

MEETING OF THE PARLIAMENT

Thursday 3 June 1999
(*Afternoon*)

Volume 1 No 6

£5.00

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2000.

Applications for reproduction should be made in writing to the Copyright Unit,
Her Majesty's Stationery Office, St Clements House, 2-16 Colegate, Norwich NR3 1BQ
Fax 01603 723000, which is administering the copyright on behalf of the Scottish
Parliamentary Corporate Body.

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body
by The Stationery Office Ltd.

Her Majesty's Stationery Office is independent of and separate from the company now
trading as The Stationery Office Ltd, which is responsible for printing and publishing
Scottish Parliamentary Corporate Body publications.

CONTENTS

Thursday 3 June 1999

Debates

	Col.
DEVOLUTION	204
<i>Motions moved—[Henry McLeish]—and agreed to.</i>	
The Minister for Enterprise and Lifelong Learning (Henry McLeish)	204
Michael Russell (South of Scotland) (SNP)	208
Phil Gallie (South of Scotland) (Con)	211
Dennis Canavan (Falkirk West)	213
Dr Elaine Murray (Dumfries) (Lab)	214
Robin Harper (Lothians) (Green)	215
Euan Robson (Roxburgh and Berwickshire) (LD)	216
Alasdair Morgan (Galloway and Upper Nithsdale) (SNP)	216
Donald Gorrie (Central Scotland) (LD)	218
Henry McLeish	219
SCOTTISH ADJACENT WATERS BOUNDARIES	224
<i>Motion moved—[Ross Finnie].</i>	
<i>Amendment moved—[Richard Lochhead].</i>	
<i>Amendment moved—[Euan Robson].</i>	
The Minister for Rural Affairs (Ross Finnie)	224
Richard Lochhead (North-East Scotland) (SNP)	229
Euan Robson (Roxburgh and Berwickshire) (LD)	232
Mr Alex Salmond (Banff and Buchan) (SNP)	234
Mr Jamie McGrigor (Highlands and Islands) (Con)	237
Tavish Scott (Shetland) (LD)	239
Irene McGugan (North-East Scotland) (SNP)	240
Mary Scanlon (Highlands and Islands) (Con)	241
George Lyon (Argyll and Bute) (LD)	242
Lewis Macdonald (Aberdeen Central) (Lab)	242
Mr Murray Tosh (South of Scotland) (Con)	244
Colin Campbell (West of Scotland) (SNP)	246
Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)	247
Dr Winnie Ewing (Highlands and Islands) (SNP)	247
Richard Lochhead	249
The Deputy Minister for Rural Affairs (Mr John Home Robertson)	249
DECISION TIME	253

Scottish Parliament

Thursday 3 June 1999

(Afternoon)

[THE DEPUTY PRESIDING OFFICER *opened the meeting at 14:30*]

Ms Margo MacDonald (Lothians) (SNP): On a point of order, Mr Deputy Presiding Officer. Could you give me some advice on procedural matters? They arise out of the message from the Presiding Officer in business bulletin No 7. According to that very thoughtful message—I am not sucking up—Mr Gorrie's motion on the Holyrood Parliament site is unlikely to be taken until after the Parliamentary Bureau has met. I ask the First Minister, or the person who is sitting in his chair, for an assurance that no more public contracts will be signed until the Parliament has had the chance to see a review of the current position.

The Deputy Presiding Officer (Mr George Reid): The Holyrood project is a responsibility of the Scottish Parliamentary Corporate Body. The appropriate course for the member to take is under rule 13.9 of standing orders: to lodge a question to the Presiding Officer on the matter.

Mr John Swinney (North Tayside) (SNP): May I too seek some procedural advice from you? Yesterday a number of us pressed the Minister for Enterprise and Lifelong Learning on the issue of the publication of concordats. We were told that it was unclear when they would be published. This morning, I read in *The Herald* details about one of the concordats, in relation to the Foreign and Commonwealth Office—a concordat and gentleman's agreement between the First Minister and the Secretary of State for Foreign and Commonwealth Affairs. What procedural advice can you give me about how this matter can be addressed and how this Parliament can be treated with more respect and courtesy than the contempt it is receiving from the Executive?

The Deputy Presiding Officer: The member should be careful of using points of order as points of argument, but I indicate to him that the whole matter of parliamentary privilege will be considered by the Standards Committee prior to bringing forward recommendations on a code of conduct for members.

Devolution

The Deputy Presiding Officer: The first item of business is a debate on the draft orders as detailed in motions S1M-28 and S1M-29 in the name of Mr Henry McLeish:

That the draft Scotland Act 1998 (Cross-Border Public Authorities) (Adaptation of Functions etc.) Order 1999, which was laid before the Parliament on 26 May, be approved.

That the draft Scotland Act 1998 (Border Rivers) Order 1999, which was laid before the Parliament on 26 May, be approved.

The debate is scheduled to end at 4 pm and will be followed by a debate on motion S1M-19 in the name of Mr Ross Finnie on the Scottish adjacent waters boundaries, and the amendments thereto. That in turn will be followed at 5 pm by decision time, when questions on all three motions and the amendments will be put.

As in yesterday's debate, Mr McLeish will formally move only the first of the motions at this stage but will speak on both. I also invite other members to speak on either motion, or both. I will ask Mr McLeish formally to move his second motion before questions are put at decision time. At this stage I do not propose to set any time limit for members' speeches during the first debate. I may, however, review that position towards the end of the time allocated if a large number of members are still waiting to speak.

14:32

The Minister for Enterprise and Lifelong Learning (Henry McLeish): Before going into the details of the two orders, I will try to put them into context. The white paper "Scotland's Parliament" of 1997 recognised, in paragraph 2.10, that there would be areas where public bodies with a UK or GB remit operate in devolved areas. It will be for the Scottish Parliament to decide whether to put in place separate Scottish bodies, but we should recognise the advantages of current arrangements that allow sharing of knowledge and expertise and greater efficiency.

Section 88 of the Scotland Act provides mechanisms for cross-border public authorities to be specified. Some 65 such bodies have been identified. Section 88 provides for them. Scottish ministers will have the right to be consulted on membership and on other functions relating to such bodies, as the white paper set out. Section 88 also gives Parliament the chance to scrutinise reports of the bodies.

Section 89 provides opportunities for case-by-case examination of bodies and for transferring additional functions to the Scottish ministers, or otherwise adjusting the basic position provided by

section 88. That is what the present order does. It also offers an opportunity to move forward, with Westminster, to put in place suitable arrangements for cross-border public authorities that will give UK and Scottish ministers and the two Parliaments appropriate control.

I would like to commend—perhaps surprisingly—the guidance notes that have been published on two of the orders, which, unlike some guides that I have read, are reasonably straightforward and put into a wider context the orders that we are discussing. The guide on cross-border authorities identifies the 30 bodies in question and goes through the type of consultation and the type of decision making that will apply to each of them.

I will speak first to the draft Scotland Act 1998 (Cross-Border Public Authorities) (Adaptation of Functions etc.) Order 1999. The purpose of this order is to put in place customised arrangements for the control and accountability of certain public authorities that have been specified as cross-border public authorities.

Section 88 of the Scotland Act 1998 has been used to designate a number of authorities as cross-border public authorities. They are bodies, Government departments, offices or office holders with mixed functions, in that some of their functions relate to devolved matters in Scotland and some do not. Examples include bodies such as the Forestry Commissioners, which deal with devolved matters in Scotland and England and Wales. Another example is the Scottish Committee of the Council on Tribunals which, although operating only in Scotland, deals with both reserved and devolved matters.

It is worth noting that the border to which I refer, in talking about cross-border public authorities, need not be the geographical border between Scotland and England. Rather, those bodies are partly within devolved Scotland and partly not. Because of that, certain of the general provisions of the Scotland Act 1998—in particular, the provisions on the transfer of ministerial functions—could cause problems when they are applied to such bodies. As I will explain, designation of such a body as a cross-border public authority, under section 88 of the Scotland Act 1998, is designed to address those problems.

The Scotland Act 1998 (Cross-Border Public Authorities) (Specification) Order 1999, which was made by Her Majesty in Council on 11 May, specifies 65 cross-border public authorities. Specification as a cross-border public authority applies what might be called the default provisions in section 88 of the Scotland Act 1998. That means—and I stress this—that the ordinary transfer of ministerial functions, under section 53 of the Scotland Act 1998, is disapplied to functions

which are specifically exercisable in relation to the authority, such as powers to give directions specifically to that authority.

The Scottish ministers will not, therefore, automatically acquire such functions in connection with the authority. However, ministers of the Crown must, in such cases, consult Scottish ministers before exercising certain functions in relation to the body—in particular, powers of appointment or removal of members of the authority or functions which might affect Scotland otherwise than wholly in relation to reserved matters. Requirements for reports relating to the authority to be laid before Parliament are now extended so that the reports are also to be laid before the Scottish Parliament.

Section 89 of the Scotland Act 1998 goes further. It provides a wide-ranging power to make provision, by Order in Council, in relation to a cross-border public authority. The default provisions in section 88 can be adjusted by an order under section 89. The draft order that is before us today uses that power to supplement or replace the default provisions for 30 cross-border public authorities. The provision that is made for each authority is tailored to that authority, and it is not possible to describe those arrangements fully in general terms. However, the general theme of the order is to give the Scottish ministers and the Scottish Parliament greater control than is afforded by the default arrangements. That means, for example, providing for certain functions to be exercised by the Scottish ministers rather than by a minister of the Crown.

For the assistance of members, we have prepared a guide to the order, which sets out the background to each of the bodies that are dealt with in the order and explains the overall effect on them of the Scotland Act 1998 and the order. That was the guide to which I referred earlier. As I said, I think that in this constitutional context the guide is a reasonable read, which is quite surprising.

It may be helpful to members if I cite one example. One of the more important authorities that is dealt with in the order is the Forestry Commissioners. Forestry is a devolved matter. Decisions on forestry in Scotland will therefore be taken by the Scottish ministers and the Scottish Parliament. Nevertheless, in devolving forestry it would be a mistake to abandon structures that have served the forestry sector well for so many years. Allowing the Forestry Commission to continue to operate on a Great Britain-wide basis will ensure that Scotland, England and Wales can take advantage of access to shared knowledge and expertise, and will ensure greater efficiency in the use of resources. It is for those reasons that the Forestry Commissioners have been specified as a cross-border public authority. The devolution

of policy responsibility means that the powers of the forestry ministers over forestry in Scotland will transfer to the Scottish ministers. Responsibility for financing the commission's activities in Scotland will also be transferred.

The primary intention of the order is that the power of direction over the commission currently exercised by the Secretary of State for Scotland should transfer to the Scottish ministers in relation to the exercise by the commission of its functions as regards Scotland. The Scottish Parliament will also be responsible for funding forestry in Scotland. The order provides for the Scottish activities of the commission to be funded out of the Scottish consolidated fund and similarly for proceeds from the commission's activities in Scotland to be paid into the Scottish consolidated fund.

The order makes sensible provision to ensure that cross-border public authorities can continue to operate after 1 July with appropriate input and control for the Scottish ministers and for the Parliament.

I come now to the Scotland Act 1998 (Border Rivers) Order 1999.

The border between Scotland and England crosses the Tweed and Esk rivers. Unless otherwise addressed, that would have meant that legislative responsibility for fishery matters in those rivers would have been split between this Parliament and Westminster. Most members of this Parliament would agree that that would have been a ludicrous state of affairs. Fish are obviously no respecters of national borders and it would have been bizarre to contemplate the prospect, however remote, of conservation measures being taken on one side of the border and free exploitation on the other.

What section 111 of the Scotland Act 1998 therefore provides is the scope for whole-river management of the two rivers by this Parliament and by Westminster, acting by means of Orders in Council, of which this is the first.

In essence, the order before us does several things. First, it allows the continuation of the status quo in management terms. In other words, the Tweed throughout its length will continue to be regarded as essentially a Scottish river, managed by the River Tweed Council. For its part, the Esk will continue to be regarded, throughout its length, as an English river and, as such, it will be regulated by the Environment Agency.

Secondly, the order clarifies the powers of the Environment Agency in relation to the Esk, places an obligation on the Environment Agency to provide an annual report of its activities to this Parliament, and enhances enforcement powers.

Thirdly, the order seeks to address the age-old problem of fishery rights in the Solway where the Esk tends to meander, sometimes to the north of the border that runs down the middle and sometimes to the south. In brief, the order allows Scots netmen to fish out to the middle of the Esk from the north side and English netmen to fish out to the middle of the river from the south side, regardless of the position of the river at the time. The proviso, of course, is that the netmen must be properly licensed or authorised to do so. That is obviously a matter of vital importance. None of this affects the exclusive right of the good people of Annan to fish within what is known as the Annan box, bestowed on them by royal charter in the 16th century.

All of this, I think, demonstrates our commitment to the principle of whole-river management for the two border rivers. At the same time, it offers proof, if proof was needed, of the democratic accountability of the process to those on either side of the border with fishery interests in the rivers. The key part of this order is to ensure that there is consistent management of both rivers, north and south of the lines that we have identified.

I commend these orders to the Parliament.

I move,

That the draft Scotland Act 1998 (Cross-Border Public Authorities) (Adaptation of Functions etc.) Order 1999, which was laid before the Parliament on 26 May, be approved.

The Deputy Presiding Officer: It would be helpful if members who want to participate in the debate could indicate their intention to speak by pressing the white button on their consoles.

14:44

Michael Russell (South of Scotland) (SNP): I repeat what I said yesterday afternoon when I responded to Mr McLeish about these orders. The SNP gives a general welcome to the orders and to the fact that they move forward the transfer of powers to this Parliament and to the Scottish Executive.

I hope that that general welcome is accepted in the spirit in which it is given. One might call it the spirit of the new politics, although the fact that there is no common definition of the new politics seemed to affect yesterday's debate. Perhaps members could move towards making such a definition, rejecting Mr McAllion's definition of new politics as being about Opposition members simply keeping their mouths shut. The Opposition has a duty to welcome progress and to scrutinise in detail—

Johann Lamont (Glasgow Pollok) (Lab): Will

Mr Russell give way?

Michael Russell: Yes, I will.

