef Special Premium (Scotland) Regulations 2001 (SSI 2001/445)

The Convener: I see that Fergus Ewing is leaving the room. I am sorry to bring you back from what I know is probably a necessary exit, Fergus, but you intimated by e-mail that you had a small concern about the Beef Special Premium (Scotland) Regulations 2001 (SSI 2001/445).

Fergus Ewing: I was just going to speak to one of the witnesses.

I simply wondered whether we might invite the Executive to provide information to supplement its note. In particular, in paragraph 4, which deals with consultation, the Executive note states that the consequence of the waiver of the headage limit of 90 animals per age bracket

"may lead to an increase in animals claimed and thus increase the likelihood of a breach of the regional ceiling".

That is coupled with the introduction of a derogation to

"exempt the small producer (who claims 30 animals per year or less)".

I would appreciate further information from the

Executive about how the regulations will impact on farmers in general. The Executive may be able to provide further information on whether the instrument will lead to an overall increase in the payment, but paragraph 6 of the note seems to suggest that no additional burden on the industry is anticipated. It is not clear to me why that might be the case. I would like a little more information, as well as clarification of how the instrument will affect the farming community, especially small farmers.

The Convener: Are you suggesting that we should delay our decision on the instrument?

Fergus Ewing: No. I am simply asking the Executive to provide some further information on the points that I have raised. I am not suggesting that we should oppose the instrument or delay our decision.

Mr McGrigor: One is continually being pressurised into explaining why the beef special premium regulations apply only to male animals and not to heifers. I simply raise the point and ask the committee to acknowledge it.

The Convener: Is the committee content for me to write to the minister and to put those points to him?

Members indicated agreement.

The Convener: On that basis, are we content to approve the instrument?

Members indicated agreement.

The Convener: Does Fergus Ewing want to make a run for it now?

Fergus Ewing: No.

Sea Fishing (Enforcement of Community Satellite Monitoring Measures) (Scotland) Order 2000 Amendment Regulations 2001 (SSI 2001/448)

The Convener: The final statutory instrument today is the Sea Fishing (Enforcement of Community Satellite Monitoring Measures) (Scotland) Order 2000 Amendment Regulations 2001 (SSI 2001/448).

Richard Lochhead: When the regulation that these regulations amends came into force, it was quite controversial because the industry was asked to pay for the installation of the satellite monitoring equipment on the boats, whereas other European Governments were paying for that. That is why I am sceptical about the new instrument, which seems to gold-plate the regulations in the fishing industry in Scotland. That is an on-going concern that the committee has discussed many times.

Point 5 of the Executive note says:

"The European Commission is aware of the problems Member States are experiencing but we understand is unlikely to take action to address matters at a community level."

That is evidence that there will be gold-plating of the regulations in Scotland while fleets elsewhere in the EU will not be subject to such strict standards when their satellite monitoring equipment breaks down on the boats.

There is no information on how many boats have not been calling in manually over the radio every two hours when their equipment has broken down or have been making excuses for not reporting information, which are the factors that have supposedly caused the new regulation to come before us.

We might want to express our concerns about the instrument because the legislation involves costs. Indeed, the Orkney Fish Producers Organisation said that the frequency of manual position reports should be limited to four-hourly intervals because of the costs involved. The proposal is for two-hourly intervals, which would cost twice as much.

At the moment, the regulation applies only to vessels that are longer than 24m, but I am sure that, when the European Commission published its cod recovery plans for the next few years, it was suggested that the regulation be extended to smaller vessels. That means that the proposal before us today will end up affecting hundreds of boats.

I do not know whether the committee wants to write to the Executive with those concerns and ask for a response, or to hold back the instrument until we find out the answers.

Mr McGrigor: Richard Lochhead is quite right. The other member states subsidise the installation of the gear.

We must consider the safety aspect. If a vessel that is being monitored by satellite suddenly goes off the screen, that gives an indication that something might be wrong with that vessel. Satellite monitoring might easily save lives. I know that the various fishermen's associations have asked the Executive to consider funding the measure, which should be considered in relation to smaller boats, especially because it would bring about a vast improvement in safety.

Mr Morrison: I want to reinforce what Jamie McGrigor said about safety. As those of us who represent fishing communities know, safety is the No 1 priority for the skipper and the crew. I therefore suggest that we approve the instrument.

Stewart Stevenson: I agree with Richard Lochhead's argument on gold-plating. If the EU does not intend to take any action on the problems

that member states are experiencing until 2003 and that results in an unfair burden on our industry, I see no reason to proceed with it.

