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Official Report

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Tuesday 5 February 2013

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Tuesday 5 February 2013

CONTENTS

	Col.
TIME FOR REFLECTION	16353
POINT OF ORDER	16355
TOPICAL QUESTION TIME	16357
Infrastructure Projects (Progress).....	16357
Police Service of Scotland (Headquarters)	16361
HIGH HEDGES (SCOTLAND) BILL: STAGE 1	16363
<i>Motion moved—[Mark McDonald].</i>	
Mark McDonald (North East Scotland) (SNP)	16363
Kevin Stewart (Aberdeen Central) (SNP)	16368
The Minister for Local Government and Planning (Derek Mackay)	16370
Sarah Boyack (Lothian) (Lab).....	16372
Margaret Mitchell (Central Scotland) (Con)	16375
Graeme Dey (Angus South) (SNP)	16377
Anne McTaggart (Glasgow) (Lab)	16378
Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP)	16380
Colin Keir (Edinburgh Western) (SNP)	16381
Helen Eadie (Cowdenbeath) (Lab)	16382
Stewart Stevenson (Banffshire and Buchan Coast) (SNP)	16384
Stuart McMillan (West Scotland) (SNP)	16386
Margaret Mitchell	16387
Sarah Boyack	16388
Derek Mackay	16390
Mark McDonald.....	16393
HUMAN RIGHTS	16397
<i>Motion moved—[Roseanna Cunningham].</i>	
<i>Amendment moved—[Jenny Marra].</i>	
The Minister for Community Safety and Legal Affairs (Roseanna Cunningham)	16397
Jenny Marra (North East Scotland) (Lab)	16401
Annabel Goldie (West Scotland) (Con)	16403
Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP)	16405
Graeme Pearson (South Scotland) (Lab)	16407
Jim Eadie (Edinburgh Southern) (SNP)	16409
David Stewart (Highlands and Islands) (Lab)	16411
Stewart Stevenson (Banffshire and Buchan Coast) (SNP)	16412
Alison McInnes (North East Scotland) (LD)	16414
Linda Fabiani (East Kilbride) (SNP).....	16415
John Finnie (Highlands and Islands) (Ind).....	16417
Gil Paterson (Clydebank and Milngavie) (SNP)	16418
Iain Gray (East Lothian) (Lab)	16420
Roderick Campbell (North East Fife) (SNP)	16421
Patrick Harvie (Glasgow) (Green)	16423
Murdo Fraser (Mid Scotland and Fife) (Con).....	16424
Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab)	16426
The Minister for External Affairs and International Development (Humza Yousaf).....	16429
SCOTTISH PARLIAMENTARY CORPORATE BODY MOTIONS	16433
<i>Motions moved—[David Stewart].</i>	
David Stewart (Highlands and Islands) (Lab).....	16433
DECISION TIME	16436

PROPERTY MAINTENANCE AND REPAIRS (COLD CALLING)	16438
<i>Motion debated—[Dave Thompson].</i>	
Dave Thompson (Skye, Lochaber and Badenoch) (SNP)	16438
Fiona McLeod (Strathkelvin and Bearsden) (SNP)	16440
Helen Eadie (Cowdenbeath) (Lab)	16442
David Torrance (Kirkcaldy) (SNP)	16443
Alex Johnstone (North East Scotland) (Con)	16445
Nigel Don (Angus North and Mearns) (SNP)	16446
Ken Macintosh (Eastwood) (Lab)	16447
Graeme Dey (Angus South) (SNP)	16449
The Minister for Community Safety and Legal Affairs (Roseanna Cunningham)	16450

Scottish Parliament

Tuesday 5 February 2013

[The Presiding Officer *opened the meeting at 14:00*]

Time for Reflection

The Presiding Officer (Tricia Marwick): Good afternoon. It is good to be back. The first item of business this afternoon is time for reflection. Our time for reflection leader is the Rev Graeme Atkinson, the minister of Sandyhills parish church in Glasgow.

The Rev Graeme Atkinson (Sandyhills Parish Church, Glasgow): One of the most quoted phrases of Jesus is the command for us to love our enemies. As well as being often quoted, it is often overlooked, as it goes against our nature. When we try it, we find that we frequently fail. The reason why so many in the world fail is that we misunderstand the nature of love. We confuse love with approval or endorsement. They are not the same.

We love our children, but we certainly do not always approve of their choices, opinions, tastes or attitudes. Our love is not conditional on our level of approval. We tolerate the things that we do not like because we love our children and our love takes priority.

Jesus is telling us to take that approach and apply it to the person whom you like the least in the world. He is saying that you can disagree on politics, moral values, philosophy, God or whether women make better drivers than men, and yet still truly love that other person. That is what tolerance is—when you continue to disagree but continue to love. If you love only those you agree with and endorse, you are not a loving person and you are not a Christian, as the Bible understands it.

If I believe fundamentally different things from the man next door, I will live life differently from the way he does. Tolerance is not when one of us changes our view so that we now agree. It is to recognise the difference and be able to say—perhaps not as bluntly as this—“I think that you are wrong. I disagree with what you believe, what you say and how you live your life, but I will love you nevertheless.” Why would we do that? Because that is what Jesus calls us to do.

We are good at labelling people and then either loving them or otherwise depending on the label, but that is not what Jesus means. He means us to love even those whom we find unlovely—our enemies—just as much as those whom we would naturally love.

Abraham Lincoln, on being rebuked that he should destroy his enemies and not be so polite to them, answered wisely, “Do I not destroy my enemy when I make him my friend?”

It is not about giving up or lessening your convictions or being less passionate in holding those convictions. It is about still loving through those convictions. What a wonderful world that would be.

Point of Order

14:04

Willie Rennie (Mid Scotland and Fife) (LD):
On a point of order, Presiding Officer.

It is good to have you back.

Members will have heard this morning that the Scottish Government has published a document that purports to be the plan for the transition to independence. The Government has released it to the press and sent it to other Governments without having the courtesy to take any of the available parliamentary routes.

This Parliament might have wanted to see the document before it was signed, sealed and sent. We might have wanted to correct the factual inaccuracies about Lincoln, press for a bit more than three paragraphs on transition and challenge the proposal that the Scottish National Party appoint itself to the new top posts of Scottish foreign and defence secretaries, even before an election.

There are fewer than 300 words to explain the complex task of unravelling a 300-year-old union, negotiating 14,000 international treaties and establishing a new defence force and security services.

We are promised yet more of this in the months ahead. Are we really expected simply to sit by our radios every morning to wait for the latest announcement?

The document fuels the suspicion that the SNP has not done its homework. Twenty pages of planning is not adequate.

Presiding Officer, under standing order 7.3, will you support a demand that Parliament has sight of such documents in the coming months so that we can scrutinise them and insist that the Scottish Government does its homework? If we do not demand a change of attitude now, we will have to continue to endure this shabby treatment.

The Presiding Officer (Tricia Marwick): I thank Willie Rennie for the advance notice of his point of order, which has enabled me to consider the important issues that he raises.

All members should be aware that the good practice guidance on announcements by the Scottish Government states that major policy announcements should in the first instance always be made to the Parliament and that the judgment on that rests with ministers. The guidance also acknowledges that decisions on whether and how to make announcements to Parliament on Government business are a matter for the Scottish Government.

Any question on the Parliament's future business programme or a request for a statement should be raised by a party's business manager. I note that Alison McInnes made points about this issue and capital infrastructure at today's meeting of the Parliamentary Bureau.

Members will notice that I have selected a topical question on the capital infrastructure programme and I intend to allow as many supplementary requests from members on that issue as time allows.

Willie Rennie: Have you received any indication from the Government as to whether it wishes to make a statement?

The Presiding Officer: The Government has made no such indication to me, but the Minister for Parliamentary Business is indicating to me at the moment.

The Minister for Parliamentary Business (Joe FitzPatrick): I would like to be helpful to the chamber. On the point that Willie Rennie made just now and Alison McInnes made this morning, I can confirm that the Referendum (Scotland) Bill Committee was notified of the document and given the document this morning prior to its release. It is absolutely correct that the Referendum (Scotland) Bill Committee should look at the document, give it proper parliamentary scrutiny and decide what action Parliament should take.

Topical Question Time

14:07

Infrastructure Projects (Progress)

1. Richard Baker (North East Scotland) (Lab):

Welcome back, Presiding Officer.

To ask the Scottish Government what progress it is making in delivering infrastructure projects. (S4T-00236)

The Deputy First Minister and Cabinet Secretary for Infrastructure, Investment and Cities (Nicola Sturgeon): The Scottish Government is making good progress on delivering our infrastructure plans. Yesterday, we published our report on our progress in 2012 and our updated programme and project pipelines. The progress report outlined that nine of the major infrastructure projects in the infrastructure and investment plan, which my predecessor published in 2011, have been completed and are in use. They have a value of more than £600 million.

The capital investment programme is on course to spend £3.1 billion in 2012-13, which will support an estimated 40,000 jobs across the Scottish economy.

Richard Baker: Yesterday, outside the chamber, the cabinet secretary spoke of ambitious plans to invest in infrastructure. Today, we have further information from the Scottish Futures Trust on the slippage of the non-profit-distributing programme, which was previously blamed on the Borders rail project and the Aberdeen western peripheral route. We now know that those projects account for only £39 million of a £333 million slippage. Can the Deputy First Minister tell us why, against the £190 million scheduled to be spent on school projects through NPD in 2012-13, the total spend will in fact be nothing?

Nicola Sturgeon: First, I will say that the entire NPD programme will be delivered, which I am sure Parliament will welcome.

The variance between the 2012-13 forecasts and some of the figures that have been cited inside and outside the chamber is due to a variety of reasons. For example, the hub health and schools projects, colleges and the M8 are forecast to reach financial close later than was originally estimated. As Richard Baker indicated, the First Minister also cited the legal challenge to the AWPR, which was a matter completely outwith the Government's control. That is the kind of reason why programmes can be subject to delay.

These are large, complex projects that are being procured by a wide range of procuring authorities. Sufficient time taken up front in the preparation

and design stages can and will deliver better overall value for money. For example, use of benchmarking and careful design in the schools programme, which Richard Baker specifically mentioned, means that we will deliver 67 instead of 55 schools for the same budget and get more out of our money, which I hope that Richard Baker and other members will support.

Progress with the NPD programme will speed up significantly. The first NPD health project has moved into construction, with the first college project due to do so in April.

Some of the remarks made by the Opposition are rather hypocritical because, of course, all the cuts to our traditional capital budgets being implemented by the United Kingdom Tory-Liberal Government were first planned, to the very penny, by Alistair Darling and the previous Labour Government.

Richard Baker: That is wrong. Beyond that, what is important is that the investment is needed now. The Deputy First Minister referred to the AWPR, but that accounts for none of the slippage that I referred to in my question.

Looking to the future—as the cabinet secretary clearly wants to, unsurprisingly—can the cabinet secretary say why the planned £150 million for schools investment through NPD next year has been scheduled so that only £62 million will be spent on schools? Which school projects are being delayed and why?

Nicola Sturgeon: In fairness to Richard Baker, I may have been wrong in what I said about Alistair Darling. To be strictly accurate, he planned more capital cuts than are being implemented by the Conservative-Liberal Government.

The fact of the matter is that our NPD programme, together with the switch from revenue to capital, is supplementing a traditional capital budget that has been dramatically cut. That is a sign of a Government that is determined to maximise its capital spending because of the benefit that that brings to supporting and creating jobs and the economy.

I have already commented to Richard Baker about the time deliberately taken up front in preparation and design to ensure that we are delivering overall value for money—in other words, getting the most out of our capital investment. I would have thought that even Richard Baker, who is not known for his quickness to compliment the Government, would find it in himself to welcome the fact that we estimate that we will deliver 67 schools instead of 55. That is a thoroughly good thing.

The SFT's use, for example, of reference design and standardised contracts is now speeding up

procurement. The Government is committed to doing everything that we can, within the powers and resources that we have, to maximise our capital spend. Of course, if we had the full economic powers that independence would give us, we could do even more.

Gavin Brown (Lothian) (Con): The cabinet secretary said that NPD progress will “speed up” over the next few years. It could hardly slow down over the next few years.

Why was nothing spent on the schools programme in 2011-12? Why was nothing spent this financial year when £119 million was predicted? Why will only £62 million be spent next year, when it should have been £150 million? Frankly, it is not good enough for the cabinet secretary simply to say that the projects are complex. The chamber and the country deserve a better explanation than that.

Nicola Sturgeon: The country perhaps deserves an explanation from the party that Gavin Brown is a member of about why our capital budget is being cut by 26 per cent. Frankly, Opposition back-bench members would have a bit more credibility in coming to the chamber and talking about capital investment if the parties that they support and are members of were not slashing this Government’s capital budget.

The Government put in place the NPD programme to ensure that we continue to secure investment in much-needed infrastructure projects. That programme will deliver the £2.5 billion-worth of projects that it is committed to deliver. If Gavin Brown had been listening to my answers to Richard Baker, he would have heard me say—openly and frankly—that hub health and schools projects, in particular, reached financial close later than had been originally anticipated.