Johann Lamont: Is Mr Russell prepared to define new politics as something other than mere abuse? It should involve listening to what people have to say in context. To be honest, new politics is not about people simply agreeing with one's views. It is about taking seriously what everybody has to say. That does not mean that debate cannot be robust. Mr McAllion's contribution was certainly robust, but it was also fair and hard-hitting. It is rather disappointing, therefore, that Mr Russell has taken only one phrase from it. That is not new politics; that is old abuse.

Michael Russell: I will accept Johann Lamont's definition of the new politics as being where we have consensus and we work together. The basis of consensus is, of course, consultation. The issue that we were debating yesterday was that there was no consultation. I had the advantage of seeing Mr McAllion's performance from the front, whereas Ms Lamont had the disadvantage of seeing it from the back. It was not only the words, but the spirit of what he said that was the problem.

The general welcome that I give to the orders does not exclude detailed scrutiny of them. This order has notable omissions. I yield to no one in my enthusiasm and support for the controller of plant variety rights. I have no doubt—and I speak as someone who once worked for the Scottish Bedding Plants Association—that the work of the plant varieties and seeds tribunal is extremely important, but I would have thought that there were other bodies that required consideration because they work in reserved areas across both Parliaments and meet the definition given in the white paper of being bodies operating in reserved areas in relation to their activities in or affecting Scotland.

It is interesting to note that the white paper—published, it seems, so long ago now—listed a number of other bodies that have not made it into the order. Those bodies include the energy regulators; the Office of Passenger Rail Franchising; the Health and Safety Commission; the Commission for Racial Equality, which wanted to be considered in this way; the Employment Service; the Benefits Agency; the Post Office and broadcasting and telecommunications organisations such as the BBC and the Independent Television Commission.

For schedule 1 to the order to omit those bodies is to produce a piece of legislation that is seriously defective. Those bodies affect the everyday life of everyone in Scotland. All the people whom we represent are touched every day by the activities of those bodies.

The Parliament and its committees will have the

opportunity to invite representations from all those bodies. The controller of plant varieties can come and talk to us, but it is a deficiency of the order that he cannot be required to come and give evidence and tell us the truth of what is happening. I am sure that an invitation from Mr Dewar or Mr McLeish or even Mr McConnell is not something to be treated lightly, but it would be much more important if the Parliament and its committees could say, "We require you to attend" and, "We require you to give information on what is happening."

I will confine my comments to broadcasting. It was clear from last year's debate on the Scottish Six that it would be vitally important for the Parliament to question those making the decisions. Some of the people in this chamber were present at the BBC governors' dinner, which was held in Glasgow at the end of the governors' meeting last year. That was a remarkable event. Those who were invited were soft-soaped with warm words by a hard-faced group of people who had already made up their minds about what was going to happen. No amount of debate or discussion would make any difference. What actually happened was that there was no real consultation. The Broadcasting Council for Scotland made its views known, and was ignored. The political parties in Scotland made their views known, and were ignored, as were the listeners and viewers organisations.

Virtually the whole of civic Scotland argued for some change in the way that the BBC treated Scotland. What they got was a typical BBC fudge—the offering of something that is referred to north and south of the border as "Newsnet". It is an appalling way to treat audiences in Scotland, because it removes that programme of great quality, "Newsnight". It denies part of that programme to the Scottish audience while substituting something else. That is an unacceptable compromise, and it is not I who says it, but the broadcasters who work on those programmes. The committee of this Parliament that is responsible for broadcasting should be able to call the chairman of BBC Scotland, or the director general of the BBC, or any of those responsible for similar decisions and to scrutinise the decisions as they are made.

The failure to give this Parliament the power to demand attendance is a major weakness of this order. That applies right across the spectrum. I am glad that many of the Liberal Democrats agree that the Parliament should have this basic right. It also applies to the ITC. Some members are concerned that the honouring of licences in certain places in Scotland has not come up to public expectation. In such circumstances it would be vital to demand the attendance of officials from the ITC to examine them on the issue. That is a major

defect in the order, and it applies not just to broadcasting, but to all the bodies that are mentioned in it. I hope that serious consideration will be given to strengthening the powers of the Parliament and the powers of the committee so that this Parliament can ask real questions.

The Scottish National party has considered the orders and, as yesterday, we will support them because we wish to move the process forward, and because it would be unreasonable not to do so. That does not mean that we do not regard parts of the orders as not effective enough. Mr McLeish is nodding his head. I hope that consideration will be given to some of these issues, both in terms of the bodies that touch our lives but which are not in the order and in terms of ensuring that this Parliament can be an effective voice for the people of Scotland. I hope that it will not be a Parliament that receives the odd annual report or letter from the director general, but one which can ask him what is going on, and ensure that he understands the strength of opinion and passion in Scotland for the Parliament to work.

14:51

Phil Gallie (South of Scotland) (Con): The Conservatives go along, in the main, with Mr McLeish's comments, but—if the chamber will bear with me—I seek clarification on a number of the schedules.

Schedule 9 to the order on cross-border authorities refers to the Council on Tribunals. We very much welcome the passing of control of the tribunals to the Scottish Parliament, but we have some concerns about industrial tribunals in particular, especially given the weird and wonderful decisions that they have made recently. How much control will the Parliament have over the make-up of the chairmen's panels? Will changes be made in the methods of taking and recording evidence? We feel that that is necessary. If the statute gives us that right, we applaud it.

A number of questions arise from schedule 10, which concerns criminal injuries. Under paragraph 2 of part II, the adjudicator will be either the secretary of state or the Scottish ministers, but who will have the final say? Who is the authority? If there is a dispute, who will make the decisions? A similar problem arises with net expenditure, which can be determined by the Home Department. However, expenditure incurred in Scotland has to be reimbursed to the Secretary of State for Scotland. What does that mean in relation to the block grant? Is there a change of status?

On the National Criminal Intelligence Service, we are again concerned about financing. The

order states that Scottish ministers may make payments on Scottish issues, but is there a choice? Once again, where does the money come from? Is this a change of status and will the order in effect lead to a reduction in the block grant? There is another aspect to that, because the involvement of the Scottish police service would benefit NCIS. We wonder whether there is some direct means of re-injecting cash back into the Scottish police force rather than paying the money to the Secretary of State for Scotland.

On schedule 21, we are aware that there will be much support for the retention of the UK-wide agreement on police pay scales, which is almost certainly necessary if we are to maintain harmony and co-operation among the police forces across the UK. The retention of the agreement would without doubt be welcomed by the Scottish Police Federation and the Association of Scottish Police Superintendents.

One or two queries come to mind with regard to cross-border policing and the powers of arrest of the English and the Scottish forces, particularly when a crime is committed in Scotland and Scottish policemen pursue the criminal. When they cut across the border, what powers will be left for the English police to apprehend the criminal and assist the Scottish police on what has become a cross-border matter? I believe that we have nothing to worry about, but I seek assurances because some concerns may arise about the matter.

It is all very well to talk about pay structures and pay negotiations for Scottish police officers, but recent statements in the press have given rise to concerns about the structures in which they serve. One of the Scottish nationalists recently referred to a reduction in the number of police forces. Currently, Scotland has eight police forces and the suggestion in the press was that the number would be reduced to three. My understanding is that the secretary of state suggested, about a year ago, that there would have to be a review of police structures. Since then, some negotiations have taken place with various interested parties and I understand that a steering committee has been established. I welcome that, but one year on from the secretary of state's statement, which referred to a comprehensive spending review that would examine only the costing of the police service, I ask the minister whether the way in which the police service carries out its duties is now being looked at. How many times has the steering committee met? Is it making positive progress?

I also seek guidance on schedule 6, which deals with the chief commissioner and other commissioners who are appointed for the purposes of part III of the Police Act 1997. I was not at Westminster then, but I believe that the act

covers England and Wales but not Scotland. I understand that part of the act may address intrusive surveillance. If it does, may I ask the minister whether individuals have been appointed as commissioners in Scotland and, if so, who they are? When were they appointed and, if they have taken up their duties, when did they do so?

14:57

Dennis Canavan (Falkirk West): Much of the advance publicity for today's debate was about the motion on the Scottish Adjacent Waters Boundaries Order and I understand the Scottish fishing community's concern and anger about the effects of that order. However, there is also understandable concern about the future of freshwater fishing in Scotland and I am particularly concerned about the effects of the Scotland Act 1998 (Border Rivers) Order 1999 on salmon and freshwater fisheries in Scotland.

A letter, sent to me by a former Lord Advocate, gives an excellent statement of the common-law position in Scotland on freshwater fishing. I will quote from that letter, because it is important that the statement is put on the Scottish Parliament's official record at an early date:

"The common law position in relation to both salmon and trout is that they are not the property of anyone until they are caught. Thus, brown trout in waters not protected by an order under the Freshwater and Salmon Fisheries (Scotland) Act 1976 do not belong to anyone whilst they are in the water but become the property of the fisherman or person who catches and lands them whether or not that person owns the fishing rights and whether or not permission has been given."

Since that letter was sent to me on 8 April 1981, it has been photocopied hundreds, possibly thousands, of times and has been used as an excellent defence by many Scottish anglers when they have been challenged by irate landowners, who try to chase them off the land and refuse them the right to fish the waters of Scotland. Lest anyone thinks that the letter was written by some left-wing, revolutionary lawyer, it should be noted that it was signed by James Mackay—Lord Mackay of Clashfern—who was a very distinguished Conservative Lord Advocate and, later, Lord Chancellor.

Lord Mackay gave the common-law position in that letter but, of course, in salmon fishing the common law has been overridden for many years in Scotland by statute law. It was not until the Freshwater and Salmon Fisheries (Scotland) Act 1976 was passed that it became a criminal offence to fish for brown trout in protected waters. Sadly, since 1976 there has been a succession of protection orders covering many of the rivers, burns and lochs of Scotland. Although the spirit, and the declared intention, of the act was that there should be more protection in return for

access, sadly, that has not happened. Many anglers complain about a decrease in access as a result of the act.

I am reliably informed that the River Esk—which flows into the Solway firth and is covered by the Scotland Act 1998 (Border Rivers) Order 1999—is not governed by any protection order. That is true of both the Upper Esk and the Lower Esk. I also understand—this seems to have been confirmed by the minister's opening remarks—that since 1865 the River Esk has been run as if it were an English rather than a Scottish river, as it is in part. I am concerned because this statutory instrument gives new powers to the Environment Agency—that is the Environment Agency south of the border—to make byelaws on fishing in the Upper Esk. The order creates a new offence of unauthorised fishing in the Lower Esk, gives power to water bailiffs to enforce the new provisions and extends the existing powers of water bailiffs and other authorised persons to the whole of the River Esk—in both the Scottish and English parts of the river. The order also creates new offences that are applicable to the powers of water bailiffs.

Even before this statutory instrument came before us, concern was expressed in many parts of Scotland about the extension of criminal law to freshwater fishing. That concern is understandable if we bear in mind the fact that angling is probably the most popular participatory sport in Scotland. Most responsible anglers do not want a free-for-all; they realise that there must be control. However, control of things such as access, pricing, stocking and the management of freshwater fisheries ought to be democratic.

I have said many times in the House of Commons that there should be a democratically constituted Scottish anglers trust to administer all freshwater fishing rights in Scotland. I hope to have an opportunity at a later date to speak about that in greater detail—possibly when legislation on it is introduced in this Parliament.

I am concerned about this order and I hope that the minister will allay some of my fears when he sums up. If he does not, I will be obliged to vote against it.

15:05

Dr Elaine Murray (Dumfries) (Lab): I broadly support the Scotland Act 1998 (Border Rivers) Order 1999, although I take on board some of Mr Canavan's concerns. I am sure that we will be able to address those issues, as they affect not only the Borders but freshwater fishing throughout Scotland.

I hope that today's debate will be less ill-natured than those of yesterday afternoon. We seem to have imported many of the bad habits of

Westminster: butting in, shouting, waving our hands in the air and bobbing up and down like a river full of demented corks. We all said that we wanted the Scottish Parliament to display a new style of politics, so it is up to us to make that happen. I do not feel that we achieved it yesterday.

I must confess that, at first, I misread the order and understood that it concerned the Border rivers, which might have been a little more colourful. However, the order is necessary because it outlines the joint responsibilities of UK and Scottish ministers and Parliaments in respect of rivers and estuaries that flow across the border between Scotland and England. It modifies the Environment Act 1995, which relates to the conservation, management and exploitation of salmon, trout, eels and freshwater fish. It requires agreement to be reached between Scottish and UK ministers and gives the Environment Agency new powers to make byelaws in connection with such matters.

As Mr Canavan said, the order creates a new offence of unauthorised fishing in the Lower Esk that can be enforced by water bailiffs. Angling is a popular sport but it does not need to be managed for the sake of fish stocks. The order does not take away current legal rights to fish for salmon—I am sure that my constituents in the burgh of Annan, who were granted that right by royal charter by James V on 1 March 1538 will welcome that. The order refers to the burghers of Annan—however, those who make the excellent decision to visit that lovely and historic area should be aware that Annan is actually better known for the fine quality of its fish and chips than for its burgers.

The order also clarifies the rights of Scottish fishermen to fish in any part of the Lower Esk that lies on or to the north of a line in the main channel of the River Esk that represents what is called the medium filum—which I presume is the mid-point—at low water. I am not sure whether that line in the middle of the Esk also defines the boundaries of my constituency. If it does, I will not take up any challenge from my colleagues to walk around the perimeter of my constituency.

I commend the order to my colleagues in the hope that, in progressing these orders, we can press on with more exciting matters that pertain to the needs, desires and aspirations of our constituents.

15:08

Robin Harper (Lothians) (Green): Does the minister agree that, given that the Environment Agency south of the border can prosecute but the Scottish Environment Protection Agency cannot, it would level the playing field and give equal

environmental protection to both the Tweed and the Esk if SEPA were given the power to prosecute?

15:09

Euan Robson (Roxburgh and Berwickshire) (LD): I am a Tweed commissioner and therefore must declare some form of interest, although my interest is non-pecuniary.

We remember Mr Canavan coming down to Kelso, in the Borders, with several of his pieces of paper. I recall him fishing opposite a noble residence, studiously ignored by everyone save a few distant onlookers.