The implications for safety are evident. Boats have a wide range of safety provisions, including electronic locator beacons. Skippers of boats that are less than 24m long would not be prevented from installing that equipment if they wanted to. Like Richard Lochhead, I do not see the need to amend the existing regulation at this stage.

The Convener: I must have picked up Richard Lochhead wrongly. Did you suggest that we should agree this regulation?

Richard Lochhead: I put two options to the committee. If we have a mind to pass the regulation, we should also communicate our concerns about it to the Executive. Alternatively, we could postpone passing the regulation until we have a response from the Executive about our concerns. Either way, we should express our concerns to the Executive.

Rhoda Grant: I have no problem with indicating our concerns to the Executive, but we should not delay passing the regulation, which has obvious safety implications. We should do whatever we can to ensure that crews are kept as safe as possible. If we have concerns, we should make them in writing to the Executive.

Mr Rumbles: I support Rhoda Grant's comments, which are sensible. We should pass the regulation and make our points in a letter.

Richard Lochhead: For Rhoda Grant's benefit, I clarify that safety is not the purpose of the regulation. The Government believes that some skippers might not be calling in their position, with the excuse that their equipment has broken down, because they are fishing where they are not supposed to be fishing. The regulation is a policing measure, not a safety one. I am not saying that the Government does not care about safety, but that the regulation is a policing measure.

Rhoda Grant: I am aware that the regulation is not geared towards safety, but there are big safety implications in knowing where a boat is fishing. If skippers are not using their equipment properly and not following the laws, I am not of a mind to defend or support that, especially if that action could put their crews at risk.

The Convener: From a position of ignorance—being one of the committee members who does not know much about the fishing industry—I ask whether this is not a question of someone who has nothing to hide having nothing to fear?

Richard Lochhead: I do not argue with that. All that I am saying is that the regulation is an example of gold-plating. I expect that the committee would want to express the concern that

we are gold-plating in this country because we do not believe that Europe is coming up to the right standards.

Mr Rumbles: I refute the allegation that this regulation is gold-plating; it is not. The Executive note makes that absolutely clear:

"The existing Sea Fishing (Enforcement of Community Satellite Monitoring Measures) (Scotland) Order 2000 provides for the enforcement of, in and as regards Scotland, European Community legislation which requires fishing vessels over 24 metres overall length to be fitted with satellite monitoring terminals which provide ... position reports on a two hourly basis."

The problem arises when skippers report a malfunction in equipment, which is an obvious safety issue. It would be wrong for the committee to send out the message that the regulation is a gold-plating measure. The regulation is a measure to ensure that manual reporting takes place in the way that the regulation requires. Overall, as far as I can see, that is a safety issue.

Richard Lochhead: I want to draw a line under the issue. Do members agree that we should pass the regulation but write a letter to the Executive that expresses our view that other member states should adopt similar measures?

The Convener: I intended to suggest that. We should ask the minister to use his good offices to encourage other member states to come up to speed on this matter as fast as possible. Are members content to proceed on that basis?

Members indicated agreement.

Agriculture Research Report

The Convener: Agenda item 3 is the agricultural research report that we commissioned some time ago, on 31 October 2000. Members have a note from the Scottish Parliament information centre about the final draft. We are asked to accept the report and to agree on whether it should be published.

I hope that members had a good chance to read the report—which is in four volumes—over the weekend. Our bid for use of the parliamentary research budget was approved by the conveners liaison group and the Scottish Parliamentary Corporate Body. The report could be published as a report to Parliament by the committee. However, it would remain the work of the researchers and would be published in their name.

We could also send the report to the Executive with a specific request. We had a private briefing with the report's author some time ago, at which some members were present. The idea came from that briefing that if the Executive were considering any new scheme, it should perhaps run it past this report to see exactly what the new scheme's impact would be on agriculture. If we encourage the Executive to do that when we send it a copy of the report, we could ensure that the report would be of some use in future.

Are members content to publish the report?

Members *indicated agreement.*

The Convener: SPICE was certainly happy that the report is a sound and solid piece of work. We will publish the report and send it to the Executive with a polite request that it should refer to the report to determine the impact of any new schemes that might be under the Executive's consideration.

Amnesic Shellfish Poisoning

The Convener: Rhoda Grant, quite rightly, asked for the next item to be put back on to the agenda. She has been the committee reporter on amnesic shellfish poisoning for some time and has produced a second interim report on the subject. Members will have had circulated to them a copy of the reply that I received from the European Commission following our previous discussion of the matter.

15:30

This morning, I finally received a letter on the matter from the minister, Malcolm Chisholm, who is also answering on behalf of the Food Standards Agency Scotland. Members should also have received a copy of that letter. I am sorry that this is all so last-minute; the situation is not satisfactory and I am not terribly pleased about the length of time that the minister has taken to reply. However, that is perhaps a matter for another occasion.