The fact of the matter is that the programme will be delivered in full. The value of that, added to the value of our cut traditional capital budget and the money that we are taking from revenue to spend on capital, will ensure that we will spend £3.1 billion this year and £3.4 billion next year on infrastructure projects, supporting the economy and jobs. When taken together with, for example, our commitment to procurement reform, that evidences that the Government is committed to doing everything possible to support economic recovery.

Gavin Brown: I think that there were traces of horsemeat in that answer.

Let us move on to colleges, which were supposed to have £65 million spent on them this year. The figure will now be zero. Why?

Nicola Sturgeon: If Richard Baker—sorry, Gavin Brown; I am getting the members mixed up.

There might be something in my finding it difficult to distinguish between the Labour and Conservative spokespeople on the issue, given that every penny of the cuts that are being implemented by the Tories was first planned by Alistair Darling and the Labour Government.

Gavin Brown will be aware of NPD projects that entered procurement in 2011-12 and are due to start construction this year, at City of Glasgow College, Inverness College and Kilmarnock College—projects that are getting under way, supporting jobs and boosting the economy. I would have thought that members, whether they are on the Tory, Labour or Liberal benches, would manage to welcome that as being good for Scotland’s economy.

Willie Rennie (Mid Scotland and Fife) (LD): In her revised plan, has the cabinet secretary accelerated plans for road and rail transport routes to the north and north-east from the central belt, including the A9?

Nicola Sturgeon: Willie Rennie has no doubt had the opportunity to look in detail at the updated infrastructure investment plan that was published yesterday. I am more than happy to write to him in detail to draw out all the specific issues on transport routes to the north and to underline what this Government is doing that previous Governments failed to do, in getting on with work on transport priorities in the north of the country. I am more than happy to write to Willie Rennie to lay all that out for him, so that he is under no illusions about it.

Jim Eadie (Edinburgh Southern) (SNP): Is the cabinet secretary aware that parents, pupils and staff at James Gillespie’s high school in my constituency are looking forward to a new, state-of-the-art facility, with sports facilities that will be second to none, as a result of the non-profit-distribution model? Is she aware that the people of Edinburgh are delighted that they will not be lumbered with the excessive private finance initiative charges that Labour and the Liberal Democrats introduced?

Nicola Sturgeon: The member’s constituents will welcome that, as will people in other parts of the country that will benefit from the new infrastructure projects. That is what this is all about. It is about supporting the economy and putting in place the modern infrastructure that the country needs.

I visited the new south Glasgow hospital yesterday. That state-of-the-art hospital, which is taking shape before our very eyes, is being delivered, not under NPD and certainly not under PFI but within traditional capital. Last night I saw a comment, which I think was made by Ken Macintosh—he will accept my apologies if I am

misquoting him—that the previous Labour Government planned the hospital and the current Government is only announcing it. The previous Labour Government failed to deliver the new south Glasgow hospital; this Government is delivering it and many other infrastructure projects around the country.

Police Service of Scotland (Headquarters)

2. Roderick Campbell (North East Fife) (SNP): To ask the Scottish Government what recent discussions it has had regarding the location of the headquarters of the police service of Scotland. (S4T-00237)

The Cabinet Secretary for Justice (Kenny MacAskill): On 21 February 2012, we announced that Tulliallan castle would be the interim headquarters of the police service of Scotland. The police service of Scotland and the Scottish Police Authority will consider the location of the permanent headquarters in due course, with the final decision subject to the agreement of the Scottish Government; they are currently focused on ensuring a smooth transition to the new single service on 1 April. Although the Scottish Government has regular dialogue with the single service and the SPA on a wide range of issues, there has been no specific discussion on determining the location of the headquarters of the police service of Scotland.

Roderick Campbell: Can the cabinet secretary assure me that the new police service of Scotland will not be perceived as having a focus on west central Scotland?

Kenny MacAskill: Absolutely. This is a police service for all Scotland and it will be focused on all parts of Scotland and not one part, whether that is west central Scotland or anywhere else. For that reason, the new police service has at its heart local policing and serving all communities. Local commanders have been announced for each area, who will work with communities, and local policing plans are being prepared for every one of Scotland's 353 council wards, whether they are in the west or in rural, urban, island or mainland Scotland.

Elaine Smith (Coatbridge and Chryston) (Lab): Has further consideration been given to locating the HQ at the Scottish crime campus at Gartcosh, in my constituency? The cabinet secretary said that the campus

“would provide a purpose-built national facility for the police service of Scotland”.—[*Official Report*, 19 September 2012; c 11585.]

Kenny MacAskill: What is being built at Gartcosh is outstanding. I look forward to visiting it as it continues to grow apace.

As I said, the siting of the permanent headquarters of the police service of Scotland will be a matter for the Scottish Police Authority and the service. It will be for them to decide whether it should be Gartcosh or somewhere else. It is fair to say that land is available, but we should welcome what is being contributed at present at the crime campus at Gartcosh and leave it to others to decide on the permanent headquarters in forthcoming years.

I have no doubt that Vic Emery, the chair of the Scottish Police Authority, and Steve House, whom Elaine Smith will doubtless know, would be happy to chat because they are certainly delighted at the progress that is currently being made at Gartcosh.

Alison McInnes (North East Scotland) (LD): Does the cabinet secretary nevertheless agree that it would send a strong message to the rest of Scotland if the headquarters were not in the central belt?

Kenny MacAskill: It is not a decision for the Scottish Government. We deliberately decided that it would be appropriate that the first, temporary headquarters should be at Tulliallan castle. After all, that location has a history within the police service of Scotland. Every constable trains there and frequently goes back for additional training.

I will leave it to the Scottish Police Authority and the chief to decide where the permanent headquarters should be. However, every one of us who has endured serving in this building and previous buildings is aware that the priority for the people of Scotland is to get the service—whether parliamentary or police—on the road and not to be obsessed with buildings.

High Hedges (Scotland) Bill: Stage 1

The Presiding Officer (Tricia Marwick): The next item of business is a debate on motion S4M-05535, in the name of Mark McDonald, on the High Hedges (Scotland) Bill. I call Mark McDonald, who is the member in charge of the bill, to speak to and move the motion.

14:21

Mark McDonald (North East Scotland) (SNP): Thank you very much, Presiding Officer. I welcome you back to your place. It is good to have you back in the Parliament with us.

I am pleased to open the debate on the High Hedges (Scotland) Bill. I thank the Local Government and Regeneration Committee for its detailed and thorough consideration of the bill, in which it was supported by the Subordinate Legislation Committee and the Finance Committee.

I am also grateful for the support that ministers have given me in taking the work forward. It is the furthest that any high-hedge proposals have got in the history of the Parliament, and a great deal of work has gone into the bill to get us this far.

I and those supporting me have met a number of people and organisations from throughout Scotland and elsewhere. Tony Dixon from Hartlepool Borough Council and Simon McGinney from South Tyneside Council, both of whom I met in December 2011, were able to give me a great deal of assistance in understanding how high-hedges legislation has worked elsewhere.

Ian Edwards, Elspeth Forsyth, Steve Milne, Robert Paterson and Eric Hamilton from the Scottish tree officers group provided me and the officials supporting me with much expertise and advice—I hope that they will continue to do so.

I thank Joe McIndoe, the owner of the Mill Garden Centre in Armadale, West Lothian, who kindly allowed me to use his garden centre as an excellent venue for the launch of the bill last October.

I am also grateful to Scothedge, which has campaigned for such legislation for many years and which has engaged positively with me throughout the process.

I make it clear at the outset that the bill is not an attempt to define the height of every hedge in Scotland. Many people who own, or live adjacent to, a high hedge will have no issue at all. I seek not to create disputes where none exist but to resolve existing ones.

It is clear that a number of intractable disputes revolve around the presence of a high hedge. The problem is that there is no way to resolve them if there is no willingness to do so amicably. By introducing the bill, I have sought to provide a mechanism to remedy that.

The Scottish Government consulted on the matter in 2009. That consultation gave an indication of the extent of the problem. There were more than 600 responses, 93 per cent of which were from private individuals, many of whom described themselves as being in dispute.

The bill aims to provide an effective means of resolving disputes about the adverse effects of a high hedge where the issue has not been amicably resolved between neighbours. It acknowledges that the individuals involved should have primary responsibility for resolving such disputes.

The bill defines a high hedge. The definition largely mirrors the one that is used elsewhere, and I am pleased that, in the stage 1 report, the majority of the committee agreed with the definition. I will refer to that report a little later.

The bill gives home owners and occupiers a right to apply to a local authority if it is considered that a high hedge adversely affects the reasonable enjoyment of property. However, although the bill provides a mechanism for resolving disputes, it also provides that pre-application requirements must be met. That means that applicants must have taken all reasonable steps to attempt to resolve the dispute beforehand. Recourse to the local authority should be the last, not the first, resort.

The bill empowers local authorities to make and enforce decisions about high hedges. It gives them powers to assess the situation and act as an independent and impartial adjudicator of whether a high hedge is affecting the reasonable enjoyment of property. We must bear it in mind that that means that local authorities will seek to strike a balance between neighbours' competing rights. Authorities will also need to consider a hedge's effect on an area's amenity and whether the hedge has any cultural or historical significance.

Bruce Crawford (Stirling) (SNP): I thank Mark McDonald for introducing the bill, which I think will help a significant number of my constituents in Stirling. He will be aware that I wrote to him earlier this week about people's concerns about trees being cut back illegally, about trees being unintentionally impacted on and killed, and about trees being too high to be covered by his bill. Will he comment on that? I found his letter helpful.

Mark McDonald: I received the letter that Bruce Crawford sent me. It is worth stressing that any decision about action that is to be taken will be the

preserve of the local authority officer who assesses the situation. No hedge will be too high to be included in the bill's scope. I have included a trigger height beyond which hedges can be considered, but there is no maximum height to which the law will apply.

The English legislation talks about not requiring hedges to be reduced below a certain height, and it prohibits the removal of hedges. I have not inserted such a provision in the bill, because it is important to give priority to professional expertise. It should be up to the tree officer to make the decision.

Once an assessment has been made, a local authority may issue a high-hedge notice. The notice can set out what needs to be done to address the problem and prevent it from recurring. It can also specify a reasonable time in which the initial action is to be taken, and it may provide for a longer time for preventative action to be taken—that will depend on the circumstances. Should the hedge's owner not undertake the work that is specified in the notice, the council will have the power to enter the property, undertake the work and recover the costs of that work.

An appeal process will be available to allow appeals to be made to the Scottish ministers. In practice, the directorate for planning and environmental appeals, which has experience of similar appeals to those that are proposed, will decide the appeals on ministers' behalf.

I came to the issue with an open mind on how such situations should be resolved. I pay tribute to Fergus Ewing, the previous Minister for Community Safety, for the work that he did to bring us to the current stage, which gave me a sound basis on which to build and from which take things forward. I came to the view that we needed a straightforward means of resolution, which meant empowering local authorities to take action should the problem be particularly difficult to resolve.

Such a path has been followed elsewhere. I investigated that option directly with local authorities in England, and the information that they gave me provided reassurance that the problems could be resolved. The approach provides a degree of certainty that costs will not be excessive. It also ensures that the problem that the hedge causes can be tackled in a relatively straightforward way.

Stuart McMillan (West Scotland) (SNP): As Mr McDonald knows, I was the sole member of the Local Government and Regeneration Committee who did not agree whole-heartedly with the proposed definition. Given that background, will he agree to accept an amendment from me that is based on the recommendation in the committee's

report that the system should be reviewed within five years of any act coming into force, if that act contains the narrow definition that is in the bill?

Mark McDonald: I am just about to talk about the committee's report. I would be absolutely happy to accept such an amendment if Mr McMillan was minded to lodge one; otherwise, I would have done so. I would also be happy to discuss with him how best to frame that amendment.

I am pleased that a majority of the committee was content with the definition of a high hedge as set out in section 1, and I am even more pleased now that Mr McMillan has indicated his willingness to lodge an amendment that would satisfy some of his concerns. I am aware that a number of people who responded to the committee's call for evidence addressed that point. Some evidence suggested that the definition should be broader and some evidence suggested that it should be narrower.

I think that the committee's majority conclusion is the right one and that the bill strikes the right balance. On the basis of my discussions with local authorities in Scotland and elsewhere, I think that the definition should mean that the costs that are associated with implementing the bill should not be excessive and that the numbers should not be unmanageable.

In its report, the committee asked for clarification of instances

"where a local authority is considering an application where one or more of the properties concerned in the application for a high hedge notice are owned by the local authority."

I am happy to confirm that the bill requires only that a high hedge must be on land that is owned or occupied by someone other than the applicant for a high-hedge notice. Otherwise, there are no such restrictions on the location of the hedge. The hedge could be situated on land that is owned by the local authority. Nothing in the bill prevents a high-hedge notice from being issued against a local authority. Indeed, the appeal process builds in a further safeguard, should there be dissatisfaction with the outcome of any adjudication in that regard.

I am happy to agree with the committee's recommendation that the bill should be amended to include the national park authorities as statutory consultees. That request was made by one of the national parks and was supported by the Scottish tree officers group in its written submission.

The committee also recommended that a review provision be included, on which Mr McMillan helpfully suggested that he would seek an amendment. I am happy to take that forward.

