

# STATES OF JERSEY

## Environment Panel Fisheries Review

**TUESDAY, 24th JUNE 2008**

**Panel:**

Deputy R.C. Duhamel of St. Saviour (Chairman)  
Connétable K.A. Le Brun of St. Mary  
Deputy C.J. Scott Warren of St. Saviour

**Witness:**

Mr. Thompson

**Deputy R.C. Duhamel of St. Saviour (Chairman):**

I have to read you the notice: “It is important that you fully understand the conditions under which you appear at this hearing. Panels’ proceedings are covered by parliamentary privilege through Article 34 of the States of Jersey Law 2005 and the States of Jersey (Powers, Privileges and Immunities) (Scrutiny panels, P.A.C. and P.P.C.) (Jersey) Regulations 2006, and witnesses are protected from being sued or prosecuted for anything said during hearings unless they say something they know to be untrue. This protection is given to witnesses to ensure that they can speak freely and openly to the panel when giving evidence without fear of legal action, although the immunity should obviously not be abused by making unsubstantiated statements about third parties who have no right of reply. The panel would like you to bear this in mind when answering questions. The proceedings are being recorded and transcriptions will be made available on the scrutiny website.” So welcome, Mr. Thompson. The new set of regulations is being proposed in relation to the setting of beach set nets. We have taken some evidence this morning from the department and from the Constable of St. Brelade who tells us, in particular, that one of the main reasons for the legislation coming forward was in relation to some difficulties that had been had with a particular individual setting nets in Belcroute Bay and being caught out because they were new entrants into the fishing business, so to speak, in not

having local experience of conditions and perhaps finding themselves in difficulty where their nets were seen to be ghost fishing or being not able to be cleared in the normal kind of economic fishing sense. One of the issues that the panel is looking at is whether or not there is an absolute requirement for the law to have been framed in the way that it has been framed, to specifically ask that any person who is setting out nets only does so for no more for 96 hours in any one period, and the ability of the department and departmental officers to determine whether or not those conditions have been met. Secondly, the other part of the law would suggest that it could be used as a defence, if you like, to a suggestion that the infraction has occurred if the set net has been moved to another location by moving every individual part of the net to a slightly different place or different place than it was prior to the first 96-hour period. We have heard from the department that they do spot checks and they are heavily reliant upon members of the public for notifying them if nets are in a condition that they are not operating properly. We are just wondering whether or not perhaps the emphasis might have been better placed in trying to encourage new entrants into the fishing arena to clear their nets in a sensible, economic fashion. We were wondering whether or not you have got any comments. From the panel point of view, it looks as if a commercial fisherman is not going to be caught setting a net in an area that would be liable to over-fishing. So really the basis of this law is to discourage those members who are not members of the fishing profession from doing something that the professional people would not be doing.

**Mr. Thompson:**

I think I have understood the point or the question there quite well. As an association we were aware of the initial complaints that were coming in regarding the one in Belcroute. You will probably be aware that it was not that long after that there were public complaints about another one to the east. So certainly the point that although Fisheries cannot be everywhere at every time, there is no doubt that the public do readily pick up the phone and make Fisheries aware when there is an issue. Our response simply was to try and protect the interests of fishermen who genuinely practise that method of fishing. One of the oldest methods of fishing in the Island was to use set nets taken down by tractor and used in some of the gutters down the east coast. It is not a very effective and it is certainly not a very common method to the west of the Island; it is simply to the east. So it is a very old established fishery.

These days - I have done my homework really; I was aware of a couple of our members that did practise that type of fishing - it seems to be limited to about 4 fishermen that do it professionally and the number of times that they do it in a year is quite limited as well. I am not trying to paint a picture that we are not interested in maintaining it; we are simply interested in trying to protect the interests of those that do it. It is not a supplement of their income, it is a part of their income, to be able to readily diversify when necessary. The 96-hour element of the Draft Sea Fisheries Regulation was something we had a part in putting together. Having said that and trying to answer the question directly, we take a very dim view of anybody that does not attend a net like that at least once every 24 hours, if not twice. I do not know if this is the time and place to be talking about recommendations but our guys have come from an era, if you like, when fishermen, part of the reason they did it was because they were free characters and they liked to carry on in that sort of lifestyle. That has changed. Fishermen are aware that there is too much pressure, they are not the only people on the Island and in the world interested in fish stocks, and they have taken on board the need for licensing permits, we tag all our gear now. There is some fairly strict regulation about tagging of gear. It would absolutely not be a problem at all for professionals, at least, to identify the net as belonging to them. I am not sure how it would be done but we would like to recommend that in your considerations you look at the possibility that there would be a way of identifying a net that is being attended to on a daily or twice daily basis if necessary. So, I think that probably is as much as I can say to address that.