I ask Rhoda Grant to speak to her paper.

Rhoda Grant: I wanted this short paper to be included on the agenda because representatives of the scallop fishermen have returned from a visit to the European Union. Their report is also attached and I thank them for making it available for our consideration.

One of the results of the visit was a possibility that the trigger level might be reconsidered if scientific evidence were provided to support that. As the fishermen have a very tight time scale in which to find that evidence, I ask the committee to agree to write to the minister to ensure that Fisheries Research Services is working alongside them and giving them the required assistance to put the information together and submit it to the EU by the end of January. That is why I wanted this item to be included on the agenda so quickly; if we are to do anything, we must agree to do it today.

However, I have not had a chance to read through the late papers. Yesterday, I also received a copy of the FSA's submission to the ASP working group. It is a large document and when I looked through it, it made little or no sense to me. Indeed, one would need to be a scientist to make any sense of it. However, I am happy to forward the submission to any members who want to read it.

The Convener: Thank you for bringing the matter back to the committee at such an opportune moment.

Stewart Stevenson: The proposal to lower the present limit of 20 micrograms per gram of domoic acid to 4.6 micrograms per gram will have a

substantial impact on the scallop industry. That industry is worth £16 million a year, and some people have estimated the costs of implementing the reduction at £6 million a year.

However, the real issue is the great gaping gap in the science. Nothing in the report suggests that anyone has ever suffered any illness at any time because of the current management regime. Does that mean that no people have ever suffered—which I believe to be the case—or does it mean that the scientists have simply focused on statistics rather than on operational outcomes? There would have to be a very strong case to cripple such a long-established and valuable industry—which is provably and visibly operated with a worldwide reputation for healthy products—by reducing the limit to 4.6 micrograms of domoic acid per gram. I simply do not believe the case for such a reduction. If the pressure to make it is coming from elsewhere, we should also address that issue.

Richard Lochhead: I support many of Stewart Stevenson's comments and express my thanks to Rhoda Grant for the information that she has continued to supply to the committee.

The industry finds itself in a ridiculous position. It is caught between a rock and a hard place. It can stick with the original regime, which closes down the boxes, or it can adopt the new regime, which opens the boxes but removes the markets for the product. The committee should ask how the industry has found itself in such a position. I suggest that we should ask for an inquiry to examine how a Scottish industry has been disadvantaged by the impossible constraints of regulations that have been imposed to prevent an illness that no one in this country has ever experienced. That is the bottom line.

The issue concerns how Europe relates to many of our industries. As well as calling for an inquiry into how we got to this ridiculous stage, we should pass the issue to the European Committee and ask it to examine Europe's decision-making network to find out how this ridiculous situation arose. In the meantime, we should ask Rhoda Grant to continue as reporter. Indeed, we need more reporters on amnesic shellfish poisoning, which is a serious issue that is moving up the committee's agenda. A group of reporters should work on the committee's behalf.

Mr McGrigor: I want to say basically the same thing as Richard Lochhead said. Setting the level at 4.6 micrograms of domoic acid per gram could easily close the industry for nine to 10 months of the year, which would put most of its vessels out of business. At that level, it is possible that some boxes might never reopen. The internationally accepted level seems to be 20 micrograms of domoic acid per gram.

It is also important that whole scallops can be sold because, in the meantime, the white meat market is being taken up by rather inferior scallop meat from Chile. The west coast of Scotland cannot afford to lose such an industry for no apparent reason.

John Farquhar Munro (Ross, Skye and Inverness West) (LD): I support the argument that there seems to be no justification for reducing the toxin barrier to 4.6 micrograms per gram. If we were to argue more strongly and ask why, given the fact that there is no recorded incident of such an illness coming into the human food chain, the level should be set at 4.6 micrograms, the scientists would suggest that the reason is that their regime has been set appropriately and is working properly. I do not accept that. I advocate strongly our not agreeing to the reduction.

Another anomaly that has bothered the committee for some time—it has been raised on several occasions—is the inequality of the testing regime. Some of our neighbours, such as those on the Irish coast, are able to test scallops differently. That has always annoyed committee members and it has caused much distress to the people in the industry. We have been unable to get a clear understanding of why one regime tests to one standard, while another is allowed to do something different. When people question that, the reason that is given is that we need to comply with the EU directive. Why is the EU directive applied differently in neighbouring countries?

Mr Morrison: As a number of members have said, the reduction from 20 micrograms to 4.6 micrograms per gram cannot stand up to any kind of scrutiny. The committee's efforts should not be directed into an unnecessary inquiry.