I noted the committee's conclusions in respect of the provision in section 34, the intention of which is to allow the current meaning of a high hedge that is contained in section 1 to be amended by regulation. I also noted the Subordinate Legislation Committee's different interpretation of the width of the power in section 34. It expressed the view that

"it appears to be possible for that power to be used in the future so as significantly to alter the scope of the Bill".

I am keen to hear the members' views on that provision in the debate, following which I will consider what action might need to be taken. As part of that process, I will assess how addressing the points that the committees have made might impact on the bill. I will give further consideration to the matter and will contact both committees to confirm my intentions ahead of stage 2.

The Local Government and Regeneration Committee noted the concerns that were expressed in evidence about how the bill's provisions relate to tree preservation orders. I said in my evidence that in circumstances in which a tree preservation order might be in place, high hedges would be

"dealt with through a pragmatic approach, which will not be frustrated by other legislation and will ensure that protections for valuable trees are kept in place."—[*Official Report, Local Government and Regeneration Committee*, 19 December 2012; c 1570.]

I am glad that the committee is satisfied with that approach. That is welcome.

The committee is also content with the provisions that require local authorities to set fees at a reasonable level. As drafted, those provisions mean that a fee that is fixed by the local authority

"must not exceed an amount which it considers represents the reasonable costs of an authority in deciding an application".

That gives local authorities sufficient flexibility while still allowing them to recover costs.

I thank Scothedge for its campaigning work in bringing about the bill. I welcome the attendance of so many MSPs and members of the public for the debate, which demonstrates the strength of feeling that exists on the issue.

I am delighted to say the words that so many people have waited to hear being said in the Scottish Parliament:

I move,

That the Parliament agrees to the general principles of the High Hedges (Scotland) Bill.

The Presiding Officer: I call Kevin Stewart to speak on behalf of the Local Government and Regeneration Committee.

14:32

Kevin Stewart (Aberdeen Central) (SNP): Thank you, Presiding Officer. I, too, am glad to see you back.

The High Hedges (Scotland) Bill came before the committee in October 2012. We received 90 submissions to our call for evidence. The overwhelming majority of the people from whom we heard wanted legislative action to address the irresponsible actions of a very small minority.

As part of our consideration of the bill, we held three oral evidence sessions. I thank everyone who responded to our call for evidence and all those who gave oral evidence. It did not come as a surprise to me or to other members of the committee that it was a debate that generated quite a lot of heat. There is probably not a member in the chamber whose constituency mailbag has never had a high-hedge case in it.

I also thank the clerks, the Scottish Parliament information centre and the official report for their support and assistance, and put on record my thanks to all the members of the committee, who were extremely assiduous during the course of our discussions. Members should note that I said "assiduous" and not "deciduous". I am sorry for that very bad joke, Presiding Officer.

The key issue was the definition of a high hedge. Some people wanted the bill to become the high trees and hedges bill; some people wanted specific trees—generally native evergreens and others such as holly, juniper and yew—to be exempt; and some people wanted anything that constituted a barrier to be included, regardless of type, origin or species, and did not see a difference between deciduous trees and evergreen or semi-evergreen hedges. We had some sympathy, but we were warned by, and agreed with, the majority that keeping it simple was best.

We accept that care is needed to avoid adverse impacts on wildlife or biodiversity, which could have a number of unintended consequences, not least for costs and workload for local authorities. A majority of the committee supports the simple definition in the bill, which follows the tried-and-tested approach taken in England and Wales. During our evidence sessions, we heard from the Isle of Man, where there have been difficulties in extending a similar bill to include other species and trees. We also heard about some of the associated costs—particularly the legal costs—of adding such provisions. Unfortunately, I cannot give definitive figures, because we do not have them.

Evidence was received on the link with tree preservation orders. Some favoured that link, but others did not like the connection. The committee

agreed that the test local authorities must apply is similar to the test for the making of a TPO, and that it therefore made sense for the two to live together. If an authority decides that a high-hedge order is appropriate and action requires to be taken against a tree that is part of the hedge, it is implicit in that determination that the continued existence of a TPO is not appropriate.

There was a considerable amount of evidence on who should pay the local authority's costs and on how much the costs could and should be. Perhaps unusually, local authorities had little to say on that, provided that the bill's impact on them was cost neutral. Those affected by high hedges were adamant that the hedge owner should pay all costs incurred. Such a scheme is possible, but it would increase complexity and, paradoxically, costs. Under the bill's proposals, the owners of high hedges will have to pay and will be liable for the costs of action taken to reduce the height of a hedge. The committee agreed that, ultimately, the intention was not for action to be required but for parties to reach a mutually acceptable agreement. Under the bill, there is a financial incentive for both parties to reach agreement. The committee hopes that many disputes will be resolved amicably—indeed, it accepts that that will be the case. We have anecdotal evidence that some disputes have already been resolved because of the bill's introduction.

Other areas that the committee considered and made recommendations about include concern that the body of expertise available to local authorities about trees and hedges is diminishing rapidly. The committee suggests that the Government should consider establishing a central tree officer so that a core of expertise is available to all local authorities. We understand that such an officer already exists in Wales. It will do no harm to see how Wales is getting on with the way in which that has been set up, from which we can perhaps learn lessons.

Another concern is that we must ensure that where the local authority is a party to an application, either as the applicant or the landowner, sufficiently independent and transparent arrangements are in place to ensure that justice can be seen to be done. Such an apparent conflict is not novel; it also occurs in planning, for example, and is successfully addressed there.

We should take advantage of the current review of planning guidance to ensure that future problems with hedges and plants are avoided. The committee recently visited Cumbernauld where we saw some woodland that the Scottish Wildlife Trust had cut back after talking to local residents. Some such disputes would not happen if they were dealt with by a planning authority at the

outset. There are lessons to be learned in that regard.

We recommend that the national park authorities be made statutory consultees in all applications for high-hedge notices made within their park areas.

We believe that the legislation should undergo a full review after it has been in operation for not more than five years. That will allow the questions around the definition and fees to be looked at, and it will present an early opportunity for amendments in the light of operational experience.

Our conclusions are that the committee supports the bill's general principles and agrees with the approach that it takes to the definition of high hedges. We have made recommendations that relate to having a central tree expert and reviewing planning policy in the area, with the national parks authorities included as consultees. We would also like to see a reasonably early review of the operation of the legislation.

14:39

The Minister for Local Government and Planning (Derek Mackay): I also welcome you back, Presiding Officer.

I am pleased to participate in today's debate and to reiterate the Government's support for Mark McDonald MSP and his High Hedges (Scotland) Bill. Our 2011 manifesto committed us to introducing a bill to provide a legal framework for settling disputes relating to high hedges. I hope that today we will move that commitment on a step.

I pay tribute to the Local Government and Regeneration Committee for its work and, in particular, the thoroughness of its report. In its consideration of the bill, it has been supported by the Subordinate Legislation Committee and the Finance Committee.

I also acknowledge the hard work and efforts of all those who gave evidence to the Local Government and Regeneration Committee during the oral evidence sessions in December, and of those who responded to the committee's call for evidence. I know that the committee had to consider a wide range of views and talk to many experts—and not just from Scotland. There has been discussion of the effectiveness of the legislation in England and Wales, how aspects of the recent legislation in Northern Ireland might work and the slightly different legislative approach taken by the Isle of Man.

The Government recognises the need for action to be taken in the area, especially following our 2009 consultation, which attracted more than 600 responses. That indicates the extent of the issue,

which members will know about from correspondence. Members will also know about the frustration that the issue can cause constituents. The responses to the committee's call for evidence and the evidence from Scothedge in particular made clear the serious impact that high hedges can have in the most serious cases.

We recognise that Scotland is the only part of the United Kingdom that does not have legislation to deal with the problem of the height of hedges. That, of course, presents us with the opportunity to learn from elsewhere. The bill learns from the experiences of others—that is also evident in the accompanying documents. The work that Mark McDonald undertook, which is set out in the policy memorandum, shows that although councils can receive a lot of inquiries at the outset, those tend to be followed by a low level of formal complaints and an even lower level of necessary enforcement action by a local authority. That suggests that the very presence of legislation encourages the resolution of disputes between neighbours, as has been mentioned. Providing members of the public with mechanisms to resolve disputes about high hedges must be the way forward.

Ministers have supported the bill from the outset. Mark McDonald announced his intention to introduce the bill on 8 September 2011. Ministers announced their support for him at the same time, and have continued to support his work through public pronouncements, particularly in the Government's memorandum of 30 October 2012. We have also provided practical assistance.

I welcome the Local Government and Regeneration Committee's thorough and detailed report. It is clear that no stone has been left unturned. The oral evidence sessions were informative and in depth.

I do not intend to go into the detail of the bill; that is for Mark McDonald to do. However, I will discuss a number of the key conclusions that the committee reached, including those that will be for the Government to implement. When I gave evidence on 19 December, I said that I considered that the definition in the bill was appropriate, and I am pleased that a majority of the committee members agree. I indicated then that I felt that the definition struck the right balance and needed neither narrowing nor expanding. I am also pleased that the Convention of Scottish Local Authorities supports the bill as drafted.

I also note that the committee is content with the fee provisions as set out in the bill. As they stand, those provisions allow local authorities to set a fee at a level that reflects the cost of making a decision about a high hedge. That approach gives local authorities the flexibility to set a fee at a level that reflects their circumstances, while making sure that fees cannot be used to raise revenue.

The bill also provides that local authorities can set different fee levels for different applications and can refund fees in circumstances that they will determine.

The committee also considered the interaction between tree preservation orders and the bill, which takes a pragmatic approach to such orders. The bill will ensure that a high-hedge notice will not be frustrated by the TPO process, while recognising the protection that such orders give trees.

The committee recommended that

“the Scottish Government take the opportunity of the on-going review of Scottish Planning Policy to examine the issues raised such as residential development in proximity to woodlands.”

I understand that the point attracted considerable discussion in the committee's evidence-taking sessions and I am happy to tell the chamber that, as I have informed the committee, my officials will consider the issue as part of that on-going review.

The committee also recommended that

“the Government examine the feasibility of establishing a central tree officer to provide a core of expertise to local authorities”.

I am happy to confirm that my officials will discuss the recommendation with local authorities as part of their preparations for the legislation's coming into force.

Of course, the committee has drawn from its detailed work a number of other conclusions and recommendations, some of which I have referred to and many of which will no doubt be discussed in today's debate.

Having set out the Government's intentions in respect of the committee's stage 1 recommendations, I am happy to reaffirm that the Scottish Government will continue to support the bill as it moves forward. I am aware that many of us are keen to resolve these issues, so I look forward to an interesting and enthusiastic debate. As has already been highlighted in the opening speeches, the bill itself is being informed and shaped by the on-going dialogue, and I commit the Government to continuing that dialogue as the bill progresses through Parliament.

14:46

Sarah Boyack (Lothian) (Lab): Given that, as has already been pointed out, the bill has been a long time coming, it is crucial that we get it right. It builds on the previous work of and discussions held by former MSP Scott Barrie, who had two goes at getting a member's bill through Parliament. I very much welcome the fact that Mark McDonald has picked up the issue in his own bill.

I also welcome Mr McDonald's helpful opening comments, which have given the chamber a sense of how he will respond to some of the committee's recommendations. It is always useful to have a sense before stage 2 of what the member in charge of a bill is happy to negotiate over.

I agree that we can learn from and build on the experience of similar legislation in the rest of the UK. The issue that stood out for me was that of best practice guidance, and we need to build on experience in that respect to ensure that the bill has a decent chance of having the positive impact that we all want it to have in providing a framework for resolving disputes.

Crucially, the bill also offers the prospect of assisting both members of the public and local authorities, which are charged with implementing its provisions. The issue is not limited to a particular part of Scotland; indeed, it is a source of conflict for many members of the public. Like other members, I have had a certain amount of casework on the subject although, interestingly, it has related not to hedges but to matters that I suspect the bill will not cover.

Another interesting development is that the introduction of and debate over the bill has been enough to settle some of those conflicts in advance of the new powers being introduced. My experience is that disputes that have been going on for some time and have become established are by their nature difficult to resolve, and anything that pushes people to concentrate their minds and reflect on the fact that not resolving matters amicably with their neighbours will have consequences and costs will be good. Many of us have such direct knowledge. Given the importance of reaching a fair resolution, a right of appeal and clarity about the process, too, will be important.

The bill's laudable aim, as has been well summarised elsewhere, is to identify a means to address the problem of disputes between neighbours where high hedges have become a point of issue and one set of neighbours form the view that the aforementioned high hedge has interfered with their reasonable enjoyment. Whether the bill gets it right when it is implemented will be the test, but the Labour Party has no hesitation in signing up to the principle behind the bill, alongside the very many people who responded to Mark McDonald's consultation.

Nevertheless, we need to look at the detail. There has already been discussion about whether the definition in the bill gets the balance right. I encourage the committee to spend a good bit of time on that issue at stage 2; after all, this is our chance to get right a piece of legislation that has been hanging around for some time now. Even if it is difficult and even if people are not happy with where it ends up, we should still have that

discussion in a bit of depth. The discussions that have been had so far have been helpful, but the definition is an absolutely crucial issue. The Scottish Government's involvement is central to getting the matter right, so I welcome the minister's confirmation that discussions will be held.

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): On the definition being crucial, I am somewhat concerned about the proposal that it could be changed through secondary legislation. Does the member share my concern that that may be ultra vires?