**Deputy R.C. Duhamel:**

Okay. So presumably, in making that recommendation then there would be an opportunity for the department to be in a better position to determine whether or not the net had been in a particular position for the amount of time which is limited under the law. If there is no recording of that information, it strikes us that it would give a difficulty to the departmental officers to determine whether or not it had been there for 96 hours or any number of hours.

**Mr. Thompson:**

I think it is perhaps a different approach but clearly there is going to be a difficulty if someone chose to try and find a loophole in that 96 hours by moving the end of the

net from one rock to another or something. It is just a different approach to be able to identify that net as having been attended to in some way. Realistically, getting away from the legal side of it, it is not viable for a fisherman, certainly a professional, to leave a net for much more than 12 hours. The type of fishing that has now evolved is that the most common form of netting now is for a fisherman to leave just before dark to shoot a net and to pick it up sometimes at 4.00 a.m. because it has served its purpose, it has caught some fish while it is clean and clear. As soon as it picks up not only weed but the sediment and what have you that is in the water it does not fish any more anyway. So there is no real interest in us leaving a net for much more than, in many cases, a few hours really.

**Deputy C.J. Scott Warren of St. Saviour:**

Do you see it as a step forward with this legislation to have the power to police this within 96 hours? Do you see that it is a necessary provision or not?

**Mr. Thompson:**

I think it might be a little bit indirect but I think you will find among professionals that there is a view that what is now legitimate use of nets by anybody in any method that they like, the time has come for that to end, effectively. It is a piece of commercial fishing gear, effectively. I am sorry if I am elaborating too much on the question, but if you go with a fishing rod, as 95 per cent of people do nowadays, gear is so good, you know, the lures and what have you, you can catch one fish, 2 fish, 5 fish, whatever you need to take home, whereas a net does not have that ability; it is indiscriminate. What does a fisherman do, if he is not a professional and he has just caught 500 kilos of fish in a net? He is going to sell it illegitimately through the back door and undermine the whole process. We just think it is time that we sort of fell in line with the rest of the world where the use of nets is a lot more tightly controlled. So it is an indirect answer but our guys would certainly have no objection to whatever policing was necessary on nets for it to be tightened up and whatever they needed to do to maintain the right to use nets. I am pretty sure 5 years ago they would have used some words which we could not repeat here but now I think it is a different frame of mind.

**Deputy R.C. Duhamel:**

To be clear, you are saying that in effect a licensing system should be ...

**Mr. Thompson:**

Permit system I think, yes. Permit I think is the word that I would use.

**Deputy R.C. Duhamel:**

Can I just ask you, in the preamble, the report to the law change, it is suggesting that the prime reason is for nets that have become neaped whereas the actual paragraphs of the law do not refer to that particular condition. Would there be any detriment to the fishing industry by allowing a net effectively to be placed in any location at any state of the tide for a 96-hour period in any fishing period?

**Mr. Thompson:**

I understand the question. The word "neap" in a way or neaping of nets could effectively come out of the equation, if you like, and we could look at the actual laying of nets at a maximum length of time of any net. The problem exists then that when you look at the tangle net fishery which is totally different, it is offshore in deeper water, it is quite a legitimate fishery, and certainly around the Island its effect on any type of marine animals, apart from the one that it is intended for which is spider crab, is very minimal. They only rise a couple of feet off the seabed and as soon as the tide starts to run the net lays flat so the shellfish has to effectively clamber across it. That style of fishing, we would not want to disadvantage those chaps that do that type of fishing, whereas any other type of use of nets around the Island there would be no issue at all in setting a time limit, short or long, whatever was deemed to be necessary, or changing the wording in the regulation so that it was not just looking at the neaping of nets but the total - we use a technical term - soak time of the net.