I look for guidance from the convener and the clerk on the ways in which the committee can influence those who make the decisions. We might approach members of the European Parliament or the European Committee. This committee should focus its attention on those individuals who can do something for what is, as Jamie McGrigor said, a vital part of the Scottish economy.

Mr Rumbles: I agree with John Farquhar Munro and other members. We first considered the issue two years ago, yet the matter continues. I said then that I would like Scotland to use the Irish test, because it seems that the Irish are far better at testing than we are.

Nonetheless, I offer a word of caution: I was a bit alarmed by members' earlier comments. I would not want the committee to be brought into disrepute by its assuming that there is no such thing as amnesic shellfish poisoning. Amnesic shellfish poisoning exists and it causes harm, which is why the regulations exist. Although I

agree that we must consider carefully whether there is a need to reduce the test level, I am not especially in favour of that. It will ruin our argument if we start to pretend that amnesic shellfish poisoning does not exist. I hope that we have not gone that far.

Mr Morrison: Perhaps I can assist Mike Rumbles. I am reliably informed by fishermen colleagues that one would have to eat about 36 scallops at the 20-microgram level in 30 minutes to be at risk. I would happily serve that meal to Mike Rumbles. It would be an incredible achievement for any human being to devour 36 scallops in 30 minutes.

Mike Rumbles makes a valid point. One or two incidences of amnesic shellfish poisoning would have a detrimental effect on a fishery. However, the 20 microgram limit is sensible, and there have been no recorded cases of human illness. I challenge Mike Rumbles to eat 36 scallops in half an hour.

The Convener: He often claims to be capable of great feats, but I do not know whether he would manage that one.

Mr McGrigor: It would be quite an achievement if he paid for the 36 scallops.

The Convener: We are getting off the subject slightly.

Fergus Ewing: The letter that we have received from the Minister for Health and Community Care, Malcolm Chisholm, to Rhoda Grant comments on the issue of scientific evidence to which members have referred. The letter states that the evidence on which the decision was based was kept secret until recently. The minister acknowledges that fact by saying that there can be an informed debate only now that the information has been made available. We are in the absurd position of a minister admitting that a decision has been made by the Standing Veterinary Committee in Europe without there having been the possibility of an informed debate. That statement is contained in the second paragraph of page 2 of the minister's letter.

Rhoda Grant has referred to the report that has been received, a copy of which Hugh Allen showed me last week. He said that he could not understand it. One would need to be an advanced mathematician to understand some of the formulae. The report starts by providing a mathematical model that showed that there was a one in 1,000 chance of there being any scallops that might exceed the current test level of 20 micrograms of domoic acid per gram. The evidence—such as it is—has come from mathematicians rather than from people in the industry and it has been kept secret. I find that quite extraordinary. It brings the activities of the

SVC into disrepute.

Richard Lochhead's suggestion—that there be an inquiry into the way in which such a decision has been made—is valid. I have discussed the matter with people such as Hugh Allen and Duncan MacInnes in the Western Isles, and it is clear that the impact on such areas, including my constituency on the west coast, will be substantial. We have come to a pretty pass, with a decision that seems not only to be unjustified, but to have a total lack of support from other member states. According to one fisherman to whom I spoke at the meeting, the Republic of Ireland did not seem to be aware of the consequences that the decision might have. That may or may not be true. However, that begs the question whether the Republic of Ireland was lobbied by either the Scottish Government or Her Majesty's Government, in order to obtain support from another country that one expects would be seriously affected if the new regulation came into force.

There should be an inquiry. Given the importance of the topic, I hope that the work that Rhoda Grant has done can continue and be supplemented by members from other parties. We should also take up Richard Lochhead's second suggestion that an additional rapporteur or rapporteurs should be appointed.

Finally, I agree that Rhoda Grant's initial point should be supported. We should continue to adopt the unanimous approach that we took when I chaired the meeting of the committee on 23 October. We expressed our concerns unanimously to the minister at that meeting.

15:45

Rhoda Grant: I want to respond to some of those comments. I agree that the science does not back the action that has been taken. As far as I understand it, the science is based on mussels, which are quite different from scallops—that is where the problem lies. The fishermen are concerned because the science is not being properly examined.

I must pay tribute to Mark Brough who has done a lot of work on this. He has reminded me that fishermen are keen to have a public health risk assessment on scallops. They need funding and support for that. We should include that point in our letter to the minister.

It has come across loud and clear that when the European Committee considered the matter, it did not take a risk assessment perspective, but considered the science. However, the science is not complete.