Mr Canavan has some misconceptions about freshwater fishing. What he must understand about the order is that it allows the management of the whole Tweed river system, including those bits that are within England. However, a more important point is that more than 90 per cent of fishable water for brown trout on the Tweed system is open to anglers. They have to pay a modest fee and I will sell him a ticket any time that he wants.

Dennis Canavan: How much?

Euan Robson: I will give the prices for my local association: £5 for a day, £10 for a week and £20 for a season. All that money is reinvested into the river.

That is the point: the Tweed protection order, about which there was considerable debate recently, has enhanced fishing and allowed its management. Fishing is predominantly managed by local angling associations. While I share Mr Canavan's concerns about access to fishing, I believe that protection orders can, if they are properly managed, assist in developing fishing and in allowing as many people as possible to fish.

15:11

Alasdair Morgan (Galloway and Upper Nithsdale) (SNP): Like some of the previous speakers—and much to my surprise—I, too, am addressing the border rivers order. I had thought that the other order would have attracted a lot more attention.

The border rivers order seeks to give a sensible framework to the regulation of the two cross-border rivers on either side of our country—the Tweed and the Esk. It may not be the most exciting statutory instrument that I have ever read, but it is certainly redolent of history. We have heard both the minister and Dr Murray mention the fact that paragraph 6(6) refers to the charter granted by James V to the burghers of Annan. The order shows that two different and legally separate

jurisdictions can find an accommodation to deal with matters of common and mutual interest. That makes one wonder why some Conservative members believe that extending Scottish jurisdiction—which is what independence is, after all—would bring western civilisation as we know it to an end.

The order makes reference to other acts, which in turn refer to further acts, so reading it demands a great deal of attention. I would be glad if the minister would confirm one of my interpretations. He alluded to the duty of the Environment Agency to lay reports before the Scottish Parliament, but will he confirm that, under paragraph 4(2) of the order, the making of byelaws for the Upper Esk—which for the majority of its length, beginning not far north from Scotsdike, is an entirely Scottish river—cannot take place without the concurrence of a Scottish minister? The order does not make that clear.

I have one or two other questions of detail, which I am sure the minister will welcome. In the Lower Esk, the Environment Agency still has the power to grant licences to fish south of the medium filum. Medium filum means the middle; Brian Donohoe used it in a riveting adjournment debate in the House of Commons not long ago when he was talking about the fascinating subject of boundary walls. Can the minister confirm that the entire area north of the medium filum—that is, on the Scottish side—is allocated to existing legal rights to fish for salmon, and that there is no area north of the medium filum that is currently unallocated in respect of such rights?

Can he also explain for the benefit of the curious why, if I understand it correctly—the logic of this escapes me, but I am sure that there must be a good explanation—the only people who can fish for trout north of the medium filum on the Esk are those who have the right to fish for salmon? It seems to me that the two species could be separated.

Another subject that relates to the Esk, but is not directly dealt with in the order, is the shellfish fishery in the Solway. Recently, there has been a large increase in the number of people hand raking for mussels on the Solway. That practice attracts people from as far afield as Wales and Liverpool. There is some concern locally that the use of four-wheel drive vehicles is causing great damage to the foreshore and that the stocks of shellfish, particularly cockles, may be in jeopardy from that practice. Will the minister say whether he is considering a regulatory order for shellfish in the Solway?

Finally, will the minister be tackling the situation regarding migratory fish in the Solway by means of an order, as was suggested by the Environment Agency last year?

It is obviously sensible to have mutual arrangements for these rivers, which are very much a shared resource between the two nations of Scotland and England. We will not oppose this order, although we have some reservations about the fact that the vast length of the Esk will fall under the remit of the Environment Agency.

The Deputy Presiding Officer: At this moment, no members have indicated their wish to speak. Do any members wish to contribute further to the debate? Donald Gorrie has just indicated his wish to speak.

15:16

Donald Gorrie (Central Scotland) (LD): I was busy doing my preparation at the 11th hour, which is, I am afraid, a bad habit of mine.

I wish to raise my concern—this probably reveals my ignorance—about the wording of the schedules to the order on cross-border authorities. I have found that four of the schedules refer to the secretary of state, and, although I am not entirely sure, I assume that the references are, in one case, to the Minister of Agriculture, Fisheries and Food and, in another, to the Home Secretary. The references are not clear in the schedules, although obviously they are clear in the acts that the orders will change. I suggest that, for the benefit of those of us who read documents at the 11th hour, the documents should make clear which secretary of state would be acting jointly with the Scottish ministers.

The Lord Chancellor creeps into schedule 9, but I am not sure why—although I have nothing against him. We should try to be as clear as possible on the already slightly wavy grey line—which is like the River Esk—between Scottish jurisdiction and Westminster jurisdiction. Where does the Lord Chancellor come in?

In schedule 20, which is about police information technology organisations, there is reference to a body that has three members, of whom

“(i) at least one shall be appointed by the Secretary of State;

(ii) at least one shall be appointed by the Secretary of State after consultation with the Scottish Ministers; and

(iii) at least one shall be appointed by the Scottish Ministers”.

As a proportional person, I should approve of that. The schedule is trying to be fair, but is it not a bit confusing?

Can we be as clear as possible in distinguishing between our remit and that of Westminster? Where documents refer to the secretary of state, can we be clear whether the reference is to the Secretary of State for Scotland, the Home Secretary or whoever?

The Deputy Presiding Officer: As no other members have indicated that they wish to speak, I will ask Mr McLeish to wind up. Afterwards, I will entertain a motion for early closure of this debate, which will allow us to move on to the debate on the Scottish adjacent waters boundaries.

15:18

Henry McLeish: I was concerned, Mr Deputy Presiding Officer, that you would announce that I should rise and respond to this debate—alas, I will.

I will take Donald Gorrie's points first. Schedule 20 to the Scotland Act 1998 (Cross-Border Public Authorities) (Adaptation of Functions etc.) Order 1999 is not confused, because the purpose of the order is to try to clarify whether it should be the UK or Scottish ministers who deal with particular appointments. I hope that he will accept that reassurance.

Schedule 9 to the order refers to the Lord Chancellor because he is the responsible member of the Westminster Government who deals with the matter concerned. It is nothing more sinister than that.

Donald Gorrie also asked to which secretary of state the schedules referred. I realised only about three years ago that, in any piece of Westminster legislation, there was seldom a specific reference to the Secretary of State for Defence, or to the Secretary of State for Scotland and so on. The only reference is to "secretary of state"—that is the terminology used. In this case, depending on what the schedule was, it would reflect the appropriate minister. The references are not to the Secretary of State for Scotland.

I have dispensed with the easier parts of my response. I will take Michael Russell's comments next, because, in a sense, if we were here to talk about a settlement for a separate, independent Scotland, there would be some validity to the points that he made, and I say that to the SNP in a constructive sense.

Michael Russell knows full well that in the "Scotland's Parliament" white paper—which was published in 1997 and which was the subject of a very successful referendum of the Scottish people—we were absolutely clear about cross-border public authorities and indeed about the bodies to which he referred, such as the energy regulators, the Office of Passenger Rail Franchising and the Health and Safety Commission. In the white paper, we said:

"In certain reserved areas, the activities of other UK/GB bodies which are accountable to the UK Parliament will continue to be significant in the economic or social life of Scotland, and therefore likely to be of interest to the Scottish Parliament."

However, those are reserved matters. I think that Michael Russell knows that there will be an opportunity for Scottish ministers to become involved in appointments to the bodies that we have just described and to other bodies. There will also be an opportunity for reports of those organisations to be lodged in this Parliament. We can make a distinction between a demand and an invitation, but I suspect that many of those bodies will accept an invitation from this Parliament to meet a committee or the Parliament.

One of the things that we tend to forget about devolution is that, whether the matter is reserved or devolved, this is a very powerful Parliament. The Parliament will be listened to if it discusses issues that touch on reserved matters. As for the specific bodies that Michael Russell mentioned, we have faithfully delivered on the white paper commitments. His comments would have been more valid if there had been another type of settlement, and I suggest that he knows full well the position regarding those bodies.

As for the Equal Opportunities Commission, the Independent Television Commission and the Radio Authority, the orders debated yesterday give Scottish ministers involvement in appointments to those bodies. Those bodies are of interest to Scotland, and the Parliament could consider issues that pertain to them, which backs up my point about the Parliament's involvement in wider issues.

The Equal Opportunities Commission, the ITC and the Radio Authority are not cross-border public authorities, but operate in reserved areas. I should stress that, as part of the devolution settlement, we have substantial devolved powers and substantial executive devolution, and the Parliament has a role in matters wholly reserved to Westminster. That role has been detailed not only in the white paper, but in every step along the way to the current situation of the Parliament.

Mr Alex Salmond (Banff and Buchan) (SNP): The minister will remember that the Commission for Racial Equality wished to have its functions devolved, because it thought—rightly—that racial equality legislation might be stronger if dealt with by this Parliament rather than by the UK Parliament. That organisation was listed in the white paper in 1997, but has disappeared from the orders that we are debating. Will the minister refer in particular to the Commission for Racial Equality, because many people are interested in how this Parliament will relate to that organisation?

Henry McLeish: Alex Salmond makes a reasonable point, because what is important in the orders that I outlined yesterday and in today's orders is that this is an evolving process. He is right to say that there has been a debate on racial equality. It is a very important and sensitive issue,

and more debate will ensue. However, that matter is not covered in this order; but I should like to think that the Parliament would investigate it. That should be done with MPs at Westminster and with Westminster. However, I want to put it on record that racial equality is a very important issue, and I do not want to detract from Alex Salmond's constructive comments.

Michael Russell also made the point about how we define the new politics. Perhaps a common definition would be a constructive tone in the chamber; concentration on some of the big policy issues on which we campaigned in the election; and a mutual respect for comments made on every side of the chamber. If we achieve that in the first few weeks, people here and the wider public will respect that. That comment is aimed at everyone—I am not singling out any one party—but if we could meet that definition of the new politics, we would be paying tribute to the fact that we have a Parliament. The Scottish people would want us to act in such a way.

Phil Gallie identified a number of schedules. The schedules go into detail on how the responsibilities are split up and who takes decisions. He should read the schedules in detail, but if any of his specific concerns are still unanswered, he should not hesitate to ask me. I should be happy to fill him in on points that are germane to all of them.

Phil Gallie referred to the police. In a sense, none of the orders that we are discussing today affects the debate in Scotland about the future of the police forces. We have established a review to consider the police force structure, but no decisions have been made on that matter and there is no hidden agenda as to what the outcome might be. We are involving all the parties, and the guiding principle is that we are committed to the best policing. That will be the guiding criterion and not whether there are two, three, four, five, six, seven or eight forces. We gave a cast-iron reassurance that it will be a proper debate, and this Parliament, as well as the new Executive, can engage in it. I hope that Mr Gallie accepts that assurance, which is unaltered by anything that is being discussed today.

Phil Gallie: I accept the minister's assurance; we will watch what happens. I made several specific detailed points. I should be grateful if Mr McLeish could pick them up at a later date; perhaps he could drop me a note.

Henry McLeish: I will do that, but I will respond to some of the points now.

Mr Gallie raised a concern about intrusive surveillance. The specific point was whether we have commissioners. Under the Police Act 1997, the Prime Minister appointed a chief commissioner and a number of commissioners to oversee the

authorisation process, to give prior approval in certain sensitive cases to investigate complaints and to consider appeals. Both the chief commissioner and the commissioners require to be serving—or former—High Court judges under the terms of the judicial appointments act. The commissioners for Scotland are Lord Davidson and Lord Bonomy. A central support office, the Office of Surveillance Commissioners, supports the commissioners. There are support offices in London, Northern Ireland and Scotland. The Scottish support office function is provided by the staff of the police division at the Scottish Office Home Department. If any further information is required, I will be happy to provide it.

Phil Gallie asked for reassurances about costs. I can assure him that the block will not be worse off as a consequence of anything that is happening here. This is about administration and structures. We have a devolution settlement and must define issues for the first time that we have not defined before, but I can reassure him that there is not a financial hit in relation to that.

I was going to say that I will deal with Dennis Canavan's points, but that might be ambitious as I know from experience at Westminster that Dennis Canavan has a great deal more knowledge of this subject than most. On the order affecting the Solway, I cannot promise a debate on the wider issues, because that is not a matter for me. To quote a Westminster phrase, I acknowledge the matter and will pass it to the appropriate minister—Mr John Home Robertson—who is also in the chamber today, so he will take cognisance of this debate.

Suffice it to say that under the section 111 order, the border remains the medium filum. However, the new offence is one of fishing without authority, wherever that fishing may have taken place. Scottish fishermen may fish from the north to the medium filum and English fishermen from the south, but now anyone fishing without authority—a legal right or written permission in Scotland, or a licence from the Environment Agency in England—is guilty of an offence and can be tried in court in Dumfries and Galloway, or in Cumbria. That in no way satisfies the other wider concerns raised by Dennis Canavan; I hope that they will be the subject of a more detailed response from the appropriate minister and department.

Robin Harper made a point about the EA and the Scottish Environment Protection Agency. The two organisations have different responsibilities. SEPA does not deal with fishing anywhere in Scotland. District salmon fisheries boards do that job.

I was grateful to my colleague Elaine Murray for her supportive comments; she represents one of the areas under discussion. We have tried to put

conservation and the environment at the top of the agenda for this order. I hope that we have succeeded.

Alasdair Morgan has a much greater knowledge of these matters than I do. I was deeply impressed—so much so that I do not think that I can respond to any of the particular points that were raised. I hope that that is a distinction for Alasdair.

We have heard detailed questions surrounding an issue that is important to the members who raised them. There were questions on wider issues, but some of the details are germane to the upper and lower parts of the River Esk. I promise to have the appropriate department provide detailed answers to the questions.

I should like to think that this has been a constructive debate, and I hope that it has been a model of how to debate serious issues and technical orders. I am given hope by the fact that—as Michael Russell said at the start of the debate—the SNP will not oppose, because that will take us forward to 1 July. Everyone in this chamber is looking forward to the time when we are not in transition, but are dealing with the big issues that affect Scottish people. I think that all of us are up for that.