Sarah Boyack: Among the final points that I intended to make is that the committee will need to consider the Subordinate Legislation Committee's comments on that very carefully. People on both sides of the argument will want to know that the issue has been settled one way or the other. That is why I encourage the committee to feel free to take its time at stage 2 on that because I predict that, regardless of where the committee ends up, the matter will come back for years to come. Let us make the most of the chance to discuss it.

As I was about to say, I welcome the minister's commitment to enter into discussions on whether to have a central tree officer. Arguably, that will be fundamental to the success of the bill in the early years. Therefore, I hope that the minister will firm up his comments by the time that we reach stage 3. Given that the principle of cost recovery regimes is that they encourage people to agree in principle, if the fees are to reflect the costs of action, a central resource could be cost effective for everyone, particularly if it allowed local authorities to seek expertise. That would make a lot of sense because it would keep down costs across the country. The evidence suggests that, although authorities have tree officers to deal with TPOs, the number of tree officers has been cut back—they have been hard hit by staffing cutbacks over the past few years. The provision of new expertise, new information and a central resource would be money well spent, particularly in the early years to ensure that the legislation got off to a good start.

Let me briefly cover the definition—

The Deputy Presiding Officer (John Scott): You have 20 seconds remaining.

Sarah Boyack: Witnesses on both sides of the debate were concerned about the issue of definition. Let me give a flavour of a couple of the comments that I received. One respondent noted that leylandii that are too high will not be covered, because existing Scots law states that, if any damage would result from trimming, one may not trim. Somebody else commented that the trees that the neighbour has in her garden grow 50ft tall,

but although there are more than 17 of them, they would not be covered under narrow proposals in the bill. Another person commented that we should not leave the same loophole as exists in the English high-hedges law.

It is crucial that we debate the issue at stage 2 because people are waiting in the hope that we will come down on one side of the argument or the other.

The Deputy Presiding Officer: I would be grateful if you would draw your remarks to a close, please.

Sarah Boyack: The Subordinate Legislation Committee's comments also need to be taken on board.

I welcome the fact that we are at stage 1. The relationship with TPOs and Scottish planning policies will also be important, and I hope that this afternoon's debate will explore that.

14:52

Margaret Mitchell (Central Scotland) (Con): Let me begin by congratulating Mark McDonald on achieving the not inconsiderable feat of progressing his member's bill to a stage 1 debate and of doing so with the general support of the Local Government and Regeneration Committee. It certainly makes a pleasant change for members of the committee to be more or less of one mind on the legislation before us, given that the previous bill that we considered was the somewhat more contentious Local Government Finance (Unoccupied Properties etc) (Scotland) Bill.

The high-hedges issue has been debated in this Parliament for nearly a decade. As other members have stated, few MSPs will not have had constituents coming to them to complain about the height of neighbouring hedges. As such disputes tend to be on-going for a number of years, they can adversely affect the health and wellbeing of both parties.

For many years, the Scottish Conservatives have campaigned to change the law on high hedges in Scotland. As far back as 2006, when the Parliament considered the Planning etc (Scotland) Bill, we submitted amendments in an attempt to introduce a similar scheme to the one that exists in England. I, too, remember that Scott Barrie made valiant attempts to get a similar bill on the statute book when he was an MSP. Therefore, I am pleased that legislation has now been introduced that aims to provide a solution for those whose enjoyment of their property is impeded by high hedges.

The bill has the potential to establish a Scottish system for resolving disputes over high hedges. I

thank both the witnesses who submitted evidence—sorry, that sounds as though there were only two, but I thank all the witnesses—and the Local Government and Regeneration Committee clerks for their hard work in producing the stage 1 report.

I will restrict my opening remarks to commenting on the main provisions and objectives of the bill. At the outset, it is important to state that the bill is intended to provide an option of last resort. Section 3 makes it clear that, to make an application under the bill, the applicant must first have taken "all reasonable steps" to resolve the matter. In other words, the bill is designed to discourage trivial claims.

The bill defines a nuisance hedge as one that "is formed wholly or mainly by a row of 2 or more evergreen or semi-evergreen trees or shrubs",

is more than 2m high and

"forms a barrier to light."

The Local Government and Regeneration Committee thoroughly debated the definition, taking into account several factors. The first was the issue of single trees. A number of those who gave evidence to the committee, including Scothedge, expressed disappointment that the bill does not cover single trees, which represent 49 per cent of all Scothedge cases. The committee decided against extending the bill in that way at this stage, having heard evidence that that not only would have significant biodiversity implications but could result in a flood of applications, at great administrative and financial cost to local authorities.

Other witnesses, including the Scottish Wildlife Trust and Bell Ingram, suggested that the definition should exclude native species of evergreen and semi-evergreen plants because of their greater biodiversity value compared with that of non-native species. However, native species can cause as much misery to the lives of home owners as non-native species can and although biodiversity is important, it must be balanced against other objectives that the bill seeks to achieve, such as the right to light and enjoyment of property free from the distress that high hedges can cause. The definition in the bill seems to strike that balance appropriately.

On fees, the main questions were whether there should be a cap on fees and whether a loser-pays principle should be applied. On balance, we considered that fees should be set at an appropriate level that discourages petty complaints but which is not so expensive as to prohibit legitimate applications. That means that the fees should reflect the cost of the work that the local authority undertakes but should not be unreasonable. Although charging the losing owner

fees could act as a deterrent, it was recognised that those owners will make a realistic contribution to the cost of carrying out the works. The committee considered that that would be a deterrent in itself and that it would be disproportionate to impose an additional cost through fees.

The Scottish Conservatives welcome the bill at stage 1. In my closing remarks, I will cover the few areas that might need further consideration and clarification.

14:57

Graeme Dey (Angus South) (SNP): I have never personally been a victim of a high-hedges dispute as defined by the proposed legislation. However, I have enormous sympathy with the aim of tackling the issue and with those who find themselves on the wrong end of such situations because, for a number of years, I had to contend with a nearly high hedge that bounded part of my property. I say “nearly high hedge” because the offending structure reached a maximum height of 5ft and, much as it annoyed me, could not be described as forming a barrier to light. The issue was more that it was a thick hedge rather than a high hedge. It had been planted many years earlier by a previous neighbour inadvisably close to the boundary, which meant that getting in and out of vehicles that were parked in our driveway became a problem, owing to an at times 18-inch incursion on to our property.

In my case, a resolution was arrived at only with the sale of the neighbouring property and the arrival of a new owner, who helpfully hauled out the source of our irritation. Therefore, when I say that I welcome the bill, I really do welcome it, even if it will not necessarily assist someone who finds themselves in the same position as I did.

Some people outside the chamber might question our parliamentary priorities in introducing proposed legislation on the subject. However, I congratulate my colleague Mark McDonald on introducing the bill, because it gives deserved respect to people whose quality of life has been impacted on by the selfishness of others. That said, I support entirely the safeguard that is built into the bill that requires applicants for a high-hedge notice to have taken “all reasonable steps” to resolve the issue before they make an application to the local authority and that enables councils to reject applications if such steps have not been taken.

People who have never been involved in a high-hedge dispute might not understand how acrimonious such fall-outs can be and how entrenched the positions of the warring factions can become. In legislating on the matter, we must

recognise that, whatever the initial rights and wrongs, the victim might ultimately have become almost as unreasonable in their behaviour as the high-hedge owner.

I accept the logic behind excluding single trees from the scope of the bill, as the bill is about high hedges and it is right that the views of the Scottish Wildlife Trust, the RSPB and the Woodland Trust should inform the direction that we take, because we must not act in a way that has the potential to compromise wildlife and biodiversity.

Any deliberations on whether it would be right to broaden the proposed definition of a high hedge should also be informed by the view of Eric Hamilton, who is a forestry officer with Dundee City Council. He stated that including

“any trees of any type ... would lead to tremendous problems.”—[*Official Report, Local Government and Regeneration Committee*, 12 December 2012; c 1522.]

All of that said, I welcome the consensus that has developed on having a mechanism in the bill for review within five years, so that we can determine whether, given the experience of application, we have in fact got the legislation right.

I note the prediction that more than 90 per cent of disputes will be settled without local authorities being actively involved, simply because the legislation exists. We may encounter far fewer cases of wide hedges also. It is a fact that many such situations do not have their roots in a deliberate act. People do not, by and large, plant bushes as close as they have done to boundaries or boundary fences in order to create a problem. Invariably, it is a thoughtless act that is based only on a desire to avoid a seeming waste of garden space at the time of planting. They will not have thought about 10 or 20 years hence, when that wee bush will have completely taken over a boundary, much to the upset of a neighbour.

Hopefully, the passing of the bill will bring into focus every aspect of hedge planting and maintenance and will even help to alleviate that wide hedge issue, which it is not designed to address. For those reasons and for all the other reasons that have been articulated in the debate, I encourage colleagues to agree to the general principles of the bill.

15:01

Anne McTaggart (Glasgow) (Lab): As a member of the Local Government and Regeneration Committee, I welcome the opportunity to scrutinise the Government’s proposals in the High Hedges (Scotland) Bill. It is clear that the bill aims to address what can often be a major source of anti-social behaviour in our communities and intends to provide individuals

with a course of action to address the problem of overhanging or intrusive hedges on a neighbouring property.

It is an unfortunate reality that a dispute over an overgrown hedge can quickly escalate into an issue that impacts on families' quality of life and encourages the breakdown of communities. As a result, it is in the interests of public authorities to have the power to intervene and to offer remedies in cases in which disputes between neighbours cannot be resolved through independent negotiation.

However, we must ensure that the provisions that are contained within the High Hedges (Scotland) Bill are fit for purpose and can deliver the outcomes that organisations such as Scothedge have been campaigning for. Scothedge has campaigned to raise awareness of the problems that are faced by victims of the nuisance of high hedges and has already identified a number of potential problems with the bill.

Principally, the exclusion of deciduous hedges and problematic single trees means that the bill could fail to tackle instances of neighbour disputes that are prevalent across Scotland. The current definition of

"a row of 2 or more evergreen or semi-evergreen trees or shrubs"

is clearly restrictive and will require amendment if it becomes clear that too many high-hedge disputes are not covered by that narrow description.

Further analysis of that provision is necessary; the Scottish Government can learn lessons from the Anti-social Behaviour Act 2003, which contains statutory authority on cases of high hedges and nuisance vegetation in England. The Scottish Government should reflect on the application of the 2003 act and perhaps seek to amend the bill provisions to make the legislation as effective and comprehensive as possible.

We must acknowledge that high hedges that result in neighbour disputes are a real and serious problem that too many Scottish families face. High hedges do not just act as a barrier to light; they can restrict views, lower property values, obstruct boiler flues and block television cables. It is right that the Scottish Government is taking positive action to tackle those problems, but in order to achieve that, the legislation must fully address the complex and difficult nature of the issue.

We know that a number of campaigners are already concerned that the definition of "high hedges" is too narrow and I anticipate the bill as it currently stands being satisfactory in only a proportion of problem cases, failing to improve the situation of many who are affected by these

issues. I urge the Scottish Government to reflect on the speeches by members of Opposition parties in the chamber and to work towards a consensus that is in the best interests of families and individuals across Scotland.

15:05

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): For almost as long as I have been in the Parliament—bar a month or so—high hedges and how to cut them down to size has been an issue. I therefore welcome the movement through—my dreadful puns might well end here—a much-needed privet member's bill. Privet is apparently not an offending hedging plant, but more of that later.

Of course, high hedges are no laughing matter. They have caused much distress and dispute between neighbours and have been a problem for many of our constituents over the years. I think that the first parliamentary question on the subject was from Maureen Macmillan in circa January 2000. In question S1W-03655, she asked when there would be a consultation on high hedges. I think that it was a planted question because almost immediately Jim Wallace answered that he was issuing a consultation. Twelve years later, after the petition and the bill proposal that Scott Barrie lodged, we are getting somewhere. Some of the hedges that might have been a problem then are certainly a bigger problem now.

It is unfortunate and a pity that no Liberal Democrat member is here to take part in what really is a cross-party debate.

Why the delay? In part, it was due to uncertainty about whether to seek a solution through planning law, abatement notices, the law of nuisance or the law of antisocial behaviour. There was also a problem with defining what is and is not a hedge, let alone whether the hedge had to be deciduous, coniferous or mixed. That is the perennial problem with legislation. We all know a hedge or indeed an elephant when we see one, but defining it is quite another matter.

The definition in the bill is about as good as it can get. To extend it to include individual trees would be to redefine the bill and make it a high trees and hedges bill. However, I note that the bill applies only to hedges formed of

"evergreen or semi-evergreen trees or shrubs"

with live foliage. I might have thought that it would include, for example, beech, which retains its foliage although it is not technically live, and the ubiquitous privet. The test is that the hedge interferes with "reasonable enjoyment". I feel an amendment coming on.

While I am on the subject of amendments, I refer to section 34 of the bill, which is no small matter. To allow the definition of “high hedge” in the bill to be changed, extended or modified through subordinate legislation seems rather bizarre, because the whole purpose of having a definition in a bill is for it to be secure. If nobody else is going to dabble in that, I may well do it.