Other members talked about the testing

regimes. Our current testing regime is reasonably close to the Irish testing regime, although it was not similar when we began investigating the topic a couple of years ago. The reason why it has moved closer to the Irish regime is that the whole subject has been considered by the EU. Our testing regime will be monitored by the EU in the spring. A decision must be made about whether we go back to the old regime or move forward on the new regime. I understand that a consultation on that will be carried out in the near future. That must move on before the European Committee rubber-stamps a decision.

Secret submissions were referred to. The Food Standards Agency told me that it did not have any problem about making its submissions public. However, other EC countries had made confidential submissions and the FSA was therefore unable to release those until it had permission to do so. I think that the agency has now received that permission.

I do not mind having an inquiry, but it will not solve the problem. At the end of the day, the decision will be rubber-stamped at the end of January. We do not have time to hold an inquiry. We must give backing to the fishermen and put pressure on the Executive to make available resources to the fishermen to do the work that they need to do before the end of January. We can hope that at least we can vary the trigger level, which is causing a huge amount of concern.

Richard Lochhead: I would like to make two proposals in response to comments that have been made. An inquiry by the European Committee—which I would like—will not help the scallop fishermen in the foreseeable future. However, it is an example of a problem that we do not want to happen in any other industry. For that reason there is a strong case for referring the experience to the European Committee and asking it to conduct an inquiry into the decision-making process in Europe and how that relates to the Scottish ministers. For many people, particularly scallop fishermen, the European decision-making process is a big maze. The industry may go with a plea to change something, but the proposal disappears and then comes out at the other end in the form of an anti-Scottish proposal that is bad for the industry. That is what has happened in this case and we should learn from that. We should ask the European Committee to conduct an inquiry to see what lessons can be learned.

The other issue is the immediate problem of what the committee should do. I suggest that we appoint one or two additional reporters to work with Rhoda Grant to produce an action plan for discussion at one of our future meetings.

Rhoda Grant: I would welcome the appointment

of other reporters. However, I must emphasise that I need the committee to make a couple of decisions on the points that I have raised. If we wait until the new year, we will have missed the window of opportunity. The scientists for whom the Scottish Executive is responsible should do everything possible to assist the fishermen and we should urge the Scottish Executive to make supporting funding available to the fishermen or to a public body to carry out a public risk assessment for scallops, to determine whether they pose a danger.

The Convener: We have three decisions to make. First, does the committee agree to the suggestions that Rhoda Grant has just made?

Members indicated agreement.

The Convener: I thank Rhoda Grant for her report, and Mark Brough for helping her to produce it.

Secondly, Richard Lochhead suggests that we ask the European Committee to conduct an inquiry into the issue so that we can learn lessons for other sectors of the industry.

Richard Lochhead: I would like the European Committee to consider the decision-making processes and the relationship between those processes, Scottish ministers and the industry.

The Convener: I see no great difficulty in our asking the European Committee to do that. We cannot force the committee to do it, but there is no harm in asking. Are members content with Richard Lochhead's suggestion?

Members indicated agreement.

The Convener: Thirdly, we need to decide whether to appoint other reporters. Rhoda Grant has intimated that she has no problem with that. Does any member wish to nominate another member as a reporter?

Mr Morrison: I nominate Jamie McGrigor.

The Convener: Would you be happy to serve as a reporter, Jamie?

Mr McGrigor: Certainly.

Richard Lochhead: I nominate Fergus Ewing.

The Convener: Do members agree that Fergus Ewing and Jamie McGrigor should be appointed as reporters, alongside Rhoda Grant?

Members indicated agreement.

The Convener: That sounds like a very happy trio.

John Farquhar Munro: Before we move on, convener—

Mr Rumbles: Would John Farquhar Munro like

to be nominated?

John Farquhar Munro: No—I have enough to do.

I would like the reporters to consider an anomaly. I understand that on the south coast—that is to say, the English channel coast—there is no testing regime for shellfish or scallops, because the testing agencies are in dispute about who should pay for the test. At issue is whether the test should be paid for by local authorities or by the testing agencies. As a result, scallops are being landed there without being tested.

The Convener: That would be a very good starting point for the reporters.

Work Programme

The Convener: Item 5 on the agenda concerns our work programme. Three of the four work programme reporters met last week. Members should have received a paper in my name—it is the pink paper entitled “Work Programme: Early 2002”.

In the summary at the end of the paper we ask the committee to

“Note the legislative requirements which limit the time available for other work”

for the first five or six weeks of the new year and, possibly, beyond.

We also ask the committee to

“Agree that an inquiry into Integrated Rural Development should seek to identify the barriers to successful Integrated Rural Development”.