The Deputy Presiding Officer: I remind members that rule 8.14.2 allows any member, without notice, to move early closure of debate. Such a motion can be taken only with the agreement of the Presiding Officer. I am minded to entertain such a motion, so that we can move on to the debate on Scottish adjacent waters boundaries.

Lord James Douglas-Hamilton (Lothians) (Con): I move under rule 8.14,

That the debate be now closed.

The Deputy Presiding Officer: Are we agreed?

Motion agreed to.

Scottish Adjacent Waters Boundaries

The Deputy Presiding Officer (Mr George Reid): The next item of business is the debate on motion S1M-19, in the name of Mr Ross Finnie, on the Scottish adjacent waters boundaries. Members will note that the amendment shown in the business bulletin in the name of Mr David Davidson has been withdrawn. In a moment, I shall ask Mr Finnie formally to move his motion and to speak on it. I will take the remaining two amendments to the motion in the order in which they appear in the business bulletin. I will then invite other members to speak. The debate will end at 5 pm; I ask members to keep their remarks reasonably short.

15:32

The Minister for Rural Affairs (Ross Finnie): I am pleased to have the opportunity to move the motion. Before I refer to the important issues that it raises, I should like to make a few general remarks on fisheries in this, my first speech in my present capacity.

I want to make it clear to the Parliament that I am aware of the importance of the fishing industry to the Scottish economy. Last year, landings in Scotland were valued at over £300 million, which represented nearly two thirds of the total value of landings in the United Kingdom. I also recognise that fishing is the economic mainstay of many fragile rural communities, especially in the Highlands and Islands. I want a modern, sustainable fishing industry in Scotland that will support those fishing communities.

I want to involve the Scottish fishing industry in achieving that goal. From the outset, I want to make clear the importance that I attach to involving the industry. If the whole episode over this order has taught us one thing, surely it is that we cannot—as a substitute for real consultation and dialogue—rely on indirect communication through the issue of press notices and the like. What passed for consultation at Westminster will not suffice in this Parliament. I want to give a positive assurance that—certainly on matters in my domain—that will be the case.

Furthermore, I do not have any difficulty with the principle that the Scottish Parliament should be able to request Westminster to reconsider a proposal that has already been before it. However, we should do so only when what is proposed, or has been proposed, by Westminster causes a material disadvantage to those affected by the proposal. In relation to the order, my difficulty is that reading of the facts indicates that they do not point to anyone having incurred a material

disadvantage.

The subject of this debate is a key element of the devolution process. Members have heard a great deal about the Scottish Adjacent Water Boundaries Order, but I regret that much of what has been said has been misinformed. I want to take the next few moments to stick to the facts about what is set out in the order. An example of that misinformation is, as I read or heard somewhere, that the boundary begins at Carnoustie: that is simply not true. The exact distance due east from Carnoustie to the boundary line is nearly 93 miles, or—as I understand some members are keen that it be expressed both ways—81 nautical miles. At its nearest point to Carnoustie, the boundary is closer to north Sunderland.

The most important point is that it is also wrong to claim that a legally enforceable boundary line has been shifted. This is the first time that a fisheries boundary has been fixed in law. Before devolution, there were no Scottish fishing waters. There were only British fishing limits. The so-called existing line is simply part of an administrative arrangement within a UK-wide management regime. The boundary lines in the order are being drawn in accordance with international convention on such matters and—as members who have studied this matter will be aware—have involved the use of median lines.

The net effect of that approach is that every point on the boundary line is equidistant from Scotland and England. All the sea in the Scottish zone is closer to Scotland and all the sea south of the boundary is closer to England. I find that approach to be demonstrably fair, reasonable and legally defensible. We are talking about an aspect of the devolution settlement.

Mr Alex Salmond (Banff and Buchan) (SNP): I am trying to reconcile Mr Finnie's last statement about the arrangement being demonstrably fair, and so on, with his first statement about consulting the fishing industry. The industry does not regard the settlement as fair. Did Mr Finnie consult the industry before making his statement about that demonstrably fair system? If not, how does he reconcile that with his pledge about consultation before statements?

Ross Finnie: I understand that the industry has made no claim of unfairness in relation to its ability to fish. The important point is that we are establishing an administrative boundary that must be part of a devolution settlement. We are not talking about questions of independence. The result is that the Scottish Executive has exclusive jurisdiction over all the sea that is closest to Scotland. Ministers will have responsibility for dealing with the waters that are closest to them. That is fair and reasonable.

A third claim is that the fishing grounds have been handed over to England. That is not the case. The rights of fishermen are not altered by the order. After 1 July they will be able to fish exactly as they do today.

The facts are relatively straightforward. The establishment of a boundary within the British fisheries limits east and west of Scotland is essential. By fixing the boundary, we can be absolutely clear about the scope that this Parliament has to regulate sea fisheries. Before devolution, many of the functions of managing sea fisheries lay with the four fisheries ministries. Those jointly exercised powers apply throughout the United Kingdom; the effect of the Scottish Adjacent Waters Boundary Order is that Scottish ministers in the Scottish Parliament can exercise exclusive powers over the zone, in the wider framework of the common fisheries policy. That means that the responsibility for regulating—I am told that this figure is absolutely accurate—the 127,231 nautical square miles has been transferred from the UK Government to the Scottish Parliament. I remind members that that relates to exclusive jurisdiction. It does not limit the ability of Scottish fishermen to fish within British fishing limits.

I understand the genuine concern expressed by the Scottish Fishermen's Federation and other representatives. There is a worry that Scottish fishermen who are alleged to have committed an offence outwith the new Scottish zone and, in particular, within the area affected by the change, will be prosecuted in an English court.

For the benefit of members, let me put that concern into perspective. No prosecutions have arisen in that area in the past three years—none at all. Indeed, the area is relatively lightly patrolled by the Scottish Fisheries Protection Agency. I find it incredible to believe that the passing of the order will lead to an outbreak of illegality by Scottish fishermen, nor do we expect any change in that patrol pattern.

However, strong representations have been made to me on that point and strong feelings have been expressed by fishermen and their representatives. Accordingly, I intend to write to the appropriate ministers of the Crown, to explore with them whether any flexibility might be applied to prosecutions if any fishermen should change their habits of the past three years.

Mrs Margaret Ewing (Moray) (SNP) rose—

Dennis Canavan (Falkirk West): This morning, on the radio, I heard a spokesperson for the Scottish fishing industry put forward the scenario of a collision between a fishing vessel and a North sea oil industry vessel in the North sea. His point was that the line of jurisdiction now seems to be

different for the oil industry from that for the fishing industry. Which courts—English or Scottish—would be responsible for dealing with such a matter under criminal or civil law?

Ross Finnie: That is, as always, an interesting question. Mr Canavan has a fine record this afternoon of asking interesting questions. The issue that he raises is not a fisheries matter, nor a North sea oil matter, but a matter of accidents and would be covered by the existing legislation on accidents.

Mr Salmond *rose*—

Mrs Ewing: It is a matter for Scottish fishermen.

Ross Finnie: It is not a matter—

Mrs Ewing: Why not?

Ross Finnie: It is not a matter for them, because, as Mrs Ewing knows, the jurisdiction—in schedule 5 and section 126 of the Scotland Act 1998—deals explicitly with fisheries. Accidents are covered by existing legislation.

Mrs Ewing: Why then, in the remarks that he made before his reply to Mr Canavan, did the minister indicate that he was seeking clarification from United Kingdom ministers? Is not he asking our fishermen to accept what is, essentially—pardon the pun—a pig in a poke?

Ross Finnie: I do not think that my remarks are open to that construction, and I do not see how Mrs Ewing has come to that conclusion.

Mrs Ewing: What about that scenario?

Ross Finnie: That will be unchanged in terms of the law of accidents. It would depend on where—

Mrs Ewing: In our waters?

Ross Finnie: It is exactly the same, wherever it happens. The situation is unchanged.

Mr Salmond: Will Mr Finnie give way?

Ross Finnie: No, I have dealt with that point.

The situation is clear. In relation to fisheries and the exclusion jurisdiction of this Parliament, the lines are defined as in the order. That is the power that is being passed to this Parliament.

Mr Jamie McGrigor (Highlands and Islands) (Con): Will the minister clarify the position in relation to drift-net salmon fishing, which is banned in Scotland, but not in England? Will such fishing now be legal in the new waters?

Ross Finnie: No. All the order does is to change the line of jurisdiction. It does not change that law.

I understand that there are concerns, such as that raised by Mr McGrigor and others in relation to oil and gas exploration. However, as I have

clearly stated, the fact is that the order relates only to fisheries. North sea oil and gas remain reserved matters, so they are not covered by this legislation.

Alasdair Morgan (Galloway and Upper Nithsdale) (SNP): The minister has explained that the new line affects only fishing, but why was it necessary to have a different line for fishing? Why could we not stick with the existing line and apply it to fishing as well?

Ross Finnie: There are two reasons for that. There was no existing jurisdiction line.

Mrs Ewing *rose*—

Ross Finnie: No, there was no existing jurisdiction line, only habit and repute.

The order is part of the devolved settlement. It was necessary to arrive at a line that established who had exclusive jurisdiction over Scottish fisheries and who was going to control what will now, in effect, become English fisheries. The line as I have described it means that all the water closest to Scotland will be under Scottish jurisdiction and all the water closest to England will be under the minister responsible for that fishing area. To me, that seems fair and reasonable. Oil and gas are reserved matters and are not covered by this legislation.

I urge members to support the motion. The Scottish Adjacent Waters Boundaries Order 1999 defines the policy-making responsibilities of this Parliament and gives it authority in relation to regulating fisheries in accordance with the common fisheries policy within the newly created Scottish zone. It has no impact on the rights of fishermen to fish throughout the British fishery limits.

I commend the motion because it recognises the importance of consultation in the future management of fishing. In that regard, I am happy to accept the points made in Euan Robson's amendment. I am not making just an empty pledge. Mr Home Robertson and I will meet members of the Scottish Fishermen's Federation tomorrow, so that we can begin genuine dialogue not only on the concerns raised by the order, but on the wider future of the Scottish fishing industry.

I hope that this will be the start of an inclusive approach to fisheries management and, as I said at the outset, it is something to which I am committed. I invite the Parliament to join me in that commitment, and I commend the motion to members.

I move,

That the Parliament notes that — the Scottish Adjacent Waters Boundaries Order (S.I.1999/1126) in no way alters or restricts the freedom of the Scottish fleet to fish consistently with the Common Fisheries Policy of the

European Union; from 1 July the Parliament will be charged with the responsibility of regulating fishing in the newly created Scottish zone of British Fishery Limits and fishing by all Scottish vessels no matter where they fish; consultation will be required with relevant bodies in the preparation of legislation relating to fishing in the Scottish zone.

The Deputy Presiding Officer (Ms Patricia Ferguson): I now call Richard Lochhead to speak to amendment S1M-19.2 and then to move it formally.

15:47

Richard Lochhead (North-East Scotland) (SNP): I had at the ready a few remarks with which to demolish the minister elect's case, but my colleagues have done that before I have even opened my mouth.

I welcome Mr Finnie's remarks about the importance of the fishing industry to Scotland. It is appropriate that the first one-hour political debate in this Parliament is devoted to the fishing industry, which is a perfect example of an industry that is looking to the Scottish Parliament to echo its concerns and give it the voice it has been lacking for a long time.

Only days before the first meeting of this Parliament, an obscure piece of legislation was passed by an obscure committee in what is, of course, an obscure Parliament in Westminster delivering yet another blow to the Scottish fishing industry. The industry is now campaigning for that order, which is of course the Scottish Adjacent Waters Boundaries Order 1999, to be reversed. I am delighted to see the leaders of the fishing industry in the public gallery to hear the Parliament speak out on their behalf.

The fishermen's case is simple: they want to retain the boundary that we all know. There is already a fishing boundary, which is known by every fisherman and mariner and Scotland. No one can find any reason why anyone anywhere should try to change it.

The boundary, which goes straight out east from Berwick, has been established by custom and practice. Generations of Scottish fishermen have fished those waters, the vast majority of fishing vessels to be found in those waters are from Scotland, the area is patrolled by the Scottish Fisheries Protection Agency and the area currently falls within Scottish jurisdiction.

There is also legal precedent. The latitude of 55° 50' marks the line used by the Scottish Fisheries Protection Agency and is on the map it uses. Scotland has a jurisdiction and the waters currently fall within it. The Civil Jurisdiction (Offshore Activities) Order 1987 follows a similar line and deals with offshore activities.

The Government's move at Westminster flies in the face of custom and practice. It throws up various anomalies. I, too, would like to quote the example that Hamish Morrison, the chief executive of the Scottish Fishermen's Federation, is using in favour of the fishermen's case and which Dennis Canavan brought to our attention. If a fishing vessel in these waters collides with an oil vessel, they will now come under different jurisdictions—the fishing vessel will fall under English jurisdiction and the oil vessel will fall under Scottish jurisdiction. What sense does that make? How many boundaries do we need?

The outgoing fisheries minister—old Blackbeard himself, Lord Sewel—defends the theft of Scottish waters by asking what all the panic is about. The fishing industry's response is to ask why it is necessary to change the boundary if it is not going to make any difference. The reality is that the new boundary does make a difference: it means that Scottish fishermen would have to appear in English courts if they were pulled up for an infringement in that area of the sea. That would lead to massive inconvenience and massive additional expense because the fishermen would have to hire an English barrister to defend their case in an English court.

The order reduces the territory over which this Parliament will have a remit. With regard to implementing European Union fisheries policy, what happens if the Scottish Parliament decides to introduce square mesh? Will that decision apply to fishing in those waters? The common fisheries policy is currently being renegotiated by the European Union. Zonal management is a key idea arising from the negotiations. What will happen to that zone? Will it be a Scottish zone? Probably not. If this order is approved, the Scottish Parliament will have no say over what happens in that zone and we will have lost an area in which we could have implemented our zonal management policies.

The Government's case is riddled with confusion and contradictions. Lord Sewel's pathetic defence of the Government's decision has fallen apart and, as we have seen today, the Scottish Executive's defence of Westminster's decision is also falling apart. First, Lord Sewel told us that there was no fisheries boundary. That led to an outcry in the fishing industry. Then he retreated and said that there was a boundary and that the Scottish Fisheries Protection Agency used it, but it was only an administrative boundary. His last line of defence is that the Government has relied on international conventions to draw up the new boundary. That claim has now been destroyed, because the SNP has commissioned a legal opinion, which was published this morning, from Dr Iain Scobbie, senior lecturer in international law at Glasgow University and the visiting professor at

the University of Paris II. The seven-page legal opinion demolishes the Government's case for the new boundary. It is seven pages long, so I will not read it out now.