That said, I welcome the push for early resolution, which should be assisted by the threat of ultimate statutory intervention. I agree with the proposal to charge a fee for applications, which will certainly act as a deterrent to vexatious applications. On the other hand, where all reasonable steps have been taken pre-application by the party that ultimately secures resolution through enforcement, why should there not be a recovery of the fee from the offending neighbour? That might add complications, but I would like to see flexibility on recovery of the fee. There would be a further element of justice in that.

The issue of developers or indeed subsequent occupants seeking to have pre-existing hedges reduced or indeed removed altogether, particularly when it could be foreseen that they would increase over the year, should be dealt with at the application for planning stage. I note what the minister said about planning law.

That said, I commend Mark McDonald and all those who went before him—not least Scott Barrie—for pursuing the issue. However, most of all, I commend the campaigners—Scothedge and others—who have rightly been determined to find a remedy for this wrong.

The Deputy Presiding Officer: I thank the evergreen Ms Grahame for that contribution.

15:09

Colin Keir (Edinburgh Western) (SNP): I thank Mark McDonald for introducing his bill, and I thank the Local Government and Regeneration Committee for its work, as well as the campaigners such as Scothedge. The bill is one of those that cause people to think, “Is this frivolous?” In this case, it certainly is not. Believe it or not, the issue was one of the biggest problems that I had as a councillor—forget about the budget negotiations or anything like that. Representing a ward in Edinburgh that happened to be made up mostly of low-rise homes, I saw a lot of problems with high hedges.

I received a telephone call one day from an irate woman who said, “Councillor Keir! Get down here very quickly, please, or my husband might kill the next-door neighbour!” They were arguing over a high hedge—the lighting issues, the irritation, the antisocial behaviour and the whole shooting match that comes with neighbours’ disputes. By the time

I got down to the place, the two men were literally fighting in the garden. It is no joke. This is a big issue for people in such areas.

We can blame all sorts of things—such as the planners who, in their wisdom, allow houses to be built extremely close together, and those who plant leylandii, which sprout up at a rate of knots and soon reach heights of 30ft, rather than the 6ft that the person was expecting—but the issue is important to people who live next to each other and end up in a dispute. I welcome this bill. If it clears its third stage, people who live in areas where a lot of houses are crammed together will heave a collective sigh of relief—as will their councillors.

The bill introduces a clear process for dealing with a dispute after the preamble, which involves neighbours talking to each other—something that Sarah Boyack talked about. These disputes can go on for a long time and the bill gives people a way of sorting them out.

Not a lot of people will want to go down this road. There are cost implications, and I am not sure how happy the councils will be to put extra officer time into the measures.

Mark McDonald: The evidence from down south is that, although many councils thought that they would have to appoint specific high-hedge officers, they discovered that the officers who were already in the local authorities could deal with the work and that there was no need to bring in additional resource. I hope that that gives the member some comfort.

Colin Keir: I am glad about that and, if it is the case, I welcome it. Councils have knowledgeable professionals who deal with these matters and who might be able to help people who live in areas such as I have described to understand what sort of shrubs and plants should be planted.

I realise that I have run out of time, but I want to address one issue before I close. As Derek Mackay said, planners need to think carefully about the issue and plan areas sensibly. Hopefully, people will talk to each other and we will not need to use this legislation.

15:13

Helen Eadie (Cowdenbeath) (Lab): I congratulate Mark McDonald on his success in bringing the bill to the Parliament. As others have said, it has taken over a decade to get here. The issue has formed a great part of my caseload, as a councillor and as an MSP, as it has that of others. That is why I have followed those who have been involved in the issue over the years and have appreciated their professionalism. In that regard, I

congratulate Scott Barrie on his part in getting us to this point.

I share the concerns about the definitions that Sarah Boyack and Kevin Stewart mentioned. I hope that those concerns are listened to and that attention is paid to the example of the Isle of Man and how it managed to deal with them. I also point out that Denmark, France and Bulgaria already have sound legislation in this regard.

I am pleased to hear what the minister says about planning, as that is at the heart of some of the issues that must be tackled.

Previously, there was no final-resort mechanism to secure fair and impartial exit from what are often interminable and stressful disputes. Colin Keir's description of that was spot-on—I would disagree with very little of what he said.

We should not dismiss Fergus Ewing's work, following petition PE984, by Dr Colin Watson, of Scothedge. When Fergus Ewing took the consultation forward, he did not change the name of the bill; rather, he talked about high hedges and other nuisance vegetation. Fergus Ewing is always a great man for compromise, so we should perhaps listen to his wisdom in that regard. Flattery will get you everywhere.

The consultation recognised that the problems faced by those affected were not restricted to evergreens blocking out light but, as demonstrated in PE984, could be diverse and produced by almost any inappropriate large plant.

I note that Mark McDonald agreed with Scothedge that a last-resort intervention would cause the unreasonable party to withdraw the vast majority of submissions for help. There would be no such incentive on those whose vegetation is deciduous and excluded from this narrow bill. Widening the scope appropriately would ensure that the capitulation effect would be extended to a greater number of cases without significant additional workload for local council staff.

Derek Mackay: We will all come back to the issue of definition. I look for a bit of clarity. At committee, the Labour Party supported the current definition. Has the position changed from what was agreed at committee and submitted in the report?

Helen Eadie: I refer to what Margaret Mitchell and Sarah Boyack said. Labour members wanted to explore the issue further. We should have regard to the fact that the SNP's own minister recognised that point as well.

Making the bill more inclusive would send a general message that inconsiderate or vindictive deployment of all large plants is a risky and unacceptable activity. Throughout Scotland, every time that a law has appeared to be imminent, the

spontaneous reaction to the anticipation of a penalty has been voluntary resolutions. I do not have time to go into the detail, but other members have given recent examples of capitulation in long-standing disputes.

There is surely no justification for exempting deciduous or single trees from the provisions of the bill, although the choice of the title, High Hedges (Scotland) Bill, may preclude the single tree option.

I hope that the bill gets a fair wind. There are many points that I would like to have raised. This work is vitally important. I agree with my colleague across the chamber who said that we should deal with this issue as a priority. It is right that it be a priority. It is so important to many families.

15:18

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): My congratulations to Mark McDonald on his progress on this issue so far.

Much of the detail of the bill and of the committee report has already been covered, so I will address one or two wider issues that relate to the subject, in which there may be a need for a change of behaviours consequent on the passage of the bill.

The bill is relatively simple and is informed by legislation elsewhere in these islands of which we are a part. The message from the evidence that the committee received from the Isle of Man is to keep it relatively simple and not to try to solve every possible issue that may arise with shading vegetation, because that is probably impossible. England's example tells us that behaviours start to change relatively rapidly and that after a short settling-in period people stop creating monster hedges that cause disputes.

Does that mean that naturally—although not necessarily consciously—disputatious people will simply find something else to argue with their neighbours about? The jury does not seem to have much evidence to suggest that. There is certainly little evidence that the creation of a law such as this can make things worse by making new *casus belli*—new battle fronts on which antagonistic neighbours can engage. The evidence appears to lead in a different direction, towards a general lowering of the temperature of neighbour disputes.

So what more could be done to capitalise on the opportunity for reasonable debate on issues between neighbours? Firstly, perhaps planners and architects—whom Colin Keir referenced—should have in their approach to their job a greater emphasis on design choices that will reduce the potential for tensions. For example, they could

include sightlines from windows and conservatories that make little impact on what others see as their privacy. Perhaps we could have fewer straight lines of houses and a little bit of a wiggle so that windows are less likely to look into other people's properties. Perhaps there could be cleverer use of facing blank walls close to each other so that there is genuine space on the other side of the house plot. I am sure that there could be much more. The real point is that the professionals should be thinking about this.

Very few house purchases happen without a lawyer being party to them. Perhaps lawyers should consider advising their clients—a simple leaflet produced by the Scots Law Society might suffice—on behaviours that will avoid tensions with neighbours and could draw attention to the act. Indeed, in many housing developments, a simple inclusion in the title deeds to restrict some behaviour and define how boundaries may be delineated would be helpful in certain circumstances.

Christine Grahame: In some developments, conditions, called deeds of conditions, already are put in that prohibit certain fencing and barriers.

Stewart Stevenson: I am aware of that from personal experience, which is why I think that there is a case for looking at how we can use experiences here to help with the bill.

When council officials are in an area to deal with this kind of problem they could look for potential issues and then help.

Issues with the power to modify the meaning of "high hedge" through subordinate legislation could perhaps be resolved by picking up what is in the ancillary provision in the bill, which talks about making provisions "in consequence of" and relating to the act. If that was put into the section on the power to modify the meaning of "high hedge", some of the concerns about the use of subordinate legislation would likely be addressed.

The issue appears to be largely urban and affects areas of greater rainfall, where things grow faster, but the regionality of the impact is not an excuse for inaction. I may be the only member who cannot recall ever having been approached on the issue, but in my constituency people have large plots in rural areas, which is quite different. However, from the evidence that I heard in committee, I absolutely recognise that this is precisely the kind of bill that we should progress, on precisely the kind of issue that a member should pursue.

I welcome Government support for the bill, I look forward to its passage and I am happy to support it.

15:23

Stuart McMillan (West Scotland) (SNP): I welcome the opportunity to debate the Local Government and Regeneration Committee stage 1 report on the High Hedges (Scotland) Bill. I, too, want to express my thanks to Mark McDonald MSP for bringing the bill to Parliament, and to the Scottish Government for its extensive work prior to the introduction of the bill, and for working with Mark McDonald to assist him in its introduction.

When I was elected in 2007, I knew that high hedges was an issue that had been around for some time and to which people had tried to bring some type of resolution through Parliament. Unfortunately, previous attempts to introduce legislation did not succeed, but I am thankful that we are here now and I hope that we can pass the bill.

The bill has not come about overnight and I welcome its introduction, but it will not, as currently drafted, with the narrow definition of a high hedge, solve every issue that confronts MSPs. I am sure that if the scope of the bill were to be extended to include deciduous trees and single trees, it would still not solve every issue. My task, as an MSP who has constituents who are dealing with issues relating to the aforementioned categories, is to ensure that legislation is workable, affordable, enforceable and easily understood.

As members will know, I was the sole committee member who dissented from the definition in the bill. The definition is narrow and focuses purely on high hedges. If the definition were to be altered to include other categories, it is reasonable to assume that the bill would have to be altered. However, it is possible that such an alteration would be too great and would thereby, as Christine Grahame said, render the bill a vastly different document from what has been introduced.

As we know, the bill, which follows on from the legislation that is in use in England, Wales and Northern Ireland, focuses on high hedges. As we have also heard, the Isle of Man's Trees and High Hedges Act 2005 is different in that it encompasses trees in the title and throughout the act.

My reasoning in dissenting from the definition in the stage 1 report was simple. I could have accepted the narrow definition, while knowing that there would be some unsatisfied constituents of mine, and of all colleagues—apart from Stewart Stevenson—or I could look to work with Mark McDonald to amend the bill, where possible. I do not get the impression—certainly from discussions that I have had with MSPs outside the chamber and committee members—that there is an appetite to increase the scope of the bill. Although all bills

are amended in some shape or form, I do not think that any proposals to amend the definition will progress through the committee, although that is entirely up to committee members to decide.

The bill can be used as a platform when reviewing the act in the future. I therefore thank Mark McDonald for accepting my amendment that called for a review of the legislation within five years of commencement of the system, which is something that the committee recommended, too. Sarah Boyack talked about the importance of the definition. That is why a review is important; having it written into the legislation will ensure that outstanding issues will not be forgotten and that the legislation can be refined and amended, as required. The review will also achieve something that all members know we do not always manage to achieve: post-legislative scrutiny. We are usually caught up in issues of the day and post-legislative scrutiny sometimes takes a back seat.

I am conscious of the time, Presiding Officer, so I will make one final point. I welcome COSLA's desire to implement the bill, and I welcome its collaborative approach thus far, which I am sure will continue. I am sure that when the bill—in whatever shape or form it takes—is passed, local authorities will be able to manage the work well and work well with others. High hedges might be an area for a possible future shared service, once the initial excess of cases is dealt with by local authorities.

I welcome Mark McDonald's bill and the assistance that the Government has provided on it. I look forward to further scrutiny of the bill at stage 2.

15:28

Margaret Mitchell: A few provisions in the bill are worthy of further consideration at stage 2. The first is accessibility. When Mark McDonald came to the Local Government and Regeneration Committee to answer questions, I raised the issue of escalating costs and the importance of robust legislation to ensure that the cost of high-hedge orders does not become so prohibitive that local authorities and applicants will not use them. Ensuring access to the orders is important, and I was encouraged that Mark McDonald stated that he would reflect on that at stage 2.

On the definition, as members in the debate have, the Local Government and Regeneration Committee has reservations about the section 34 provision that will give ministers the power to modify the definition of a high hedge. It is entirely appropriate that stage 2 will provide the opportunity to revisit that issue.

As stated earlier, the bill will create a system of last resort with the provision that all other

reasonable options for dispute resolution must have been exhausted before an application is made. However, clarification at stage 2 of what constitutes "all reasonable steps" would be helpful and would strengthen the bill's objective of discouraging trivial applications.