We felt that rural development is such a wide issue that it would be impossible to hold an inquiry into all of it, but that it might be useful to attempt to determine where real barriers to successful integrated rural development exist. That would be a positive step forward.

Members are asked to

“consider communities that the Committee might visit in connection with the inquiry, for discussion on 8 January 2002”

and to

“Consider the appointment of an adviser for the budget process, starting in March.”

Those who were members of the committee last year will recall that we were late in doing that and it proved impossible to find somebody. Action has been taken to avoid that situation recurring and Arthur Midwinter has been appointed as a standing adviser to the Finance Committee. He will be able to give some assistance to subject committees if they cannot find a specialist adviser. Last year that proved very difficult.

Finally, the committee is asked to

“Agree the programme of business attached.”

A chart on the back page of the paper sets out approximately our work programme up to the Easter recess. Are members content with the paper? Comments would be very welcome. No comments would be even more welcome.

Richard Lochhead: This may be an appropriate opportunity to raise foot-and-mouth, especially following the evidence that we took from officials last week. I do not know what other members feel, but I believe that we did not have time to reflect on what we heard from the officials. I would like the Minister for Environment and Rural Development to appear before the committee so that we can

discuss with him the 21-day proposal, which is causing so much concern. I know that, following representations from constituents, many members of the committee are concerned about the proposal. We should discuss our concerns directly with the minister before the end of January, which is the deadline for making a decision on whether the temporary regulation should become permanent.

The Convener: The impression that we were given last week was that the end of January was a decisive date with regard to the 21-day rule. My concern is how we would fit the minister into our timetable, given that we are pretty busy in those three weeks. How do other members feel on the subject?

Stewart Stevenson: I feel quite strongly that we should do as Richard Lochhead suggests. The issue concerns many people in farming communities throughout Scotland and the minister should come before us to account for himself.

The Convener: A Scottish statutory instrument will have to be laid to implement any regulation. Would not that be a more appropriate time to have the minister appear before us?

Richard Lochhead: I see what you mean, but we are trying to influence the content of the SSI. It would surely be possible to meet the minister for 40 minutes at the end of one of our meetings.

Rhoda Grant: I agree with Richard Lochhead. If we wait for the SSI to be laid, we will have no opportunity to influence what is in it.

I am a wee bit concerned because I understood that the 21-day rule was not going to be made a permanent regulation and that the situation would remain unchanged until the results of various inquiries had been received. I would be concerned if I had missed an indication that the 21-day rule was going to be made a permanent regulation.

Fergus Ewing: I understand from the Executive's written evidence—members may correct me if I am mistaken—that the chief veterinary officer, Leslie Gardner, anticipates that the rule will remain in place until the outcome of the inquiries, which is expected to be in the autumn. That would be a serious situation. The only possibility that Mr Gardner talked about was that a separate regime might be introduced for various types of livestock, such as cattle, but even then, the situation is unclear.

If the situation is that we will have to wait until autumn for something to happen, the case that Richard Lochhead and Rhoda Grant made for having the minister appear before the committee is even more compelling. We know how many people will express their views about the need for an independent inquiry when they march in

Edinburgh on Sunday.

I had the pleasure of visiting Stornoway at the weekend, as Alasdair Morrison knows, and participated in a discussion with the Lewis and Harris sheep producers association at its annual general meeting. There seemed to be a feeling among some of the audience that there should be an independent inquiry.

There is an overwhelming case for having the minister appear before us at the earliest opportunity.

Mr Rumbles: There seems to be a little bit of confusion. Earlier, the convener said that he thought that an SSI would be laid. However, when I questioned the civil servants last week about the legal authority for maintaining the 21-day rule, they referred to the general provisions of the Animal Health Act 1981—that can be checked in the *Official Report*. I was disturbed by that because, while everyone accepts that emergency situations require emergency measures, it seems that there is a reluctance to ease up the emergency measures. It is important that we have an opportunity to ask for clarification.

Rhoda Grant: I think that we should ask the minister to come and give evidence. Perhaps we could also ask a Government scientist or even an independent scientist to come. We must consider alternatives to the 21-day rule, such as keeping animals in quarantine, away from other animals. Such biosecurity measures would not affect the movement of other animals on a farm. We must build a case. There is little point in our saying that we want rid of the 21-day rule full stop. We need to consider other options that provide the same security as the 21-day rule, without the inconvenience to farmers.

16:00

The Convener: Thank you.

Mr McGrigor: I want to comment on the work programme.

The Convener: Can we lay this topic to rest before we begin another? If we are going to influence the decision, we must debate the subject before the instrument is laid.

Mr Rumbles: Which instrument are you talking about?