**Deputy R.C. Duhamel:**

That is one of the points that was giving us a few worries. In arriving at the 96-hour period and not mentioning anything to do with nets being caught on a neap tide, we were wondering why that 96 hours has been chosen. We have had evidence this morning suggesting that in a situation where a net could become neaped then 96 hours might be a reasonable time before the net is uncovered. But because there is nothing within the law in reference to the neaping of nets at all and it is just relating to any net

set anywhere, we were wondering whether what might be reasonable for neaped nets might be unreasonable for unneaped nets. Professionally, I think you have told us, most fishermen would wish to clear their nets as soon as possible but in allowing the offence to be set up that the net can continue to fish for 96 hours, we were wondering whether or not that goes too far in setting out a poor practice in areas of the beach that it applies to. It strikes us that it applies across the beach indiscriminately, although the law is being put forward to cover a particular narrow range of the beach in relation to covering of particular tides.

**Mr. Thompson:**

Yes. I think I have understood that again. If we are talking about beach netting as opposed to, perhaps, netting from a boat, then, yes, we can look at the whole picture. A typical professional - sorry to keep drawing a line between the 2 but that is what I give my time freely to do is to try and represent professionals - would set a net on the beach, not by boat but by tractor, somewhere that it was not going to be neaped, because fishing gear is far too expensive to be treated like that, and he would attend to that net every 12 or 24 hours until such time as the net was going to become neaped or until it was no longer viable for that net to stay there. The 96 hours, I am happy to admit, we were part of deciding that that was the sort of maximum time that was required for any net to be in any one position for any point of time, forgetting completely about neaps or not neaping. We felt that no one was likely to ever go beyond 96 hours; in most cases it will be shorter. It was not our choice to go down this route at all. It was simply this piece of Draft Sea Fisheries Regulation has come about due to a couple of cases, and possibly more than we know about, of very unprofessional people and the use of nets. I am happy to admit that we had a part of deciding that 96 hours was more than sufficient or sufficient enough for those that are legitimately doing it.

**Connétable K.A. Le Brun of St. Mary:**

When you say the non-professional there, the people or the particular case or cases was it that they unintentionally knew what they were doing or did they intentionally do what they were doing? There is a difference. You do keep using the term professional or non-professional in that sense, so obviously the professional point of view. Do you as professionals, shall we say, accept that there are non-professionals

who were doing this type of thing? Would it have been you who would have originally done the complaint about it or do you think it would have been just from the general public because of seeing the nets?

**Mr. Thompson:**

It is no doubt that the complaints came from the general public. We just find the practice of leaving a net unattended for any period of time is a disgraceful practice. The perception that it gives the public is perhaps worse than it is in reality, because it rolls up and it gets full of weed and it is not much good at catching anything, but it will kill a certain amount of small creatures and what have you.

**The Connétable of St. Mary:**

So you would not condone the neap netting at all?

**Mr. Thompson:**

Not at all, no, not in any way.

**The Connétable of St. Mary:**

I would assume, therefore, that the 96 hours was based more or less on the spring tide window, was it?

**Mr. Thompson:**

Yes, exactly. That is the time when a professional is more likely to be using that method of fishing, during a spring tide, a couple of days before the spring and a couple of days after.

**The Connétable of St. Mary:**

Just thinking about it, is there any opportunity by fair means or foul, shall we say, that you can do the neap tide netting and still retrieve the fish from that net by ... when I say diving, not with oxygen or anything but still utilise that advantage?

**Mr. Thompson:**

Yes. It is just a question of having the knowledge of where the tide reaches to on the beach and simply setting the net. Some of our guys will do that in a period of

prolonged bad weather. Regardless of the size of the tide, they will use a net on the beach and they will definitely attend to it every 12 hours because the worse the weather the worse the amount of weed and what have you.

**The Connétable of St. Mary:**

When you say the weather, obviously when one thinks about bad weather one more likely thinks about the winter rather than the summer but you can have bad non-fishing in the summer. So when you said bad weather, it could be all the year round bad weather or is it primarily in the winter?