Constituents have expressed concern about the possibility of a local authority having to act as a judge in a case in which it is a party. In other words, there is a potential conflict of interest if a hedge that is subject to a high-hedge notice is on local authority-owned land. The issue was raised in committee and the expectation that councils will judge applications by objective standards seems to be bit weak. Notwithstanding that there is a right of appeal to the Scottish ministers on any decision of a local authority, and notwithstanding Mark McDonald's comments today, consideration should be given at stage 2 to the possibility of issuing guidance to councils and ministers.

Tree preservation orders were considered at length. Their role in the bill is clear and appropriate, but questions were asked about how councils use and enforce them. I urge the Government to consider the matter in the future.

The need for collaborative working and forward planning in the context of new developments around existing trees, hedges and woodland was discussed in some depth. I am reassured by the minister's confirmation that the issue will be reviewed in the context of the Scottish Government's review of Scottish planning policy.

High hedges might not be the most exciting topic in politics, but that in no way diminishes the need for and importance of the bill. I welcome this debate on a bill that represents a major step forward in tackling the blight of nuisance high hedges.

15:32

Sarah Boyack: The committee wanted to focus on the definition because once the bill has been passed and enacted it will be with us for quite a few years. We wanted to reflect on comments that we received after the draft bill was published, during the stage 1 committee discussions and after the committee's report was published.

We have no revising chamber in the Scottish Parliament, so Stuart McMillan's comments about the need for review are spot on; we will need to review the legislation. We need to set the parameters for review at the outset. It is about acknowledging that not everyone agrees on the definition. We need that discussion up front, so that we are clear that we are not just monitoring the legislation for the sake of it. Whatever the committee decides on the detail, which will be hugely significant for other members at stage 3,

we want it to scope the issues that remain outstanding or that merit further consideration and monitoring. That is equally important for local authorities and for the Scottish Government, who will be key players in monitoring the legislation.

I was struck by the comments in the committee's report in relation to what Mark McDonald said about potential changes to the legislation and the difficulty of giving a yes or no answer on the purpose of a statutory instrument. It is worth Parliament's while to bottom out some of the issues in that regard, so that when we go back to our constituents and when Scothedge lobbies us again, we can give clear answers. We must ensure that the decision on the definition is taken in the light of not just the first recommendations that we received but what we heard during our subsequent consideration of them. Early consultation gives Parliament the capacity to do that, but the process at stages 2 and 3 is quite fast.

It is not that we supported the bill in committee and are now against it; it is about teasing out the issues.

Kevin Stewart: Will the member give way?

Sarah Boyack: Yes, I will take an intervention from the convener of the Local Government and Regeneration Committee.

Kevin Stewart: I thank Ms Boyack. It is key that we get the bill absolutely right. When considering expanding the definition, members need to consider the evidence from the Isle of Man, which has gone a lot further in its approach and has come across a number of difficulties, not least of which is cost. We could get in a pickle if we overegged the pudding at the beginning. The review that the committee unanimously recommended is the right approach. Let us get the broad definition right to start with, and see what happens afterwards.

Sarah Boyack: I thank Kevin Stewart for that lengthy intervention. I think that I understand his point. As he convenes the committee, he will know the range of different views. It is not that we are saying that he has not done his job; it is more that we want to test out the bill. The comments that Christine Grahame made on many members' past experience show that this is the time to test it out. We do not get to play around with it at stage 3. Once the committee has basically given us the framework at stage 2, it is really unlikely that we will change things dramatically at stage 3. We all accept that.

I will reflect on the relationship between the bill, the tree preservation order regime and the planning process. Those issues are crucial, as well.

The introduction of the bill has been much driven by people's right to privacy and to a living environment that they value. There are lessons in that for the planning of developments. It is necessary to think through what a development will look like in 20, 30 or 40 years. Most people do not think about that; they think about where the grass is and what kind of plants are there initially, but landscaping, trees and hedges are fundamental. I hope that the discussion that we are having can be fed back further up in the planning process, not only to planners but to developers, too. Those matters are crucial to our built environment. That point links to biodiversity. When a new development is created beside an existing woodland, the woodland provides a backdrop and quality to the housing, but it must be a compatible backdrop.

The bill highlights the need for a bit of joined-up thinking early doors when developments are being planned. The residents 30 or 40 years later are the ones who will live with those calculations and the decisions of the local authority planning committee, the planners or the developers. That is why the definition is important. What we put in the bill in a few weeks' time will shape the debate for years to come. It has taken us so long to get to this stage that we must ensure that we test it out to the best of our ability at stage 2 so that, when we come to stage 3, the amendments that are lodged are easy to deal with and are not fundamental to the bill.

15:37

Derek Mackay: I thank Sarah Boyack for those helpful comments on the Labour Party's position, because I was a bit unclear about where the party was going. It goes to show that the bill is a member's bill and members within political parties can take different views. There is disagreement, diversity of opinion and dissent on how to take it forward—and that is just the Scottish National Party group. That shows that a listening group, a listening Government and a listening Parliament will help to shape the bill.

I know that the planning system has made it when it features in this debate and has its own television programme on a Thursday night, "The Planners"—reality TV for the planning system. I am waiting for the first single tree or high hedge to feature in that programme.

Christine Grahame: Is it on at 3 o'clock in the morning?

Derek Mackay: No, it is on in the evening.

High hedges are a significant issue. If Parliament was not legislating on them, people would rightly ask us why because, as I said, Scotland is the only part of the United Kingdom

where there is no legislation covering the issue. Therefore, as many members have said, it is appropriate that we debate it and get the legislation right at the outset.

I will focus on the definition and the options that are open to Parliament. The Government has taken quite a relaxed view on that. We have given evidence and given our position but have said that we will listen to what Parliament thinks is the appropriate way forward.

The options that are now on the table, as has been outlined throughout the debate, include the review process—a sunset clause whereby we revisit the definition and other matters. If that option is chosen, I suggest and encourage our being as flexible as possible. The definition would be a question for Parliament to return to if the review process was chosen.

Another option is secondary legislation. Members might say that I would, as a Government minister, want the ability to amend the legislation. The reason why I think that that could be helpful is that it would give us the ability to change the definition in the light of circumstances.

However, it is for Parliament to choose which option it prefers: whether to expedite changes through secondary legislation or to prefer the review process, which could return us to primary legislation.

Sarah Boyack: I am not trying to tease out just the process by which a review would be carried out. Mark McDonald said:

“The definition could be amended to include, for example, deciduous hedgerows as opposed to evergreens or semi-evergreens.”—[*Official Report, Local Government and Regeneration Committee*, 19 December 2012; c 1576.]

Other people have mentioned the inclusion of trees. Is not it important to narrow down why some things are being suggested for inclusion and why other things have been explicitly excluded? After doing that, we can get to the best process for amending the definition in the future.

Derek Mackay: That is a fair point. I am trying to tease out the amount of flexibility that Parliament wants to provide for reconsidering the position in the future, if it thinks that the current definition might require to be revisited.

Christine Grahame: My comment is on the same point. If we start with a definition that means that some people are committing an offence, for example, and we later extend that definition, we will say that people are committing an offence that did not exist previously under the same legislation. People must be secure in the knowledge that what the definition says is what it does, and that that will not change.

Derek Mackay: Circumstances might change in the light of how the act beds in, what the public make of it and how Parliament, the Government and local authorities respond. The debate is about the amount of flexibility that Parliament wants to provide.

The Government does not have a strong view on whether Parliament should choose the review process or secondary legislation. As I have said, we are flexible and open minded about that. However, we should look closely at the evidence that we have received about the definition that is in the bill and at what happens in England, in Northern Ireland—where the legislation is relatively new—and in the Isle of Man, which has been referred to. If we were to propose changing the definition substantially at this point, I would want to return to local government to consult it on the change, because local government will execute the provisions in practice and it is working on the assumption that the definition will be as outlined in the bill.

A number of other matters have been raised, including Government involvement in Scottish planning policy—that relates to the committee’s recommendation that we should consider the proximity of developments to woodlands—and having a central resource of expertise, which is a sensible suggestion that we are happy to explore with local authorities.

I am not quite sure how to encapsulate Stewart Stevenson’s

“little bit of a wiggle”

in the planning system, but we can certainly try to express that through our planning advice notes. Colin Keir helpfully suggested that the matter is not frivolous, but serious. Like many members, Anne McTaggart focused on how the definition might in the first instance get better behaviour from residents. Graeme Dey explained that his issue was not necessarily with height but with width, and the hope is that the bill will create the right attitude of being a reasonable and responsible neighbour.

We have not spent much time on focusing on appeals and how the directorate for planning and environmental appeals will take that forward—perhaps that will feature in the debates at stages 2 and 3. I am satisfied that the DPEA has the capacity to deal with appeals.

As for fees, the important point is that the provisions are not about income generation by local authorities but are about early resolution of such antisocial behaviour matters. A soft cap will be placed on fees, so local authorities will not be able to generate more income through the bill; the fees will relate to the cost of taking the necessary action.

Like every other member, I hope that we will, on a cross-party basis, continue to explore the bill, get the definition right and ensure that it has the impact that we all seek. The Government will continue to take a constructive and positive approach in the bill process.

15:43

Mark McDonald: The debate has been fairly constructive. I found myself cringing at the number of hedge puns that were made—who knew that we had so many comedians in the chamber?

We heard from Colin Keir and Helen Eadie that the issue was prevalent in their time as councillors. One of my motivations for pursuing the bill came from having been a councillor and having felt the frustration that there was no point of last resort for many such disputes.

Let us consider some of the issues that have been raised in the debate. The first one that we should spend some time on is the definition that is used in the bill. Some members asked why I did not widen the definition. Kevin Stewart and Stewart Stevenson helpfully referred to the experience in the Isle of Man. Its system is not entirely analogous to the one that I have proposed—the Isle of Man has pursued the issue in a different way—but we should look at the experience there. The assessments that are required for deciduous vegetation are often highly complex. The fact that a 12-month inspection process is necessary to establish the impact of a particular tree or group of trees must be built in as a cost factor. That could be recoverable by the local authority, so it could lead to the attachment of a substantial fee. My view is that we need to allow the legislation to bed in and to look at how the fee system works in practice before we can look at the possibility of widening the bill's scope. I will come to that later in my speech.

I am grateful for Stuart McMillan's having expressed his willingness to look at how a review mechanism could be incorporated in the bill. I think that that is entirely sensible for the reason that I have outlined. It is not just the definition that we would look to review. We have spent some time talking about the definition, but there are other aspects of the bill—for example, those to do with the fee system and the appeals process—that it would be worth looking at to ensure that they are working in the way that we envisaged.

I say to Christine Grahame that it is my understanding that privet would be captured by the bill, by virtue of its being evergreen or semi-evergreen, depending on where it is, but I am happy to look into that further on her behalf. Beech has characteristics that led me to feel that it should not be included in the scope of the bill, but I will be

happy to reflect on that, to talk to her and perhaps to write to her after the debate to provide her with a little more detail.

In listening to some of Anne McTaggart's and Helen Eadie's comments, I was concerned that the position that Labour had taken in committee to back the proposed definition seemed to be changing substantially. I have outlined why I drafted the definition in the way that I did. I will listen to members' points, but they must accept that a change to the definition will have a knock-on effect on other aspects of the bill. The definition cannot simply be viewed in isolation. The fee element—which I am about to come on to—is a big part of that.

Margaret Mitchell: I think that the comments by the members whom Mr McDonald mentioned reflected the fact that the committee said in its report that it was content with the definition "at this stage". In other words, we left it open to look at the issue again at stage 2.

Mark McDonald: I take Margaret Mitchell's point, but that leads me on to the issue of fees. The minister was quite right when he said that the mechanism for which the bill provides was not intended to be a revenue-raising mechanism for local authorities. Indeed, the evidence from south of the border is that it would be particularly foolish for any local authority to assume that it could use it as a revenue-raising mechanism, because the experience there has been that an initial flurry of inquiries leads to a much smaller number of formal applications, which, in turn, leads to an even smaller—a minuscule—number of occasions on which the local authority requires to take action.

I think that that bears out the comments by Colin Keir and Graeme Dey that the bill, simply through its existence as a piece of legislation, will regulate people's behaviour. It will mean that, when an assessment is required and a remedial notice is served by an authority, people will take it seriously, will take the necessary action and will not seek to frustrate the process.

I have made it clear that I believe that it is for local authorities to determine what fees they will apply. The bill simply gives local authorities the ability to recover their costs. Some local authorities might choose not to do that; they might choose to structure their fees differently, depending on factors such as people's incomes. That will be for local authorities to determine. In my time as a local councillor, if I had constituents beating down my door because they could not afford to access a particular council service, that would have led me to ask questions of the authority. There is that element, too. Council committees and councillors will ensure that any fee system that is put in place does not prohibit their constituents from accessing the process.

On the fee-transfer argument, I acknowledge the comments of Christine Grahame. Margaret Mitchell and her colleague Gavin Brown pursued the issue with me at the Local Government and Regeneration Committee and at the Finance Committee. We looked at the Northern Irish example, but it is still very much in its infancy and there are not a lot of data to establish whether the scheme has succeeded. I still retain a concern that with a fee-transfer mechanism we run the risk of adding to a dispute; for example, a neighbour would receive a remedial notice and comply in full with it, but would then be asked to pay a surcharge to cover the fee that their neighbour had paid. There is a potential risk of animosity being created in that circumstance. Again, though, I have said that I would look at the fee-transfer issue. If members want to lodge amendments in that regard, I will consider them. However, at the moment, I remain unconvinced about a fee-transfer system.