The Convener: Sorry, you said that there was not going to be an order. Anyway, if we wish to influence the decision that is to be taken on the 21-day rule, we must consider the matter before the end of January. I suggest that we invite the minister to the meeting on 15 January and explore the regulation, which has raised many concerns.

Fergus Ewing: If the minister declines to accept

the invitation that we issued to him earlier to withdraw the inshore ban on cockle fishing, we should ask him to speak on that topic, too. If he is determined to proceed, there is a strong feeling that he must have a better scientific basis. Perhaps it would be appropriate to give the minister notice that if he is not inclined to accept our unanimous invitation, we would like him to address that issue at the committee meeting on 15 January.

The Convener: I presume that that would be in order, on the ground that if the minister chose not to accept our invitation to withdraw the order, someone would lodge a motion to annul it, in which case he would have to come and explain it. That would not be difficult.

Mr Rumbles: On 15 January we are taking evidence on the community right to buy in relation to the Land Reform (Scotland) Bill. That is a hugely important issue. We are also considering the budget adviser and a programme of visits. We are now asking the minister to give evidence on the 21-day rule and the cockle fishing industry.

The Convener: I appreciate what you are saying, but where else can we fit it in? We have a busy schedule.

Mr Rumbles: We have made an assumption that it is important to see the minister before the end of January. I question that. I do not see the time barrier on the 21-day rule being the end of January. Perhaps members could clarify that.

The Convener: We have already agreed the situation. I am sure that the *Official Report* of last week's meeting will show that considerable importance was given to the end of January in relation to the 21-day rule.

Mr Rumbles: I am just asking why.

Rhoda Grant: Perhaps we can find out whether an instrument will be introduced in that time scale and when we need to speak to the minister to influence the decision. At the meeting of 29 January we will consider an outline report on land reform and we might have more time to give better consideration to the matter at that meeting, if the time scale allows.

We could decide now that, if time does not allow, we should go along with the original proposal of taking evidence on 15 January.

The Convener: We will try to find out whether we can do that by the end of the week. Do members agree that, if time allows, we will consider this business on 29 January, but that, if time does not allow, we will consider it on 15 January?

Stewart Stevenson: The issue of liberalising movements on farms is pretty urgent. We want to

give as much time as possible to getting an Executive response following our meeting with the minister. In the spring, farmers will once again want to move stock around. We should avoid even a fortnight's delay if we can reasonably do so.

Mr Rumbles: How much time would that leave us to consider the important issues of the community right to buy and land reform legislation? I am concerned. We decided originally to take evidence in three sessions, to emphasise how important it is for the committee to address those issues. Every time we decide on a work programme, members raise an issue that is important to them. All the issues are important, but we will not get another shot at the ones that I have mentioned, whereas we will get another shot at addressing the 21-day rule.

The Convener: The crux of the matter is that we must ensure that we will get another go at addressing the 21-day rule and that we will be influential in the decision making. I suggest that we ask the clerks to determine whether our feelings can be taken into account if we take evidence on 29 January, or whether we will have to take evidence on 15 January to be able to influence the Executive's decision. I appreciate what members have said. I would have preferred there to be no items of business apart from the land reform evidence for the first three meetings in January, as it is crucial to the people of Scotland that we make a proper job of that inquiry. I ask members to leave it to the clerks to determine the time schedule.

Stewart Stevenson: I agree with Mike Rumbles that the land reform inquiry is important, but the 21-day rule issue is urgent.

The Convener: Are members content with my suggestion?

Members indicated agreement.

Mr McGrigor: I am concerned that neither this committee nor the Justice 2 Committee is taking evidence on land reform from witnesses from any estates, whether publicly owned, community owned or privately owned. That is ridiculous. Those are the people who will be affected most. It is extraordinary that this committee and the Justice 2 Committee have not considered that they should take such evidence.

Mr Morrison: Perhaps I can assist Jamie McGrigor. The Justice 2 Committee will take representations from the Scottish Landowners Federation and we will view two publicly owned estates.

Mr McGrigor: Some people may consider that that is enough, but I do not.

The Convener: I have great sympathy with what you are saying. We agreed to the list of witnesses

last week. Members may receive information from other organisations and the whole procedure is open to written evidence. Given our tight time schedule—

Mr McGrigor: That is another point. The schedule is far too tight on an issue that is of such importance.

The Convener: I have sympathy with what you are saying, but it is not up to me to determine the schedule. We have been given that schedule and we must act within it.

Mr McGrigor: Can I raise a point of protest about that?

The Convener: You have done exactly that by saying what you said.