**Mr. Thompson:**

No. It probably just illustrates that the point really is that the use of a net is not restricted to spring tides, that it may also be on a neap tide, but a professional would have the knowledge to know where it needs to be on the beach. It could be bad weather fishing in the summer or winter but it is unlikely in the summer, really. It is very unlikely.

**Deputy R.C. Duhamel:**

You mentioned earlier that this would not have been a route that professionally your members would have gone down. Could you perhaps give us a few comments as to elaborate on that particular point of view and perhaps suggest other ways that could have been brought forward to deliver the type of controls that are necessary to your professional business?

**Mr. Thompson:**

Sure. Those comments were made in that the concern about monofilament netting generally is about the effect that it has on species other than the species that you are targeting, i.e. birds, dolphins, seals, et cetera, something like that. I feel very strongly that if we are going to address those concerns about how we can make sure that monofilament netting is only carried out - what would be the word - with good practice then simply focusing on that 96-hour issue is probably not going to take us to the end result at all, or certainly not going to take us far down that route, and that we need to look at the whole aspect of how the use of nets is carried out round the Island. I think I can say fairly safely that any spin-off in any way that we tightened up - there



are very few regulations at the moment but if we brought new regulations in or tightened up existing regulations - then I think our guys are probably level-headed enough to accept that there was some burden on them, that they would have to carry that burden, and whatever extra work or permit systems or whatever that they had to be involved in I think they would go down that route fairly happily and openly. So my comments there are pretty much really about what is the end goal and what is the best way to get there. The end goal has got to be responsible use of nets and some sort of control over how much and who can do netting. Just having it entirely open for anybody and everybody to be able to do it is probably something we are going to have to move from anyway sooner or later.

**The Connétable of St. Mary:**

When you say “our guys” and you are talking about yourselves, how many people are you referring to or the membership?

**Mr. Thompson:**

We sort of quite proudly state that the Fishermen’s Association encompasses probably close to 100 per cent of the professional fleet in the way that we were able to represent the professionals in the Guernsey situation, the conflict between the islands. We were able to go to court and say: “The association is challenging the States of Guernsey because the association represents the vast majority, well above and beyond 90 per cent, of the professionals.” So when I say “our guys”, the professionals are pretty much all a part of the association. There are one or 2 that are not. If you want to talk about those that practise netting, I do not know what the percentage is. It is probably quite low. We are not talking about dozens of fishermen. There is currently, I think, 170-something licences - you might even have the figures at hand - J-registered boats or J-registered fishermen. Of those we think that full-time professionals you would probably narrow that down to a margin of between 50-55 boats, so it has come down already, and of those 55-odd boats the ones that use monofilament nets, I have to be careful, but it is probably lower than 30, probably no more than 30. So it is quite a small number of fishermen. The only other point I would make there that none of them do it full-time but it is a hugely important aspect of their way of making a living. In a small boat it is not always possible to do the easiest style of fishing; you must be able to adapt to opportunities as and when they

arise. So it is very important for them to maintain that style of fishing. But the number is quite small, quite low.

**The Connétable of St. Mary:**

So, coming down to just these beach nets as such which we really are on about, there would be very few who would do that?

**Mr. Thompson:**

We think it is low as about 4 professionals. Sorry to keep making that point.

**The Connétable of St. Mary:**

Yes, that is what I am saying. We have come down from 170 to 4 now. Yes, that is what I was saying.

**Mr. Thompson:**

I have no idea in non-professional terms how much or how many nets are being used. No idea at all.

**The Connétable of St. Mary:**

There would not be any great amount though.

**Mr. Thompson:**

No. I think it is a style of fishing. As I was saying before, rod fishing has become so popular, the gear has become so good, it is so much more of an enjoyable way of fishing, such an enjoyable pastime, that not many people bother with nets any more, not as many as perhaps 10 or 15 years ago where everybody had a length of net stored in their garage or something. So it is probably getting less all the time, I would say.

**The Connétable of St. Mary:**

That is just from the professional point of view but there could be more of the people, the amateur ones, who would be going into this type of fishing and they are the ones that would be causing the problems.