Christine Grahame: If someone was warned in a legal letter in that respect, they could be told that if they did not comply they might be liable for the fee costs. I think that that is another point that could be put in at the beginning. It would be like the sword of Damocles, in that people could be told not only that would they be charged for cutting down the hedge or reducing its height, but that they may be liable for the fee costs as well. I do not see why that would be a problem.

The Deputy Presiding Officer: I will give you a little extra time, Mr McDonald, to compensate for the interventions that you have taken.

Mark McDonald: I am very grateful for that, Presiding Officer.

I take on board Christine Grahame's point, but my earlier remarks in relation to how cases break down south of the border imply that local authorities never have to do that. We managed to find only one example of a local authority's having to do the work and recover the costs. In Christine Grahame's example, that would have kicked in a fee transfer.

On the subordinate legislation recommendations, I take on board the points that were made by Sarah Boyack, Christine Grahame and Stewart Stevenson, who made a helpful and constructive suggestion in his speech. I have said that I will take a further look at subordinate legislation, particularly in the light of the issue around a review clause, and I will consider how those two elements of the bill would interact with each other. I am happy to reflect on that.

Finally, a couple of myths need to be busted. There is no such thing, under the bill, as a too-tall hedge. Anybody who remarked that a hedge would be too tall to be tackled as a result of the bill

has got the wrong end of the stick. There is a 2m trigger height, at which point any dispute can be considered, but I have made no stipulations beyond that. My colleague Bruce Crawford made a point in his earlier intervention about the notion that there is a provision down south that they can trim only to a certain height or that they cannot take action that might lead to the removal or destruction of the hedge. I want to leave it to the expertise of the professionals; if the only way to deal with an issue is to remove the hedge, it should be open to the individual tree officer to recommend that option in his assessment.

The debate has been constructive and I have much to reflect on for stage 2. I am sure that members will be more than happy to offer input to that process. I look forward to the continuing debate on the bill.

Human Rights

The Deputy Presiding Officer (John Scott):

The next item of business is a debate on motion S4M-05556, in the name of Roseanna Cunningham, on promoting and protecting human rights in Scotland, Europe and the wider world.

15:53

The Minister for Community Safety and Legal Affairs (Roseanna Cunningham):

I will open the debate by talking about values, the principles that lie at the heart of this Parliament, Scotland's deep-rooted attachment to concepts of fairness, justice and equality and the ideals that unite us all across the chamber without regard to party allegiance or political difference. Those values are reflected in the Scotland Act 1998, which embedded human rights in the practice and purpose of Parliament and Government, and they are part of a shared commitment to improvement, to doing better and to making a difference to the everyday lives of real people.

This debate celebrates both our efforts in Scotland to make rights real for ordinary people and the existence of an overarching international framework of human rights law that helps to safeguard the vulnerable and the oppressed throughout the world. It also recognises the need for us to re-commit ourselves to making a difference to the lived lives of people in Scotland and, through the role that Scotland can play internationally now and in future, to helping to ensure that rights are protected, respected and promoted.

Why are human rights important? As Eleanor Roosevelt—the driving force behind the 1948 United Nations Universal Declaration of Human Rights—famously said:

“Where, after all, do universal human rights begin? In small places, close to home - so close and so small that they cannot be seen on any maps of the world. Yet they are the world of the individual person; the neighborhood he lives in; the school or college he attends; the factory, farm, or office where he works ... Unless these rights have meaning there, they have little meaning anywhere.”

Neil Findlay (Lothian) (Lab): The minister mentioned the workplace. During the past few months, we have seen exposed the human rights abuse of workers who have been blacklisted, which is a scandal that might still be occurring in Scotland. Will the minister support the Parliament conducting an inquiry into that issue?

Roseanna Cunningham: I think that there are inquiries into that issue taking place right now and I know that the member has a great deal of interest in that. However, I am trying to take the debate on to an overarching level and discussion

of wider values. [*Interruption.*] I am not entirely clear why the Labour front bench seems to think that that is so funny, but I will attempt to keep the tone of the debate elevated.

Human rights are not just principles on a page, nor are they a charter for criminals, as has often been said. They are a concept and a reality that are of fundamental importance to us all.

Every day, the Government works to progressively realise the fundamental rights of the people of Scotland. Reforms to policing, the criminal justice system and the health and social care sectors have human rights at their heart. Legislation on the rights of children and young people, and of victims and witnesses will be introduced this year.

I will take a moment to address the Labour Party's proposed amendment to the motion. Members will be aware that we take human trafficking very seriously. Our aim is to make Scotland a hostile place for traffickers. We are demonstrating leadership on that issue and progressing actions that were agreed at the high-level summit that was chaired by the Cabinet Secretary for Justice in October last year. We have already made it clear that we will introduce a specific human trafficking statutory aggravation to ensure that, when trafficking forms the background to an offence, the court can take that into account.

Secondly, the summit agreed that there was a need to review the wider legislative framework for trafficking and identify any potential improvements to be made or gaps to be filled. That work is progressing with key partners, who met this morning. The group will report back in the middle of this year so, in a sense, we are already doing what Labour wants us to do and we have no problem accepting the amendment.

It is within the wider perspective that we should be looking to address the wide-ranging challenges that are inherent in giving full effect to the rights of all. The Scottish Government is certainly of the view that everyone in Scotland should be able to access their rights. Indeed, if there is a theme that distinguishes this Government, it is a belief that individuals, communities and nations have a fundamental right to make decisions for themselves, to take responsibility, to exercise capacity, and to direct their own affairs. When Scotland votes in 2014, there will be, I hope, opportunities to take what we have already achieved to a new level, with new powers and a heightened sense of ambition.

As the First Minister noted in London recently, the time is ripe for a debate on how Scotland guarantees and implements rights, and how we ensure that constitutional guarantees place the person at the centre of the system rather than at

the bottom or at the margins. That includes the economic, social and cultural rights that are already reflected in the constitutions of many other democratic, modern nations. With that in mind, I warmly welcome the initiative by Scotland's national human rights institution, the Scottish Human Rights Commission, to facilitate the development of Scotland's first national action plan on human rights. The United Nations describes that approach as an international example of best practice in ensuring that the human rights within a jurisdiction are assured and not assumed. Other progressive jurisdictions such as Sweden and New Zealand have such plans and I welcome the fact that Scotland is joining them.

The Scottish Government is certainly committed to playing its part in the development of a plan with realistic actions and measurable outcomes. The direction of travel is promising; we are delivering a step change in public service delivery and an increasingly focused approach to tackling inequality.

I hope to see a plan that goes with the grain of those developments and feel it particularly important to rebut any suggestion that this will somehow be a plan for the Scottish Government alone to deliver on; instead, I see it as an exercise in co-production, co-operation and empowerment. Its ultimate success will be founded on a principle of shared ownership across this chamber, the wider public sector and the whole of Scottish society. It will be Scotland's plan.

This year, 2013, is an important year for human rights in Scotland. The debate can arouse strong passions and polarise opinions and I find it a bit worrying that parts of the United Kingdom Government are demanding the scaling back and, in some cases, wholesale removal of the domestic framework of human rights in the UK. The discourse of some in London is coloured by what seems to me a certain parochialism and a perception of human rights as an inconvenient barrier. The Westminster debate is sadly out of touch with real people's needs. In Scotland, however, human rights are a positive thing. They are part of the very fabric of our society, which not only celebrates community and belonging but looks outwards to what the international community can teach us and how we might better ourselves as a nation.

In bringing this debate to the Parliament, we wish to achieve—

Murdo Fraser (Mid Scotland and Fife) (Con): Will the minister give way?

Roseanna Cunningham: Yes, of course.

Murdo Fraser: I get the impression that the minister is coming to the end of her remarks, but

she has not yet said much about the international situation. Can she say something about the role that the First Minister has taken in promoting human rights internationally—for example, when he visits places such as Qatar that have somewhat dubious human rights records?

Roseanna Cunningham: With the greatest of respect, I think that that question would be better asked by someone not in a party whose Government is busily doing in other parts of the world things that anyone might suggest are transgressions of human rights. The Minister for External Affairs and International Development is, as the member might have noticed, sitting beside me in the chamber for the very reason that we will address the issue that he has raised. I have addressed myself to the SHRC national plan for human rights because it is the trigger for this debate and what I want everyone in the chamber to consider. Equally, however, we want a conversation about international human rights, and my colleague Humza Yousaf will address that issue directly.

That said, members should take care not to express themselves with a degree of hypocrisy on this matter. With the very greatest of respect, I have not noticed any activity on the part of Westminster Governments of either the Conservative or Labour Party that any of us might consider to be appropriate, not least the promulgation of what was frankly little more than an illegal war. I will listen to what members in the chamber have to say, but if we are talking about international human rights we should talk about all human rights, including those of the people who have been violated over many years by Westminster Governments of both parties.

I am kind of sorry that we had to get into this issue—

Lewis Macdonald (North East Scotland) (Lab): Will the minister give way?

Roseanna Cunningham: No. I am now in the last 20 seconds of the 10 minutes that I have been allocated and, in that time, I want to talk about the situation in Scotland in 2013. I invite members to support the motion and want them to reaffirm the Scottish Parliament's commitment to the vision of an inclusive Scotland and a more equitable world in which human rights and fundamental freedoms are truly central to the lives of all.

I move,

That the Parliament reaffirms the importance in a modern, democratic Scotland of the values proclaimed in the Universal Declaration of Human Rights; acknowledges and asserts the inalienable rights enumerated in the European Convention for the Protection of Human Rights and Fundamental Freedoms and enshrined in international treaty; dedicates itself once more to the vision of an inclusive Scotland that respects, protects and realises the

human rights of all; commends the work of the Scottish Human Rights Commission, Scotland's independent national human rights institution; looks forward to the development of Scotland's first national action plan for human rights over the course of 2013, and embraces the opportunities presented by Scotland's engagement in the wider world to promote respect for the universal and indivisible rights of all of humanity.

16:04

Jenny Marra (North East Scotland) (Lab): I was sincerely hoping that the minister would set a serious tone for what is a serious debate and talk about the reality of human rights in the lives of people in Scotland. Nevertheless, I thank the Government for bringing the important issue of human rights to the chamber.

The Labour Party has a strong record of promoting human rights. Clement Attlee's Government was one of the first signatories to the UN Universal Declaration of Human Rights of 1948 and it ratified the European convention on human rights in 1951. As one of its first actions in 1997, the Labour Government incorporated the European convention into UK law. Every act of this Parliament is required to be compliant with the convention or it is nullified.

Since the coming into effect of the Human Rights Act 1998, citizens the length and breadth of this country and throughout the United Kingdom have enjoyed the protection of the convention. Of course, the Human Rights Act 1998 is still in its formative years, with its effect taking shape in our courts every day, but it has already resulted in some of the biggest changes to our law in recent times. For instance, the Cadder case established the right to legal representation for people who are held for questioning in Scotland.

Labour believes that the important task is to get on with that job of making human rights a reality in all our lives by ensuring that they are daily afforded to people. Each and every day, we need to protect the rights of those who are affected by welfare reform. We need to protect the rights of vulnerable children in this country. We need to weave human rights into the fabric of our communities through the laws that we pass and the policies that we advance in the chamber now. We can do that using the immense powers that we have.

Our amendment—I thank the Government for indicating that it will support it—seeks to advance that cause specifically in relation to human trafficking, which is a human rights abuse that is happening in our towns and cities today. Human trafficking happens under our noses but is, unfortunately, largely undetected. Here in the Parliament we have the power to take concerted action against that trafficking. The victims of trafficking in Scotland cannot wait for a written

constitution that would enshrine their rights, nor do they need to do so. The Government in power in Scotland, sitting over there to my right, already has the power that it needs to make a big impact on that human rights abuse today—now.

If I were to stop any Scot on the street outside the Parliament building and ask whether there are people who have been sold into this country, who are living in our towns against their will, to work in the sex industry or in forced labour, most likely I would not be believed. It is hard to accept that such an issue is alive in our communities. People would be further shocked if I were to tell them that there are young people incarcerated in our prisons tonight, having been convicted of drug offences, who we believe were trafficked into this country to work on drug farms. Young people are being incarcerated in Scotland who have been convicted of crimes as a result of coercion and deception by others. Such human rights abuses are taking place in Scotland under our very noses, and those youngsters are sitting in our prisons tonight.

Roseanna Cunningham: Does the member intend to make any mention of the role that the United Kingdom Border Agency plays in the issue, or will she simply ignore that aspect?

Jenny Marra: As my co-convenor of the cross-party group on human trafficking will know, we are dealing with a multifaceted problem, to which the UKBA is part of the solution. However, my point is that this Parliament has a lot of powers that we can properly use to tackle and prevent the issue of trafficking. For that reason, I am glad that the Government will accept our amendment, but I want to talk a bit more about the powers that we already have to tackle human rights abuses in our communities. The minister will surely agree that she would want to use all the powers at her fingertips to do as much as she can to prevent those human rights abuses.

Gil Paterson (Clydebank and Milngavie) (SNP): Can the member name a single solitary person who she knows has escaped due process with regard to trafficking? Can she name one?