Ross Finnie: In advancing the case that there are other opinions on how we might or might not address this matter, is Richard Lochhead suggesting that our methodology is unfair or inequitable? That is the important issue.

Richard Lochhead: I am not suggesting that. I have a seven-page legal opinion from an internationally renowned expert, which I would be delighted to make available to all members and to the Scottish Executive. I shall place copies in the information centre.

I shall quote from the last paragraph:

"It is clear that the position set out by the Government in relation to the Scottish Adjacent Waters Order is not in accordance with contemporary international law and practice. The claim that the delimitation employed in this Order reflects 'the normal international convention' simply cannot be sustained."

Would it not have been easier for Westminster to consult the fishing industry and this Parliament to avoid being in this enormous mess?

Lord Sewel—I hope this will not happen to the Scottish Executive—appears to be going round in circles. *The Press and Journal* editorial on 25 May said of the Government's arguments:

"Every one of them has a distinct whiff of someone scrabbling for straws to defend the indefensible".

It is appalling that we come here today and a member of the Scottish Executive is trying to defend the indefensible, as the Westminster spokespeople are doing.

This Parliament is seen by the people of Scotland and Scotland's industries as an opportunity to speak up for Scotland. Today, let us not take a decision to defend the indefensible—Westminster stealing 6,000 square miles of Scottish waters. I ask the Parliament to support the amendment.

I move, to leave out from "notes" where it appears first to end and add

"calls upon Her Majesty's Government to amend the Scottish Adjacent Waters Boundaries Order (S.I. 1999/1126) made under the Scotland Act 1998 so that the East Coast boundary is redrawn to a line of latitude due east of the termination point of land border between England and Scotland to re-establish the custom and practice of former years."

The Deputy Presiding Officer: I call Mr Euan Robson to speak to amendment S1M-19.3 and to move it formally.

15:55

Euan Robson (Roxburgh and Berwickshire) (LD): I hope that the amendment provides an appropriate way forward that will assist fishermen and their organisations. It has been a cause of some frustration to a number of us that it has not been possible for this Parliament to change the boundary order and that we can only seek to persuade Westminster to do so. The intention of my amendment is to back the fishermen's case. I welcome the fact that it is now generally recognised that the consultation that took place before the order was laid and debated at Westminster was completely inadequate. That is a clear lesson for us to bear in mind in our proceedings over the coming months.

It is particularly unfortunate that the lack of consultation affected the fishing industry, which feels that it has been badly neglected—almost ignored—for the past 20 years.

Phil Gallie (South of Scotland) (Con): I cannot quite understand why there was a difficulty at Westminster. There were elected representatives from Scotland—Liberal Democrats and members of the Labour party—on the relevant committee, and there was no time limit on its deliberations. Why was the order so badly debated?

Euan Robson: If I may take a charitable view of what occurred, the answer is that the committee concentrated on how the line should be drawn, not why there should be a line. I have found no reference anywhere to lines of custom and practice, or to the line that is clearly set out—as Richard Lochhead explained—in the Scottish Fisheries Protection Agency's annual report.

With great respect to the minister, I believe that the practical implications of the new boundary are more serious than he has, perhaps, realised. I tend to prefer the view of the practitioners on the high seas to that of lawyers or civil servants. We have rehearsed quite fully the question of legal jurisdiction. That affects not only oil supply vessels, but ordinary vessels that are in transit through the area; it is my understanding that jurisdiction has been transferred for fishing vessels, but not for other forms of vessel.

Fishermen are understandably concerned that, once they have been transferred from the Scottish fisheries protection regime to another regime, there will be subtle differences in the interpretation of even common regulations. I am pleased that the minister has said that he will seek help in this area, listen to the views of the industry and discuss with other ministers of the Crown how those differences can be minimised. Frankly, they could be minimised by redrawing the line where it was in custom and practice.

I am advised—informally—by Sunderland

Marine Mutual Insurance Company Ltd that there may be some difficulty with the lifting of wrecks, but that is a minor point. Another area of concern, particularly for my constituents, is the fact that in recent years it has been the custom and practice among the UK fishermen's federations that vessels out of Eyemouth carry out patrol or guard duty on oil installations. It is useful additional income for fishermen as it helps them to spread out quota across the year, but it could well be lost as a result of this order. I seek some assurances from the minister that he will address that issue with fishermen in Eyemouth. It would be difficult for them if they were to lose that income.

There are serious problems—which Richard Lochhead clearly identified—not with the present regulations, but with future regulations. If a division is made along the boundary line that is described in the new order, a line is pushed straight through the middle of the Berwick bank fishing ground. There is clear concern that, in future—not at the moment—different types of regulation may apply on the two sides of this notable fishery, which is fished predominantly by Scottish vessels. I have not yet had an answer to the question on dredging for marine aggregates—there may be consequences for that too, although I stand to be corrected if that is not so. I have great difficulty understanding why international law is used to draw a boundary line in this context.

Anyone who goes to Eyemouth will not find anybody who is in any doubt about where the boundary was, and I find it difficult that that was not appreciated and presented to the committee at Westminster.

I am grateful that Ross Finnie seems to accept a number of the points that have been made.

David McLetchie (Lothians) (Con): Will Euan Robson give way?

Euan Robson: I have almost finished.

David McLetchie: I know—that is why I am asking now.

The points that Mr Robson has made have been valid, constructive and helpful. Before he concludes his remarks, could he explain his and his colleagues' road to Damascus conversion, which led to the withdrawal of the amendment that Mr Lochhead moved and the substitution of the amendment to which Mr Robson is now speaking?

Euan Robson: I am happy to explain. To use fishing terms, we have perhaps exceeded our quota of motions and amendments during this debate.

We have moved on. We have obtained some assurances from Mr Finnie and the case that he will take to UK ministers on behalf of the fishermen offers a practical way forward. I must make it clear

to David McLetchie that I do not dissent from Richard Lochhead's motion, which was originally mine—I remember writing those words. I believe that the boundary should be drawn as it suggests. Perhaps that has clarified the position for David McLetchie.

I move, to insert at the end of the motion

"and the Scottish fishing organisations have considerable concerns about the said Order; and calls upon the relevant Minister to (a) meet representatives of the Scottish fishing industry to discuss their concern and in particular their desire to re-establish the custom and practice of former years in regard to the east coast boundary and (b) convey such concerns to the Secretary of State for Scotland."

The Deputy Presiding Officer: The debate is now open for discussion.

16:03

Mr Alex Salmond (Banff and Buchan) (SNP): I welcome the Minister for Rural Affairs—and, indeed, his deputy—to his duties. I also welcome his declaration of consultation, which would be a new and welcome practice for the fishing industry of Scotland. We intend, of course, to hold him to his words. It would make a good start, therefore, if he responded to the certain representations made by the Scottish fishing industry more vigorously than he did in his opening remarks.

I have been a member of the Westminster Parliament for 12 years and I have attended and spoken in just about every fishing debate in the chamber of the House of Commons in that time. That puts me in a position to say that some things in the procedure that we are discussing are very good and very welcome. I cannot remember a fishing debate in those 12 years that was attended by more than about 20 people. We are usually called the usual suspects when we debate fishing subjects among ourselves, usually in November—

Mr Jim Wallace (Orkney) (LD): December.

Mr Salmond: Yes, December, which is when the annual fishing debate that we are allowed to have in Westminster takes place. First, seeing a full chamber today is very welcome. That is a departure from the Westminster practice. Secondly, it is good that this Parliament has been able to respond to an issue of current concern in the industry, as opposed to pigeon-holing it into an annual debate some months after the event. I would, however, have preferred the Parliamentary Bureau to have decided to take the motion as it originally stood in the business list, rather than the watered-down Executive version.

This is a good start in terms of the Parliament responding to the industry's concerns, but it would rather cloud things over if we did not follow through those concerns and make a firm

declaration today on behalf of the people in the fishing industry, whom many of us represent.

The fishing industry wants to be regarded not as a few thousand fishermen or a matter for a few coastal constituencies, but as a major industry of Scotland that employs 20,000 people plus in terms of its total economic effect in our country.

The onshore and offshore fishing industry is 15 times more important to the Scottish economy than it is to the United Kingdom economy and it wants that level of importance to be reflected in our debates and proceedings. That has not happened at Westminster and it most certainly did not happen in the debate in the Third Standing Committee on Delegated Legislation on 23 March. I have read through the report of the debate and the kindest thing I can say about Mr McLeish's speech as the minister who introduced the order is that he was reading his brief. As soon as he was asked questions about it he sailed into trouble. He had the honesty to say:

"I realise that the order is just a mass of co-ordinates and that the boundary may be less specific than possible in relation to the size of the map".

In other words, the map provided for the members of the committee was too small for them to recognise where the boundary was about to be drawn. That was reflected in the debate. Mr Russell Brown, the member for Dumfries, was honest and disarming enough to say:

"When I picked up a copy of the order and looked at the co-ordinates . . . I was totally confused by some of it."—*[Official Report, House of Commons, Third Standing Committee on Delegated Legislation, 23 March 1999; c 4,11.]*

The nature of the debate in the committee did not reflect the seriousness of the subject or give due attention to it. Everyone who reads the account of that standing committee meeting will recognise that a blunder was made in terms of the scrutiny it should have given Mr McLeish's proposal.

I do not think that we should compound that felony today or try to cover up for the mistakes that were made at Westminster. We should make a clear parliamentary declaration to do something about it. Mr Finnie has tried to give the impression that none of this really matters. Some of the questions he was asked, particularly the one from Mr Canavan, indicated that it might well matter. Mr Robson's contribution indicated why it might well matter. It is not enough to wave it away and say that we will work out later whose jurisdiction any offences that take place might come under. An offence could take place tomorrow in that 6,000 square miles of Scottish water and the de minimis position is that somebody who is accused of an offence should at least know in which court they are going to have to defend themselves.

I represent the biggest fishing constituency in Scotland; my colleague Margaret Ewing represents the second biggest; and Mr Wallace represents a major fishing constituency, although in the Scottish Parliament he represents less than half of the fishing interests that he represents at Westminster. Some of our constituents are occasionally accused of infringements—these things happen from time to time. Many succeed in proving their case in court. There are some solicitors in Scotland who are well versed in fishing law and who often succeed in proving our constituents innocent, and justice takes its course. It would be very difficult for my constituents and those of other members if they had to defend themselves in an English court—there would be substantial expense, inconvenience and uncertainty, but the minister seems prepared to tolerate that. I think we should give short shrift to that this afternoon.

There is a further matter of importance, beyond the immediate issue of legal jurisdiction, that lies in the nature of fisheries policy. Not too many members will be well versed in this matter, but I will take a minute to explain why it could be of substantial, practical importance. It is simply not true, as the Executive claims in its motion, that the order will in no way restrict the freedom of Scottish fishermen in terms of the common fisheries policy. That policy is itself in a process of evolution. Many good ideas have emerged in the debates on fishing policy over the past few years. One, which came from the industry, was to ban discards—small dead fish thrown over the side of the boat—which is a waste and an obscenity in conservation terms.

The Scottish industry has been strongly in favour of an absolute ban on discards and argues that all fish caught should be landed so that they can be properly assessed. That is an attractive policy and it may well be an option that this Parliament will want to consider. As things stand, we could legislate for that option with effect on Scottish boats anywhere, but we could not legislate for other boats that are fishing in Scottish waters. Nothing undermines conservation policy in the fishing industry more than the feeling that regulations can be imposed on our fishermen but not on other boats that are fishing in our waters. The common fisheries policy is moving towards coastal state management—zonal management. That is how the policy has evolved and it has great support throughout the community.

The 6,000 square miles form a significant fishing ground that we do not want to slip out of Scottish jurisdiction and policy measures that we might want to impose. Mr Finnie should think very carefully before he says that the order is not relevant to practical fishing concerns. It is also untrue that there are no lines of jurisdiction at

present. The Continental Shelf (Jurisdiction) Order (UK) 1968 set a legal boundary for the purpose of prosecution concerning oil rigs and platforms. As far as the fishing interest is concerned, there is a custom and practice line, as Mr Robson's excellent speech exemplified.

Probably the worst aspect of all this is that the practice that was followed in that Westminster committee did not follow international legal precedents. The opinion that my colleague Mr Richard Lochhead quoted from Dr Iain Scobbie—who is an acknowledged expert in such areas—makes that very clear. Dr Scobbie said:

"Equidistance is an accepted method in opposite delimitations, but not in those involving lateral adjacency."

In other words, if the boundary were between Scotland and Norway it would be correct to use the method of equidistance, but between states that are in lateral adjacency that method is not the common practice under international law. Dr Scobbie stated that two thirds of the cases under international law have not been settled using the method of equidistance. What prevails in those cases tends to be custom and practice.

The Deputy Presiding Officer: Mr Salmond, could I ask you to wind up please?

Mr Salmond: My final remark is addressed to Mr Robson. According to the procedures of this Parliament, the vote on amendment S1M-19.2, against motion S1M-19, will be taken first. He and his colleagues will have the opportunity to support that amendment. If it fails, he can return to his own amendment. In other words, he can support the amendment in which he believes without jeopardising his own. I suggest that, for the benefit of the industry and for the reputation of this Parliament, that is exactly what Mr Robson and his colleagues should do.

16:13

Mr Jamie McGrigor (Highlands and Islands) (Con): I support amendment S1M-19.2. As the fisheries spokesman for the Scottish Conservative party, I have recently met many fishermen from the east coast and the west coast. They are all very angry men, and I do not blame them. Recent events have been a slap in the face for Scottish fishermen. The extraordinary failure of those in power at Westminster to consult has been perceived as a colossal insult to the representatives of one of our oldest and most valuable industries.