**Mr. Thompson:**

Yes, but again I think it is probably the number of people ... in fact I would state that the number of people that are interested in using nets is far less now than it was even 10 years ago. If you have a look, you can go on to Sky TV and see the fishing programmes. The interest in rod fishing has grown hugely and it is an effective way of catching fish and it is a great way of catching them. I think the focus on netting is coming away, really.

**Deputy R.C. Duhamel:**

Could the law have been framed in slightly different terms to perhaps suggest that the setting of beach nets in areas that did not allow the sustainable fishing practices that commercial fishermen adopt and employ in clearing their nets to take place over a shorter period of time? So, for example, if it was said that it was prohibited to lay your net in a particular area that would not be in a position that was able to be recovered within a 24-hour period, rather than going the other way and saying if something happens 96 hours is the better way forward. Going back to what it says in the report, the reason for the law change appears to be focusing on the idea that some nets are going to be caught if they are put in the wrong position and they may have to be left there for up to 4 days before they can be recovered. We were just wondering whether or not the law could have been reframed slightly to say that those situations should be excluded as far as possible, rather than being more permissible in allowing this 96-hour period which would apply to the setting of beach nets across the whole of a beach, rather than in a particular area.

**Mr. Thompson:**

It would be a different approach. You have caught me on the hop a little bit but, thinking about it, probably a good way of approaching it is to look at the areas that they could --

**Deputy R.C. Duhamel:**

I suppose where we are coming from really is to suggest that it is in the professional fisherman's interests to be looking at sustainable methods of fishing and that is the reason you are there, and this is specifically trying to discourage bad practices which would have some knock-on effect to the professional fisherman's income.

**Mr. Thompson:**

Absolutely. We would endorse a different wording that in a way discouraged use of nets where they were likely to be neaped. I think the only issue or caveat there is that it would become more and more technical. A simple window of time is probably the simplest, although you have already obviously found ways in which technically it is difficult to police, but you come across other points. Trying to enforce an area of the beach on a certain tide that the net would be neaped or would not be neaped could be difficult but we would endorse it if it could be put into practice, absolutely.

**Deputy R.C. Duhamel:**

One final point. We were given evidence this morning from the department that with the bringing forward of the Integrated Coastal Zone Management Strategy by the Environment Department and the knock-on effect of trying to encourage best use of all resources in a marine environment it was stated that perhaps the likelihood of the long-term application of this particular law might be shortened if better laws, more general laws, are going to be brought about in order to bring about the management practices that are coming in the Integrated Coastal Zone Management Strategy. Would you share that opinion that perhaps this law has been framed in such a way as for it to appear that it is perhaps a stopgap and there might be better laws to take its place into the future, bearing in mind the strategies that are coming forward?

**Mr. Thompson:**

Absolutely. Referring to the comments I made earlier, as an association we would welcome some form of new regulation which would effectively, hopefully, make that one unnecessary or override that one where generally that style of fishing, any regulation that surrounded it would mean that fishermen had to be a bit more responsible in the way they use the nets. I think it probably is. It is not a short-term answer but it is a bit of knee-jerk reaction, that one, to address a specific problem, whereas the whole issue needs to be looked at a lot broader without doubt, without any doubt at all. Elaborating a bit here but I can honestly say that I know all the professionals who do practise monofilament netting, not just the ones that do it on the beach but the ones that do it from the boat, and if they really were doing a lot of damage to bird life or something they would just find it totally unacceptable. They are a pretty rough bunch, I know, a lot of fishermen but they do what they do because

they grew up with a bit of a love for the environment and that is why they put up with hardships of fishing. I can say from the heart that if they even thought that others were practising a style of fishing that was killing birds or other marine life, like seals or dolphins, that they would be pretty upset about it. It is an elaboration but if we could get beyond that one and look at the broader picture I am sure our guys would be happy to do that, to be a part of that.

**Deputy R.C. Duhamel:**

Okay. Thanks very much for that. I have got no further questions. Is everybody happy? Well, thanks very much. We have gone over a little bit but thanks very much.

**Mr. Thompson:**

I am grateful for the chance to have an input.

**Deputy R.C. Duhamel:**

Thank you.