On the detailed programme, we have discussed the foot-and-mouth restrictions and will try to work that in. On land reform, we asked Simon Fraser whether he could recommend a witness. He has recommended Maggie Fyfe from Eigg, whom he deems to be highly suitable. If members are content with that, we will go along with his suggestion.

Mr McGrigor: Will we take evidence from someone from a private estate?

The Convener: No. We agreed that last week.

Mr McGrigor: If we are not, why not?

The Convener: We agreed that last week.

Mr McGrigor: In that case, may I again protest?

The Convener: You have just done so.

Mr McGrigor: For the second time.

The Convener: We will go away on 21 January. I seek confirmation that we have reached agreement to visit a farm near Aberfoyle belonging to one Fergus Wood, who may be known to some members, in connection with the access rights area of land reform. Are members content with that location?

I also seek confirmation that our meeting on the same day will be held—subject to final confirmation—in the village hall at Gartocharn. Are members happy with that location?

Despite the protest that has been made and which has been registered, are members content with the work programme?

John Farquhar Munro: We drew up a list of witnesses last week. I understand that a gentleman from Grantown-on-Spey, Mr Jack, has since been invited to attend. Is he coming himself? I understand that he might have support with him, but that the attendance of the other people has been refused.

Fergus Ewing: I was not aware that there had been refusal of any persons to accompany Mr Jack. I would hope that Mr Jack could have someone with him who could also contribute. I do not think that it would take up more time were someone else to attend. I know that the local councillor involved, Angus Gordon—whom John Farquhar Munro also knows, I believe—is familiar with the issues and has had a long association with Hamish Jack and has supported the case that Mr Jack and his colleagues are arguing. His experience on Highland Council over the years makes him well able to make an extremely useful contribution to the discussion, as John Farquhar Munro will know better than I do.

I hear whispered discussions taking place among the clerks. I hope that the result is that we can adopt an inclusive approach towards what will be a first opportunity for the people involved to put their case. Inverness-shire is a crofting county and that is sometimes forgotten. This is an opportunity for us to hear arguments that, until now, have not been aired before the Scottish Parliament. I am pleased that John Farquhar Munro has brought the matter to the committee's attention.

The Convener: The last thing that I want to be in this evidence-gathering exercise is exclusive, but I am aware that if everyone who comes along to the meeting brings two other people with them, we will have a much larger number of witnesses. However, I would be sympathetic to the suggestion made and to the Scottish Landowners Federation's bringing an estate owner with them, if members feel that that would help balance the evidence. I am slightly uneasy about everybody having two witnesses with them, however. That would give us 12 witnesses instead of six, which we had agreed was a reasonable number.

Mr Morrison: Convener—

Mr McGrigor: But convener—

The Convener: Hold on—I call Alasdair Morrison.

Mr Morrison: I appreciate the fact that Jamie McGrigor is genuinely exercised about the non-presence at the meeting of a private estate owner. If the SLF or Mr McGrigor himself were to identify an appropriate estate owner, I would be relaxed about that. I do not see why the arguments being promulgated by the SLF could not be reinforced by such a person if the approach suggested by the convener is adopted.

The Convener: Thank you for that. That was helpful. Are members content with that?

Members indicated agreement.

Mr McGrigor: I agree with the proposal.

The Convener: I am glad that Jamie McGrigor

and Alasdair Morrison, of all the committee members, have reached agreement on that. That is splendid.

Do members have any other comments on our work programme? It will turn out to be busier than is indicated and it is already busy enough. It will be a busy 2002, just as it has been a busy 2001.

Fur Farming (Prohibition) (Scotland) Bill: Stage 1

The Convener: Item 6 is consideration of supplementary written evidence at stage 1 of the Fur Farming (Prohibition) (Scotland) Bill. Following our request for further evidence on animal welfare, members have received further detailed submissions. A couple of additions arrived very late and have been e-mailed to us. Copies were sent to members today. Do members want to comment on the submissions?

Mr McGrigor: I have not had time to read them properly.

The Convener: I am sure that you have not—nor have any of the rest of us, it must be said.

Mr McGrigor: So how can we comment on them?

The Convener: If you had had time to read them, you could have commented on them.

Mr McGrigor: We cannot comment on them if we have not read them.

The Convener: Very true, Mr McGrigor. Members may wish to decide whether the additional evidence or just the summaries in our papers should be printed in our stage 1 report. My view is that the summaries are quite sufficient.

Mr Morrison: Having read the papers, I agree that the summaries would suffice.

The Convener: Are members content with that?

Members *indicated agreement.*

The Convener: We previously agreed that the final agenda item would be taken in private.

16:15

Meeting continued in private until 16:17.

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