I recognise that the new boundary may be the median line between England and Scotland and that it has been drawn within the principles that govern the establishment of new sea boundaries between countries, but some thought must surely be given to centuries of history, convention and

fishery practices. Scottish members at Westminster surely have a duty to protect the rights and interests of their constituents and, above all in this case, the members of the Scottish fishing industry. The statutory instrument that has caused all this bother was approved without the knowledge of, or consultation with, Scottish fishermen or their representatives or, for that matter, any English ones.

Why was there no consultation and what were the Westminster parliamentarians thinking about? Did they honestly think that the removal of 6,000 square miles of traditional Scottish fishings amounted simply to what Donald Dewar called the tidying-up of boundaries in accordance with international law? Is that an example of open government by the party that champions that slogan? Is it an example of consensual process? On a scale of one to 10, how would members rate that? A resounding vote of nul points is echoing around the chamber. If that is open government, what is the alternative like?

I know that the Scottish Labour party, the SNP and the Liberal Democrats were campaigning in the Scottish election—perhaps that is an excuse—but the Executive's motion is a smokescreen to hide the fact that it has sold Scottish fisheries and the fishermen down the river. Members of the Executive could not even manage to leak the information, which is odd for a party that is famous for its faulty plumbing. Is there some sinister reason why Labour is introducing a boundary that is based on international legal conventions when all that was needed was a clarification of the existing boundary?

Although there is clearly a need for a geographical boundary to define the Scottish Parliament's area of legislative and administrative competence, it should have been based on existing custom, practice and precedent, after consultation with the fishermen. The current boundary, which has been recognised for centuries, is used by the Scottish Fisheries Protection Agency in its annual report. It is also used, as has already been mentioned, in the Civil Jurisdiction (Offshore Activities) Order 1987.

The line runs due east from Marshall meadows. As we know, the proposed new English waters contain the prolific fishing grounds of Swallow hole and Berwick bank. Scottish fisherman can still fish them, but what happens if inshore waters regulations and EU directives are interpreted differently by the Scottish and English Parliaments? The new line bisects the Berwick field and a boat might have to change its gear halfway through a haul if it crossed the line. Ninety per cent of the boats that fish that area are Scottish but, if prosecuted for any misdemeanour or offence committed south of the line, they would

have to face English courts and employ English lawyers.

Henry McLeish stated that the boundary has no significance for other matters at sea, such as oil and gas, which are reserved. Surely there must be some doubt about that. Please let us be positive now and use common sense between our two Parliaments to sort the matter out. Let us use our new, devolved politics to address this wrong and to purge this insult to Scottish fishermen. I ask that the pre-existing line on the east coast be restored and I call on the Liberal Democrats, who support that proposal, to follow their conscience and principles and to vote with us to protect the interests of Scottish fishermen.

The Deputy Presiding Officer: A number of members have indicated a desire to speak so, from now on, the time limit for speeches will be three minutes.

16:19

Tavish Scott (Shetland) (LD): As we are restricted to three minutes, I shall probably make only three points. First, I associate myself with the remarks made by Mr Lochhead and Mr Salmond in their introductions. They emphasised the importance of fisheries in Scotland and the opportunity that this Parliament will give the industry to raise issues that are crucial to my part of the world, Shetland, and to many other constituencies. It offers a chance for fisheries to get their point across and a chance for members to work with the industry to make a positive contribution to the future of a crucial Shetland and Scottish industry.

I was intrigued by Mr Gallie's earlier intervention about Westminster. When I worked there as a humble researcher to my colleague Jim Wallace, I sat on the researchers' bench in the public gallery and watched that same Tuesday night debate at half-past 10, when only 20 members were present. It was not edifying stuff, and it did not do much for the way in which fisheries was presented. There were fishermen there from all over Scotland on that night, and they were very impressed by it either. We need to do a heck of a lot better than that, and I welcome the fact that so many members are still here.

I understand and sympathise with the utter frustration that the Scottish Fishermen's Federation and the fishing organisations feel at the lack of consultation on this issue. I welcome the principle of full and proper consultation before processes such as proposed works and proposed legislation come into the public domain. I encourage the minister to maintain that principle. It is extremely important that that happens.

I agree with Mr Robson's case for the need to

re-establish the east coast boundary in terms of custom and practice, and I will not rehearse his arguments or those of other members. I too heard the chief executive of the Scottish Fishermen's Federation on "Good Morning Scotland" today. He raised the important point that the UK Government proposals establish a position where a Scottish fishing boat on oil contract work is under Scottish jurisdiction, but as soon as it shoots its nets it is under English jurisdiction. The suggestion was also made that if a Scottish boat were prosecuted while it was south of the new line but north of the old, it would be under a Scottish court's jurisdiction. That drives a proverbial trawler through a square mesh panel. Why bother with the line at all? I do not see the need for it in that context.

The suggestion was also made that this does not diminish Scottish fishing interests. Zonal regional management is a principle of Liberal Democrat fishing policy and that includes inshore regulating orders. It may be appropriate for other parts of Scotland to follow the good example of Shetland, where fishermen are working with conservation groups, environmental organisations and the local authority to build an inshore management regime. I hope that that model will be passed on to other parts of Scotland. In particular, that kind of regime might be appropriate to the part of Scotland that we are talking about today.

I support Mr Robson's amendment because it provides fishermen with an opportunity to be consulted and for progress to be made on this important issue.

16:23

Irene McGugan (North-East Scotland) (SNP): I wish to speak in support of amendment S1M-19.2. If this Parliament wants an example of how not to go about implementing a piece of legislation, this might be the perfect one. The order under discussion is illogical in its content and substance, and insensitive in the manner of its implementation. The current line that divides Scottish and English fisheries matters has effectively removed Scottish waters from the jurisdiction of the Scottish Parliament. This has been done by the inappropriate application of an international convention, with no regard to custom, practice or precedent—as we have heard.

How can it be argued that there has never been a recognised fishery boundary between Scotland and England? By custom and practice, which is a principle well recognised in Scots and English law, the fisheries boundary between the two countries has for generations been drawn off Berwick North. The Scottish Fisheries Protection Agency and its English counterpart, the Royal Navy, have been operating to that line for years. Analysis of the

usage of those waters shows that a preponderance of Scottish vessels operate in the area, which demonstrates Scotland's historic right to the fishing grounds in question.

As we have heard, there is also a legal precedent that establishes Scottish jurisdiction over the area in question. That has been fully demonstrated in that, although there have been few criminal prosecutions, they have been brought before Scottish courts and enacted under Scottish law. The line has been and must continue to be recognised. When challenged, the Government has advanced no good reason and has satisfied no one with its explanation about why the line has been moved 60 miles. The decision remains unjustified and unjustifiable.

The minister has claimed that, rather than lamenting the loss of 6,000 square miles, we should be celebrating the fact that 140,000 square miles have been transferred to Scottish jurisdiction. We may yet celebrate, because the Scottish Fisheries Protection Agency has confirmed in writing that those 140,000 square miles include the 6,000 square miles in question. That could be confusing—perhaps Lord Sewel got his figures wrong. It could be that the order is the cruel joke all of Scotland hopes that it is, and that the 6,000 square miles were never transferred from Scottish to English jurisdiction.

Others have noted the future requirement for consultation with relevant bodies in the preparation of legislation relating to fishing in the Scottish zone. It would have been vastly preferable to have undertaken such a consultation exercise prior to formulating the order, when all the salient facts could have been clearly articulated, but there was no opportunity for that.

The people of Scotland recognise that this is an unfair order. They would want the Scottish Parliament to confirm that the 6,000 square miles of sea should remain as Scottish waters, and that the boundary line should be reinstated where it was for hundreds of years. Scotland's democratically elected Parliament has not been re-established to condone, or implement by proxy, legislation that is unnecessarily confusing, detrimental to the interests of Scotland, and which is contrary to established practice and precedent.

16:27

Mary Scanlon (Highlands and Islands) (Con): In this new age of positive and consensual politics, will the minister, apart from addressing the many concerns and issues that have been raised in the chamber today, give us a clear outline of the benefits to the governance of Scotland's fishing industry that will arise from the new boundary?

16:28

George Lyon (Argyll and Bute) (LD): Thank you, deputy leader—[*Laughter.*] An excellent start.

I support some of the sentiments that have been expressed, especially those of Mr Lochhead. Last weekend I attended the Clyde fishermen's association lunch. It was long and it was liquid, but I can tell the Parliament that this issue is very important to the fishing industry. We must send a strong message not only to the fishing industry, but to rural Scotland and to the rural industries that have felt neglected, or in many cases ignored, by Westminster. Alex Salmond's classic example—that there is only one debate a year on the fishing industry—sums up the importance that Westminster attaches to fishing and agricultural interests. It is essential that we send a strong signal to rural Scotland and its industries, saying that their agenda is one of the Parliament's top priorities. That is the nub of the argument today. What makes the fishermen angry is the lack of consultation on the implications of moving the line. That is the issue that must be discussed with the fisheries representatives and I am glad that the minister recognised that.

The situation must change. The Scottish Parliament must today make it clear to the fisheries organisations that we will put their agenda at the top of our list of priorities. The new partnership Government must send out a clear signal that it believes that fishing, agriculture and all rural interests are indeed important.

Alasdair Morgan rose—

George Lyon: I am sorry Alasdair, I have only three minutes, so I will not give way.

I believe that we should accept Euan Robson's amendment, which calls on the minister to meet the fishing leaders to discuss the issue in detail. Clearly, there are many differences of opinion on the implications of the new line. The minister must discuss the matter with the fishing leaders and listen to their concerns. Most important, if those leaders have genuine concerns, he must act as an advocate for the fishing industries and take the issue to the Secretary of State for Scotland, who, in turn, should take it to Westminster for a debate on whether the line should be altered. If the line needs to be altered, the minister must stand up for the Scottish fishing industry.

16:31

Lewis Macdonald (Aberdeen Central) (Lab): I agree with Alex Salmond that it is nice that the important issue of fisheries has the high profile that it deserves. I also agree with similar comments made by George Lyon.

Two kinds of concerns have been raised during

the debate on the Scottish Adjacent Waters Boundaries Order. First, there are concerns on the part of the Scottish boats that fish the Berwick bank, in particular about the alleged infringements that are being pursued in the English, rather than in the Scottish, courts and the likely expense that those cases might involve. Secondly, the Scottish Fishermen's Federation has raised reasonable issues—which were echoed by Dennis Canavan—about the different jurisdictions that apply when the oil and fishing industries share the same waters.

Those issues deserve to be addressed. The fishing industry is entitled to a voice and, when its direct material interests are involved, it should be consulted and informed. For those reasons, I welcome the minister's commitment to meet the Scottish Fishermen's Federation, to pursue these matters with UK ministers and to examine ways of addressing the concerns—some of which have been raised today—about the jurisdiction that affects Scottish fishermen.

Some of the rhetoric about piracy and theft that we have heard in recent weeks is less welcome. Even in the chamber today, we have heard that Westminster has stolen Scottish fishing waters from the Scottish fishing fleet. There is no shortage of serious and important issues that affect the Scottish fishing industry and there is no need to portray the important—but limited—issues that arise from this order as a matter of life and death for the industry. Of course, some people get excited about boundaries—regardless of whether those boundaries are on land or at sea or whether they affect the legislative competence of the Parliament—but to pretend that the whole matter is a gigantic conspiracy to run away with Scotland's fish does no favours to the Scottish fishing industry. There is something pretty bizarre about a nationalist party that objects to the use of an international convention, even if that party has the benefit of a last-minute legal opinion.

Richard Lochhead: Does Lewis Macdonald accept that much of the concern is not just about jurisdiction, but about the fact that Westminster felt it necessary to shift the boundary in the first place?

Lewis Macdonald: The point that I throw back to Richard Lochhead is that the SNP, as a party that is committed to Scottish independence, comes before the Parliament and says, "Here is a boundary line, drawn up in accordance with international conventions on a median boundary"—[MEMBERS: "No, the Government says that."] The SNP produced a legal opinion but, until it is tested in court, it is only an opinion. I hope that the fishing boundary between Scotland and England is never tested in an international court, because that would do more damage to Scottish

fishing than anything that we are discussing today.

I am interested to know whether the SNP's proposition is to revert to the line due east of Berwick and to continue to campaign for independence. The likely outcome of that would be that a median line such as the one that is now in force would be drawn.

We should listen to the Scottish Fishermen's Federation and we should welcome the minister's offer to take this matter up at the appropriate level. We should also ask ministers to make a distinction between the real concerns of our fishing communities and the party political advantage that some people are trying to make.

The Deputy Presiding Officer: Before calling Mr Murray Tosh, I remind members that they should indicate if they wish to intervene during another member's speech—that is the courtesy that we are trying to observe in this chamber.

16:35

Mr Murray Tosh (South of Scotland) (Con): Like Mr Finnie, I am no expert on the fishing industry. However, I recognise a body of men who feel that they have a justifiable and substantial grievance.

As a South of Scotland member, I had the privilege some weeks ago of meeting a number of representatives of the Scottish fishermen. They put to us the practical points that have been ventilated by many members this afternoon on legal jurisdiction and on the lack of consultation of fishermen's organisations by the gas and oil industries and the various utilities that lay cables. They also told us that, in the 6,000 square miles, they may lose the subcontracting work with the oil and gas industries that is currently restricted to them because of a non-poaching agreement with their English counterparts.

Those were not party political points. They were the concerns and indignation of men who felt that their interests had been neglected and that they needed better representation. I submit that this Parliament should be treating those concerns with considerable respect.

The essential question is that the Scottish fishermen were not consulted. They were not even given the information properly once the decision had been made; they found out almost by accident. That shows gross contempt. Whether it was deliberate or accidental, the Westminster members are responsible for that humiliating failure to consult.

That poses some serious questions of this Parliament: what is our new Executive's commitment to the spirit of consultation that Mr Finnie mentioned at the beginning of this debate?

The best way in which ministers can demonstrate their sincerity is by taking forward Mr Finnie's free and full admission that this matter has been handled very badly. They should go forward now as a united body to the Westminster Parliament and say, "Look, we have fouled up. Someone got it very badly wrong. The fishermen have rumbled us and, as a united Parliament, we want to resolve the matter urgently before the new orders come into effect in a few weeks."

There is also a point of principle about how we approach the people of Scotland. This is the first real debate that we have had about people's concerns and indignation at how they have been treated. How are we handling it? We are going to have a wee chat with them and draw their concerns to the attention of the Secretary of State for Scotland. That is not good enough. How will we treat the complaints, petitions and protests of our countrymen? They want something more substantial than that. We and the Executive have to respond. If the Executive is not prepared to treat this issue with the urgency and the seriousness that the fishermen tell us it should be dealt with, a dreadful message will be sent to the people of Scotland. Forget the politicians; listen to the fishermen who were in the gallery and who came to put these points to us.

The Deputy Presiding Officer: Please wind up now, Mr Tosh.

Mr Tosh: This is also an important test of the politics of our new Government, which said that it wanted to be inclusive. Let us include the fishermen. It is also an important test of the resolve of Liberal members. Mr Robson spoke in favour of the amendment in Mr Salmond's name. No doubt Mr Robson's press release in his constituency next week will reflect what he said this afternoon. I tell Mr Robson that we will make sure that his constituents also know how he voted.

The Deputy Presiding Officer: Please wind up now, Mr Tosh.

Mr Tosh: It is the votes that count.

Several Members rose—

Mr Tosh: I am sorry. I would have loved to debate the matter at greater length.

Mr Robson should be aware that there is a very important point of principle. He bravely laid his cards on the table.

The Deputy Presiding Officer: Please finish, Mr Tosh.

Mr Tosh: I hope that Mr Robson and other members will vote as the fishermen want and send the matter back to Westminster to be reconsidered.

The Deputy Presiding Officer: We are

approaching the end of the debate. I ask members to stick to their three minutes. If they do not, I will have to switch off their microphones.

16:40

Colin Campbell (West of Scotland) (SNP): I used to be on Renfrewshire Council, so I am accustomed to having my microphone cut off.

The new boundary was, very strangely, set on the basis of international law, a fact that would have been exciting had our history been four or eight years down the line. It is quaint that that was the basis. The use of international law east to west across the North sea would be appropriate, but not north to south between England and Scotland.

On 26 March, Lord Sewel wrote to Richard Lochhead, saying—Ross Finnie reiterated it in his introductory speech—that

"the use of median lines mean that every point on the boundary is equidistant to Scotland and to England".

That will fascinate members. Those who have doctorates in geography can explain to the others what this means: the line is a loxodromic line that is drawn on a Mercator projection. In a case between the UK and France on the continental shelf delimitation in 1977, the UK Government objected to those criteria being used to delineate territory between the French and the British, yet now it is using them in the UK.

Lord Sewel also made it clear to the Scottish Fishermen's Federation and to Richard Lochhead that the boundaries were set by use of median lines. He stated unequivocally that the use of the median line is the normal international convention. That is not the case. I will précis our seven pages of legal opinion for those who will not read it. Charney and Alexander's "International Maritime Boundaries (1993)" establishes the fact that only 40 per cent of maritime boundaries follow the equidistance method.

In a 1982 continental shelf dispute between Libya and Tunisia, the International Court of Justice ruled that

"equidistance is not either a mandatory legal principle or a method having some privileged status in relation to other methods."

Henry McLeish stated in committee that

"the boundary has no significance for other matters . . . In particular, it has no relevance to the regulation of oil and gas exploration and production at sea".—[*Official Report, House of Commons, Third Standing Committee on Delegated Legislation*, 23 March 1999; c 5.]

Ross Finnie said the same thing—that the boundary has no significance for those matters because they relate to areas that are reserved to Westminster. For how long will that be the case? It is not the SNP's ambition to allow those matters to

be left reserved.

Labour bases the boundary on international law, yet there is a trend in international law to have single boundaries for all purposes—for example, for oil exploration and for fisheries. The UK signed and is bound by the 1982 United Nations Convention on the Law of the Sea, yet it has departed from the convention's provisions in making this boundary change.

If one were into conspiracy theories—of course, being as innocent and pure as all other members in the chamber, I am not—one might suspect that, if the boundary change stands, its existence could be used as a precedent for other boundary changes relating to oil, gas and other matters that are of interest to the nations that make up the United Kingdom. That could happen, even though Henry McLeish has assured us that it will not.

The change is unnecessary, unwanted and sets dangerous precedents. To put it in terms that Ross Finnie—who is from the west of Scotland—will understand, it is a bit of a pauchle. Anyone who thinks that it is not has come up the Clyde on a banana skin.

16:44

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): I may be the only member of the Parliament who has worked in a fish factory, so I have a slight knowledge of the industry.

Mr Hamish Morrison is not given to overstatement. He does not write letters simply for fun, and I take his points seriously. I should like to associate myself with the remarks of Mr Salmond and Mr Robson. We have a problem and we know it.

Time and again, fishermen have told me that they feel that we do not listen, that we neither know nor care about their problems. Today we have an opportunity, in supporting Mr Robson's amendment, to show that we shall listen and engage in a dialogue, and that we will start a new kind of inclusive politics in Scotland. I believe that we must take that step today. We must send out the message, loud and clear, that we understand what they are saying, that we will listen to them, that we will work with them and that we shall go on to sort out the problem.

This is an acid test on where we stand in relation to Westminster as a Parliament. If it is to be the case that we sit on our hands and never say boo to a goose, that is an unhappy message to send out to Scotland.

16:45

Dr Winnie Ewing (Highlands and Islands)

(SNP): Most of the arguments have been made already, but I want to add that I feel sad that such reasonable men as the representatives of the fishing industry have been treated so unreasonably. They came here and met all the parties except the Labour party, which refused them a meeting. For them, that is another nail in the coffin. What has happened to open government?

When the First Minister was criticised about that earlier, he replied by saying that he had sent out a press release. That is a disgraceful justification. I should like a copy of that press release and its distribution list—it certainly was not distributed to the fishermen.

Lewis Macdonald rose—

Dr Ewing: I cannot give way because I have too much to say in too short a time.

To bring in the European dimension for a moment, for 20 years I served on the European Fisheries Committee. At the moment, I am—technically, and will be for another month—the only UK vice-president of the Fisheries Committee. The last act of the late Dr Allan Macartney was to set a proposal on the regionalisation of the common fisheries policy before the Parliament. That proposal was passed with an overwhelming majority in the European Parliament. Therefore, this statutory instrument is totally against the trend in Europe. The Parliament is at present talking about reforming the whole CFP. That alone would justify scrapping the Scottish Adjacent Waters Boundaries Order 1999 and restoring the status quo.

I am very proud to be a Scots lawyer. I am proud of Scots law, which is held in enormous repute throughout the world. I am proud that we have law officers of our own. Were the law officers asked to approve the order? Were they consulted; did they approve it? We are all entitled to an answer to that question. If the ministers who are present cannot answer it, perhaps we can get the answer later.

There is no doubt about the custom and practice. There is no doubt that private international law starts at the Scottish border. That is internationally recognised. The remit of our police does not run south of the border and the remit of the English police does not run north of it. Our remit runs into what has always been regarded as our Scottish waters. That is not just custom and practice; it is a matter of court cases.

We are the only European state with two distinct legal jurisdictions. If we are talking about applying international law, that simple fact must be taken into account, whatever lines are being drawn. It has not been taken into account. We have heard that two thirds of such disputes have not been settled by equidistance, and we have been given

some interesting examples of that.

I also have a question about motive for the Deputy Minister for Rural Affairs. Westminster saw fit to annex 6,000 square miles off Scotland's coast with no credible explanation. Is the motive behind that a belief that Scotland will soon be independent; could that be the real motive behind the whole sordid mess?

The Deputy Presiding Officer: I call Mr Richard Lochhead to sum up in no more than three minutes.

16:49

Richard Lochhead: The Liberal Democrat amendment does not give the people of Scotland and Scotland fishing communities, all of whom are watching today's events closely, what they want. They do not want the MSPs, the Scottish Parliament, to acknowledge that the fishing industry is concerned about what has happened in Westminster; they want to know our views. They want a declaration from the Scottish Parliament giving our view on what has happened in Westminster; do we want it reversed or do we not? It is a black and white issue, and it is simple. There is only one amendment that makes such a declaration and that is the one lodged by the SNP.

I should like to quote our esteemed First Minister elect, who in the introduction to a recent publication, "A Guide to the Scottish Parliament", said:

"The people of Scotland rightly have high hopes and expectations for their Parliament; they already feel a sense of ownership and of connection to it, and we must not let them down."

If we do not support the amendment, we are not just letting down the fishing communities; we are letting down the people of Scotland. I urge all members to support it.

The Deputy Presiding Officer: I call Mr John Home Robertson to sum up.

16:50

The Deputy Minister for Rural Affairs (Mr John Home Robertson): As a matter of interest, Madam Deputy Presiding Officer, how long do I have? It is rather complicated, as the clocks are set at different times.

The Deputy Presiding Officer: You have five minutes.

Mr Home Robertson: I am grateful.

The debate has raised some serious points, which will be treated seriously by the Administration. It has also raised some rather silly points, which will be treated accordingly by the fishing industry and by the chamber. I look forward

to seeing Dr Scobbie's legal opinion, but I guarantee that, unlike the nationalists, he will not propose a direct line of latitude.

The fishing industry and the Scottish fishing communities are extremely important to the whole of Scotland. The Government motion is a formal acknowledgement of that fact, and of the fact that we intend to work closely with the industry for our fishing communities. That work will include proper consultation and proper dialogue, starting with a meeting between the Minister for Rural Affairs, myself and the Scottish Fishermen's Federation tomorrow, when we will get down to the serious business that must be addressed.

One or two points need to be nailed down fairly hard. On 8 March, our colleagues in the Scottish Office gave proper public notification about the background and the meaning of the new boundary line, and 57 copies of a news release were circulated to different organisations and to the press. I fully recognise that official press statements are not always the best way to get information into the public domain. It is often more effective to mark the information "confidential", and to leave it in a plain brown envelope in a pub. However, we understand that there is a serious point, and I agree with Mr Robson. We must have open and clear lines of communication and consultation with the industry. That will be the order of the day in future, and that is a specific undertaking.

The industry had an excuse for not noticing what was going on, and we will put that right. The SNP did not have that excuse. It has that £130,000 of Short money and researchers in Westminster. Why did SNP members not take the opportunity to turn up and to debate this matter on 23 March?

This matter is of particular interest to fishermen in Dunbar and Port Seton in my own constituency. If their interests were being undermined in any way, I can assure members that I would be taking a close interest in the matter. The order does not amend an existing boundary. All that we have had until now is an ad hoc arrangement between two United Kingdom fishery patrol agencies.

Mr Salmond *rose*—

Mr Home Robertson: I am sorry; I do not have time.

This new Parliament has distinct responsibilities, and that is why we now have a proper boundary line, set in accordance with fair and objective principles. The new line has no sinister implications and it does not impinge in any way on the rights of Scottish fishermen to fish in waters on either side of it.

I refer now to the Opposition. It was always going to be entertaining to see the new coalition

between the nationalists and the Tories, and we have seen it today. We have heard some dramatic stuff about the wicked English stealing Scottish waters and lurid speculation about blameless fishermen from Carnoustie being dragged off to alien courts by the English navy. Frankly, such speculation is irresponsible nonsense. Fishermen are entitled to expect serious consideration, and they will get that from this Administration.

The most depressing feature of the debate has been the chorus of whingeing from nationalists who seem to want to use Scotland's Parliament as a platform for ritual girning about our neighbours south of the border. For goodness' sake, after 300 years we have at last achieved a Parliament with responsibility for the whole Scottish fishing industry and 140,000 square miles of our adjacent waters. We have access to all our fleet's traditional fishing grounds elsewhere and two thirds of the catch of the UK fishing fleet. We should be working together to set a positive agenda for this great industry, and that is what we propose to do.

What we have from Mr Salmond—[*Interruption.*] I see that he is digging, and we are all familiar with that. What we have from Mr Salmond is the parliamentary equivalent of a letter to *The Scotsman* complete with ludicrous conspiracy theories, signed by "Disgusted of Banff and Buchan" and endorsed by his new friends in the Conservative party.

Our fishermen deserve much, much better than that. This Administration will take the interests of our fishing communities very seriously indeed.

Phil Gallie: On a point of order, Madam Deputy Presiding Officer. Today, we have heard time and again requests for moderate, temperate language in the debate; what we are getting from the minister is anything but.

The Deputy Presiding Officer: I am always grateful to members who support the position of the Presiding Officer and his deputies, but we can usually cope on our own.

Mr Home Robertson: I never thought that I would be accused of intemperate language by Mr Gallie, of all people. The Opposition is trying to crank up a non-existent debate.

I give an undertaking to the industry and to fishing communities around Scotland that this Administration will take their concerns seriously. We will begin that job with them tomorrow.

Our fishermen deserve much better than they have had in this debate. This Administration will take the interests of our fishing communities very seriously indeed. I commend the Government motion to the chamber. I urge members to accept the amendment moved by Mr Robson and to reject the nationalists' whingeing amendment.

The Deputy Presiding Officer: Before we move to decision time, I ask Henry McLeish to move formally motion S1M-29.

Motion moved,

That the draft Scotland Act 1998 (Border Rivers) Order 1999, which was laid before the Parliament on 26 May, be approved.—[*Henry McLeish.*]

Decision Time

16:57

The Deputy Presiding Officer (Ms Patricia Ferguson): I will put the questions on the three motions and the amendments to those motions that we have discussed this afternoon.

The first question is, that motion S1M-28, in the name of Henry McLeish, be agreed to. Are we all agreed?

Members: No.

The Deputy Presiding Officer: We will therefore have a division.

Richard Lochhead (North-East Scotland) (SNP): On a point of order, Madam Deputy Presiding Officer. I do not think that everyone understood which question was put. Will you repeat it?

The Deputy Presiding Officer: I presume that members read their business list and so are familiar with the business to be discussed. However, in the interests of the chamber, I will put the question again. This time, will members please indicate clearly whether they are minded to accept the motion?

The first question is, that motion S1M-28, in the name of Henry McLeish, be agreed to. Are we all agreed?

Motion agreed to.

That the draft Scotland Act 1998 (Cross-Border Public Authorities) (Adaptation of Functions etc.) Order 1999, which was laid before the Parliament on 26 May, be approved.

The Deputy Presiding Officer: The next question is, that motion S1M-29, in the name of Henry McLeish, be agreed to. Are we all agreed?

Members: No.

The Deputy Presiding Officer: There will be a division. Members will remember that they should vote yes to agree with the motion, no to disagree with the motion, and abstain to record an abstention. Members have 30 seconds in which to cast their votes.

For

Adam, Brian (North-East Scotland) (SNP)
Aitken, Bill (Glasgow) (Con)
Alexander, Ms Wendy (Paisley North) (Lab)
Baillie, Jackie (Dumbarton) (Lab)
Barrie, Scott (Dunfermline West) (Lab)
Boyack, Sarah (Edinburgh Central) (Lab)
Brankin, Rhona (Midlothian) (Lab)
Brown, Robert (Glasgow) (LD)
Campbell, Colin (West of Scotland) (SNP)

Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
Crawford, Bruce JP (Mid Scotland and Fife) (SNP)
Cunningham, Roseanna (Perth) (SNP)
Curran, Ms Margaret (Glasgow Baillieston) (Lab)
Davidson, Mr David (North-East Scotland) (Con)
Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
Dewar, Donald (Glasgow Anniesland) (Lab)
Douglas-Hamilton, Lord James (Lothians) (Con)
Eadie, Helen (Dunfermline East) (Lab)
Ewing, Dr Winnie (Highlands and Islands) (SNP)
Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
Ewing, Mrs Margaret (Moray) (SNP)
Fabiani, Linda (Central Scotland) (SNP)
Fergusson, Alex (South of Scotland) (Con)
Finnie, Ross (West of Scotland) (LD)
Galbraith, Mr Sam (Strathkelvin and Bearsden) (Lab)
Gallie, Phil (South of Scotland) (Con)
Gibson, Mr Kenneth (Glasgow) (SNP)
Gillon, Karen (Clydesdale) (Lab)
Godman, Trish (West Renfrewshire) (Lab)
Goldie, Miss Annabel (West of Scotland) (Con)
Gorrie, Donald (Central Scotland) (LD)
Grahame, Christine (South of Scotland) (SNP)
Grant, Rhoda (Highlands and Islands) (Lab)
Gray, Iain (Edinburgh Pentlands) (Lab)
Hamilton, Mr Duncan (Highlands and Islands) (SNP)
Harding, Mr Keith (Mid Scotland and Fife) (Con)
Harper, Robin (Lothians) (Green)
Henry, Hugh (Paisley South) (Lab)
Home Robertson, Mr John (East Lothian) (Lab)
Hughes, Janis (Glasgow Rutherglen) (Lab)
Hyslop, Fiona (Lothians) (SNP)
Ingram, Mr Adam (South of Scotland) (SNP)
Jackson, Dr Sylvia (Stirling) (Lab)
Jackson, Gordon (Glasgow Govan) (Lab)
Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
Johnston, Mr Nick (Mid Scotland and Fife) (Con)
Johnstone, Alex (North-East Scotland) (Con)
Kerr, Mr Andy (East Kilbride) (Lab)
Lamont, Johann (Glasgow Pollok) (Lab)
Livingstone, Marilyn (Kirkcaldy) (Lab)
Lochhead, Richard (North-East Scotland) (SNP)
Lyon, George (Argyll and Bute) (LD)
MacAskill, Mr Kenny (Lothians) (SNP)
Macdonald, Lewis (Aberdeen Central) (Lab)
MacDonald, Ms Margo (Lothians) (SNP)
Macintosh, Mr Kenneth (Eastwood) (Lab)
Mackay, Angus (Edinburgh South) (Lab)
MacLean, Kate (Dundee West) (Lab)
Macmillan, Maureen (Highlands and Islands) (Lab)
Martin, Paul (Glasgow Springburn) (Lab)
Marwick, Tricia (Mid Scotland and Fife) (SNP)
Matheson, Michael (Central Scotland) (SNP)
McAllion, Mr John (Dundee East) (Lab)
McAveety, Mr Frank (Glasgow Shettleston) (Lab)
McCabe, Mr Tom (Hamilton South) (Lab)
McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
McGrigor, Mr Jamie (Highlands and Islands) (Con)
McGugan, Irene (North-East Scotland) (SNP)
McIntosh, Mrs Lyndsay (Central Scotland) (Con)
McLeish, Henry (Central Fife) (Lab)
McLeod, Fiona (West of Scotland) (SNP)
McLetchie, David (Lothians) (Con)
McMahon, Mr Michael (Hamilton North and Bellshill) (Lab)
McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
McNeill, Pauline (Glasgow Kelvin) (Lab)
McNulty, Des (Clydebank and Milngavie) (Lab)
Monteith, Mr Brian (Mid Scotland and Fife) (Con)

Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Mundell, David (South of Scotland) (Con)
 Munro, Mr John (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Neil, Alex (Central Scotland) (SNP)
 Oldfather, Ms Irene (Cunninghame South) (Lab)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Quinan, Mr Lloyd (West of Scotland) (SNP)
 Radcliffe, Nora (Gordon) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Reid, Mr George (Mid Scotland and Fife) (SNP)
 Robison, Shona (North-East Scotland) (SNP)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Russell, Michael (South of Scotland) (SNP)
 Salmond, Mr Alex (Banff and Buchan) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Scott, Tavish (Shetland) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Smith, Mrs Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Thomson, Elaine (Aberdeen North) (Lab)
 Tosh, Mr Murray (South of Scotland) (Con)
 Ullrich, Kay (West of Scotland) (SNP)
 Wallace, Ben (North-East Scotland) (Con)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Welsh, Ian (Ayr) (Lab)
 Welsh, Mr Andrew (Angus) (SNP)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)
 Wilson, Andrew (Central Scotland) (SNP)
 Young, John (West of Scotland) (Con)

AGAINST

Canavan, Dennis (Falkirk West)
 Elder, Dorothy-Grace (Glasgow) (SNP)
 White, Ms Sandra (Glasgow) (SNP)

The Deputy Presiding Officer: The result of the division is as follows: For 122, Against 3.

Motion agreed to.

That the draft Scotland Act 1998 (Border Rivers) Order 1999, which was laid before the Parliament on 26 May, be approved.

The Deputy Presiding Officer: The next question is, that amendment S1M-19.2, in the name of Mr Alex Salmond, be agreed to. Are we all agreed?

Members: No.

The Deputy Presiding Officer: In that case we will move to a division.

Members should vote yes to agree to the

amendment and no to disagree to the amendment; abstentions should also be recorded. Members will have 30 seconds in which to vote.

FOR

Adam, Brian (North-East Scotland) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Campbell, Colin (West of Scotland) (SNP)
 Canavan, Dennis (Falkirk West)
 Crawford, Bruce JP (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Davidson, Mr David (North-East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Elder, Dorothy-Grace (Glasgow) (SNP)
 Ewing, Dr Winnie (Highlands and Islands) (SNP)
 Ewing, Fergus (Inverness East, Nairn and Lochaber) (SNP)
 Ewing, Mrs Margaret (Moray) (SNP)
 Fabiani, Linda (Central Scotland) (SNP)
 Fergusson, Alex (South of Scotland) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Grahame, Christine (South of Scotland) (SNP)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Harding, Mr Keith (Mid Scotland and Fife) (Con)
 Harper, Robin (Lothians) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Ingram, Mr Adam (South of Scotland) (SNP)
 Johnston, Mr Nick (Mid Scotland and Fife) (Con)
 Johnstone, Alex (North-East Scotland) (Con)
 Lochhead, Richard (North-East Scotland) (SNP)
 MacAskill, Mr Kenny (Lothians) (SNP)
 MacDonald, Ms Margo (Lothians) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 McGrigor, Mr Jamie (Highlands and Islands) (Con)
 McGugan, Irene (North-East Scotland) (SNP)
 McIntosh, Mrs Lyndsay (Central Scotland) (Con)
 McLeod, Fiona (West of Scotland) (SNP)
 McLetchie, David (Lothians) (Con)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Mundell, David (South of Scotland) (Con)
 Neil, Alex (Central Scotland) (SNP)
 Paterson, Mr Gil (Central Scotland) (SNP)
 Quinan, Mr Lloyd (West of Scotland) (SNP)
 Reid, Mr George (Mid Scotland and Fife) (SNP)
 Robison, Shona (North-East Scotland) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Salmond, Mr Alex (Banff and Buchan) (SNP)
 Scanlon, Mary (Highlands and Islands) (Con)
 Sturgeon, Nicola (Glasgow) (SNP)
 Swinney, Mr John (North Tayside) (SNP)
 Tosh, Mr Murray (South of Scotland) (Con)
 Ullrich, Kay (West of Scotland) (SNP)
 Wallace, Ben (North-East Scotland) (Con)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Wilson, Andrew (Central Scotland) (SNP)
 Young, John (West of Scotland) (Con)

AGAINST

Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Brown, Robert (Glasgow) (LD)

Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Craigie, Cathie (Cumbernauld and Kilsyth) (Lab)
 Curran, Ms Margaret (Glasgow Baillieston) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Dewar, Donald (Glasgow Anniesland) (Lab)
 Eadie, Helen (Dunfermline East) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Galbraith, Mr Sam (Strathkelvin and Bearsden) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (Edinburgh Pentlands) (Lab)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jackson, Gordon (Glasgow Govan) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Lyon, George (Argyll and Bute) (LD)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 Mackay, Angus (Edinburgh South) (Lab)
 MacLean, Kate (Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAllion, Mr John (Dundee East) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McLeish, Henry (Central Fife) (Lab)
 McMahon, Mr Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Ms Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Radcliffe, Nora (Gordon) (LD)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Smith, Mrs Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Thomson, Elaine (Aberdeen North) (Lab)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Welsh, Ian (Ayr) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

ABSTENTIONS

Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
 Munro, Mr John (Ross, Skye and Inverness West) (LD)
 Raffan, Mr Keith (Mid Scotland and Fife) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Rumbles, Mr Mike (West Aberdeenshire and Kincardine) (LD)
 Scott, Tavish (Shetland) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross) (LD)

The Deputy Presiding Officer: The result of the division is as follows: For 55, Against 63, Abstentions 7.

Amendment disagreed to.

The Deputy Presiding Officer: The question is, that amendment S1M-19.3, in the name of Euan Robson, be agreed to. Are we agreed?

Amendment agreed to.

The Deputy Presiding Officer: The question is, that motion S1M-19, in the name of Ross Finnie, as amended, be agreed to. Are we all agreed?

Motion, as amended, agreed to.

That the Parliament notes that — the Scottish Adjacent Waters Boundaries Order (S.I.1999/1126) in no way alters or restricts the freedom of the Scottish fleet to fish consistently with the Common Fisheries Policy of the European Union; from 1 July the Parliament will be charged with the responsibility of regulating fishing in the newly created Scottish zone of British Fishery Limits and fishing by all Scottish vessels no matter where they fish; consultation will be required with relevant bodies in the preparation of legislation relating to fishing in the Scottish zone and the Scottish fishing organisations have considerable concerns about the said Order; and calls upon the relevant Minister to (a) meet representatives of the Scottish fishing industry to discuss their concern and in particular their desire to re-establish the custom and practice of former years in regard to the east coast boundary and (b) convey such concerns to the Secretary of State for Scotland.

Mr David Davidson (North-East Scotland) (Con): Madam Deputy Presiding Officer, I pressed my button very early on because I wanted to participate in the vital debate in support of our fishermen. I failed to be called; my button and light are still doing all sorts of wonderful things. I wonder whether I will appear on the record as having attempted to speak.

Mr Alex Salmond (Banff and Buchan) (SNP): He will now.

The Deputy Presiding Officer: As a rule, we do not publish the names of those who wanted to speak but did not. However, Mr Davidson has now spoken in the debate, so his name will be recorded.

Mr Davidson: Thank you very much.

The Deputy Presiding Officer: That concludes the business for today.

Meeting closed at 17:06.

Members who would like a printed copy of the Official Report to be forwarded to them should give notice at the Document Supply Centre.

Members who would like a copy of the bound volume should also give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the bound volume should mark them clearly in the daily edition, and send it to the Official Report, Parliamentary Headquarters, George IV Bridge, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

Thursday 10 June 1999

Members who want reprints of their speeches (within one month of the date of publication) may obtain request forms and further details from the Central Distribution Office, the Document Supply Centre or the Official Report.

PRICES AND SUBSCRIPTION RATES

DAILY EDITIONS

Single copies: £5

Annual subscriptions: £640

BOUND VOLUMES OF DEBATES are issued periodically during the session.

Single copies: £70

Standing orders will be accepted at the Document Supply Centre.

WHAT'S HAPPENING IN THE SCOTTISH PARLIAMENT, compiled by the Scottish Parliament Information Centre, contains details of past and forthcoming business and of the work of committees and gives general information on legislation and other parliamentary activity.

Single copies: £2.50

Special issue price: £5

Annual subscriptions: £82.50

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £2.50

Annual subscriptions: £80

Published in Edinburgh by The Stationery Office Limited and available from:

The Stationery Office Bookshop
71 Lothian Road
Edinburgh EH3 9AZ
0131 228 4181 Fax 0131 622 7017

The Stationery Office Bookshops at:
123 Kingsway, London WC2B 6PQ
Tel 0171 242 6393 Fax 0171 242 6394
68-69 Bull Street, Birmingham B4 6AD
Tel 0121 236 9696 Fax 0121 236 9699
33 Wine Street, Bristol BS1 2BQ
Tel 01179 264306 Fax 01179 294515
9-21 Princess Street, Manchester M60 8AS
Tel 0161 834 7201 Fax 0161 833 0634
16 Arthur Street, Belfast BT1 4GD
Tel 01232 238451 Fax 01232 235401
The Stationery Office Oriol Bookshop,
18-19 High Street, Cardiff CF12BZ
Tel 01222 395548 Fax 01222 384347

The Stationery Office Scottish Parliament Documentation
Helpline may be able to assist with additional information
on publications of or about the Scottish Parliament,
their availability and cost:

Telephone orders and inquiries
0870 606 5566

Fax orders
0870 606 5588

The Scottish Parliament Shop
George IV Bridge
EH99 1SP
Telephone orders 0131 348 5412

sp.info@scottish.parliament.uk

www.scottish.parliament.uk

Accredited Agents
(see Yellow Pages)

and through good booksellers