Jenny Marra: I am not sure about the question that the member is asking, but let me attempt to understand it. We believe that many people who are trafficking people into this country today go undetected because the police and other front-line services are not properly trained and do not have the tools to recognise those people. To date in Scotland, there have been two successful prosecutions and five convictions for trafficking offences, but we believe that the problem is much more widespread. Due process needs to be visited on many people who are trafficking people into this country. I hope that I have answered the member's question.

The priorities are ours to decide, and we know the flaws in our current approach to trafficking: it lacks will and direction and, as a consequence of our laws and policies, it has developed in a piecemeal fashion and victims are slipping through the net. Our law is currently split between two acts—one UK act and one act in Scotland—that give different definitions for the same crime. There is no statutory obligation to provide comprehensive mental health treatment and education services to victims, and we lack training for national health service staff, paramedics and police officers, who could do much to identify victims and give them the support that they need.

The Labour Party supports incorporating the Palermo protocol into our law. The minister has accepted our amendment, but I wonder whether she will go a little further and in closing speak about the possibility of incorporating the international gold standard, which is the Palermo protocol on trafficking.

I realise that I am running short of time, Presiding Officer.

The Deputy Presiding Officer: You are.

Jenny Marra: I believe that the Parliament has the power—through control of housing, education, health and legal affairs—to put measures in place. Experts such as Helena Kennedy have set out recommendations that are within the power of the Parliament to follow. The Government could make a big move towards ending human rights abuses in Scotland by supporting our amendment, as it has done, and by committing to the Palermo protocol to prevent trafficking and human rights abuses in Scotland.

I move amendment S4M-05556.2, to insert at end:

“, and believes that tackling human trafficking should be an essential part of the national action plan for human rights, including a clear commitment to review the current law to ensure that the crime of human trafficking is defined as clearly and comprehensively as possible.”

16:11

Annabel Goldie (West Scotland) (Con): I welcome the opportunity to speak on this important topic, particularly on Scotland's responsibility to protect the rights of its citizens and promote a similar approach abroad. There is certainly a strong element of consensus on the topic across the chamber and, despite the minister's natural reservations, I believe that it extends across the United Kingdom. All major political parties are signed up to the importance of human rights. However, there is scope for debate on the best way in which to enforce and interpret those rights, and I will return to that point later.

It is equally important that the framework of human rights must enjoy the support and confidence of the public. That positive perception is essential and a negative perception is deeply damaging. What the public might support in theory, which is good, does not necessarily translate into support in practice, which is bad, so I will develop the theme.

I agree with the general tenor of the motion, which my party will support, and I welcome the opportunity for the Parliament to reaffirm its commitment to human rights. I also support Jenny Marra's amendment. However, when reading the motion, I reflected on the use of the term “inalienable”. Every member of the Parliament is signed up to human rights as a set of fundamental rights that every person can expect to enjoy. Nevertheless, all rights are subject to interpretation and, crucially, they all interact with one another.

It is legitimate to explore that aspect, so I pose the question—I do so genuinely—of how we reconcile the absolute rights of, say, a victim, with the absolute rights of an assailant. Those are opposing rights. One person's rights to a fair trial and to liberty are balanced by the other's rights to security of person and freedom from ill-treatment. In that case, granting absolute or inalienable rights to the two individuals seems to me to be potentially irreconcilable. The use of the term “inalienable”—perhaps the minister could have picked an easier word to pronounce for the motion—therefore ignores the fact that fundamental rights can sometimes be in conflict and does not recognise that with rights come responsibilities.

Patrick Harvie (Glasgow) (Green): Will the member give way?

Annabel Goldie: I am very tight for time. I am sorry, but I want to develop my point. I hope that the member will forgive me.

Interestingly, the European convention on human rights recognises that potential conflict and very few of its articles are absolute rights—they are actually qualified by consideration of the greater good.

It is no secret that the general public's opinion of human rights is not as positive as it could or should be and certainly as we would want it to be. A YouGov poll that was published last year found that 72 per cent of the public thought that

“human rights have become a charter for criminals and the undeserving”.

A similar poll that was published the year before found that 75 per cent of respondents believed that the Human Rights Act 1998 was

“used too widely to create rights it was never intended to protect”.

We should not ignore that or just brush it aside, because it is in the interests of those of us who champion fundamental human rights to bring the public on side and to improve that perception. As I said earlier, that negative perception by the public is deeply damaging.

It is right that the UK Government is considering reform of the human rights regime. For the benefit of the minister, I will say that it is absolutely not the case that the UK Government wants to repeal the human rights act—it is looking at replacing it with a new bill of rights, and, 15 years on from the human rights act, it is appropriate to consider whether reform could strengthen the human rights regime. Perhaps we need to look at whether there is a requirement for a shift in emphasis to achieve a balance—to get rid of that irreconcilable element as regards the rights of those who do wrong compared with the rights of the victims.

It is a paradox that lawbreakers can demand as a right a voice in lawmaking when they showed scant regard for upholding the law in the first place. That illustrates a dilemma and it illustrates one of the reasons why, sadly, the public apparently has a poor impression of the human rights framework. By considering reform, we have the opportunity to strengthen that framework and to win over the public, both of which are good for human rights in Scotland.

As I close, I hope that I can adopt a more consensual note. I know that everyone in this chamber remains absolutely committed to the importance of human rights in Scotland, in the United Kingdom and worldwide. A modern, democratic Scotland, as part of the United Kingdom, has a responsibility to promote good practice abroad. Closer to home, I note with interest the work of the Scottish Human Rights Commission on developing Scotland's first national action plan for human rights this year.

I understand that action plans have already been drafted in around 30 countries across the world and I am sure that the national action plan in Scotland will represent a significant step towards informing and educating people about human rights as well as identifying any gaps in good practice. I certainly wish the drafters of that action plan every success.

My party will support the motion.

16:17

Christina McKelvie (Hamilton, Larkhall and Stonehouse) (SNP): I warmly welcome the Scottish Government's positive and progressive work towards Scotland's national action plan for human rights. The action plan is a key

recommendation from the UN and is championed by the Scottish Human Rights Commission.

Human rights are commonly understood as

“inalienable fundamental rights to which a person is inherently entitled simply because she or he is a human being.”

Human rights are thus conceived as universal, being applicable everywhere, and egalitarian, the same for everyone. Those rights may exist as natural rights or as legal rights in both national and international law.

The doctrine of human rights—in international practice, within international law, in global and regional institutions, in the policies of states and in the activities of non-governmental organisations—has been a cornerstone of public policy around the world.

“Promoting and respecting” human rights are important aspects to a rights-based nation and a rights-based constitution. I hope that my friend and colleague the minister will agree with me that the onus is on the Government also to fulfil, and on the Parliament to oversee and ensure the fulfilment of, a human rights-based society.

The requirement is for states to respect, protect and fulfil the human rights that are contained in the treaties that they have ratified. That raises the question of what needs to be fulfilled and how we could achieve it.

The International Covenant on Economic, Social and Cultural Rights is one aspect for consideration. Those rights include, in article 11.1,

“an adequate standard of living ... and ... the continuous improvement of living conditions”.

Article 12.1 includes the right of everyone to

“the enjoyment of the highest attainable standard of physical and mental health”

and article 15.1 includes

“the right of everyone ... to take part in cultural life”.

Article 6.1 includes

“the right to work”

and free choice of employment, and

“the right ... to social security”

is covered in article 9.

It is possible that the Scottish Government and the Parliament could be called upon to inform people of all their human rights under international law, including their economic, social and cultural rights; formally and publicly recognise poverty as a violation of human rights; step up the campaign to eradicate the current stigma surrounding being poor, particularly around being on benefits, by setting it within a rights-based framework and the

proper language; and commit to a human rights-based framework of policy development and impact monitoring that recognises the full range of human rights that the Scottish population is legally entitled to—including under international law—which includes the economic, social and cultural rights that I have just mentioned.

I ask the Scottish Government to consider poverty as a violation of human rights, taking into account our health record and, in some cases, our increasing poverty. The battle with welfare reform and austerity, which is being paid for by the poor, the sick and the vulnerable, is a woeful insight into what the future could hold for us all. Universal and egalitarian free prescriptions, free education and free healthcare go some way towards tackling that poverty.

I also ask the Scottish Government to highlight the deliberate refusal of UK Governments of all colours to incorporate the covenant into domestic law as they were and are committed to do. That comes on the back of William Hague's fresh start in Europe paper, which rips us out of the EU social chapter even though that has at its heart rights that protect pensions and equal pay, the working time directive and gender and disability protection in the workplace. According to the Department for Work and Pensions' own figures, households with the lowest incomes will be the most affected and will have the highest average change. Some 83 per cent of those households are in the bottom three deciles. They are the ones that are affected. I believe that the poorest will pay for austerity. That is not acceptable and it is a violation of human rights.

I believe that Scotland can be a beacon in the family of nations. I believe that Scotland has a universal and egalitarian outlook, as explained in the description of human rights.

The Deputy Presiding Officer (Elaine Smith): You must conclude.

Christina McKelvie: I believe that, with a rights-based constitution, starting with an action plan and working with our partners such as the Scottish Human Rights Commission and others across Scottish society and academia, we can and will build a progressive and a fairer nation.

16:21

Graeme Pearson (South Scotland) (Lab): I begin by welcoming the Government's motion on human rights and saying how pleased I am by the minister's stated intention to support Scottish Labour's amendment.

For three years, the Scottish Human Rights Commission researched and discussed "Getting it Right? Human Rights in Scotland". As a result of

its investigations, the commission concluded that, despite progress and a relatively strong framework for human rights, Scotland needs a more systematic approach to human rights to ensure that what Scots experience is both positive and consistent.

Since 2008, the commission has been working with organisations in different sectors to help to raise the level of understanding of human rights. The commission's five strategic priorities for 2012 to 2016 are:

"Empowering people to realise their rights through promoting greater awareness and respect for human rights.

Supporting the implementation of human rights in practice.

Improving human rights protection in Scotland through influencing law and policy.

Progressing the realisation of human rights of people in Scotland and beyond through further developing our international role.

Ensuring the Commission is effective, efficient, professional and accountable."

Human rights should and do reach every person and institution in Scotland. However, in a short speech it is necessary to focus on a few issues only. For today, my issues will be victims, the right to work and prisoners.

It is important that the services and support network that are available to victims focus on more than merely obtaining money for victims. For victims to receive funds at a difficult time is obviously important, but they face other significant challenges as well. Help and support are required and their rights need to be respected. That is why I welcome the fact that the Scottish Government is due to introduce a victims bill shortly.

In the 2011 Scottish Labour manifesto, the party committed to applying the human rights agenda to practical effect. To that end, we called for the establishment of a charter of victims rights, the establishment of a victims commissioner to champion the enablement of that charter, the widening of the scope of the victim notification scheme, work with the Scottish sentencing council to simplify the current complicated system of discounts and increase the chance of victims and others understanding sentencing and what it means and, finally, the establishment of a victims fund.

In the area of the right to work, there has been considerable criticism from charities and the Scottish Human Rights Commission about the manner in which welfare reform is being undertaken by the UK Government. The consensus is that the approach is resulting in a retrogression in the realisation of human rights, particularly among vulnerable and marginalised people in Scotland. The commission believes that

a human rights-based approach should inform the analysis and the responses to the economic crisis, offering an objective base for fair decision making.

The Deputy Presiding Officer: Please begin to conclude.

Graeme Pearson: It is important that we recognise that people also have a right to work, and that that right gives them a sense of well-being and an ability to play their part.

The Deputy Presiding Officer: You must finish.

Graeme Pearson: I commend the Government's motion and will vote in support of it and of the amendment.

16:25

Jim Eadie (Edinburgh Southern) (SNP): It gives me great pleasure to contribute to this debate and to follow the thoughtful speeches of Graeme Pearson and Christina McKelvie.

The minister spoke about values and about an international framework of human rights law. The international community has proclaimed that all human beings are born free and equal in dignity and rights. Perhaps the international community needs to be reminded of the importance of those values today.

Just a few days ago, the world witnessed the brutal massacre of 65 innocent civilians in Aleppo in Syria. That incident represents just the latest in a long line of human rights abuses in that country. It moved the UN peace envoy Lakhdar Brahimi to declare that the Syrian conflict has now reached "unprecedented levels of horror", which include a range of unthinkable abuses ranging from kidnappings and rapes to torture and executions.

According to the United Nations, the on-going slaughter in Syria has already taken 60,000 lives, with hundreds of thousands of people seeking refuge in neighbouring countries such as Lebanon. At the end of last year, BBC journalist Fergal Keane reported first hand from the camps in Lebanon. He said:

"You can see people living in pretty rudimentary conditions in here ... no proper sanitation, no light ... and for these children, no education ... The other striking thing, when you talk to children here and you look into their faces here, is the experience of war they have carried with them ... Story after story I hear from the children of seeing parents attacked, of air raids, of the experience of being shelled ... most people who came out of Syria fled with only what they could carry".

Those people are now dependent on the charity of the UN. When Fergal Keane asked a mother of five how she felt about being in her new home, he received the reply that death would be better than this isolation.

The raw, unparalleled and absolutely unjustified pain that is being inflicted on our fellow human beings warrants the strongest possible condemnation from the international community. The United Kingdom Government has played a constructive role in highlighting the human rights abuses in Syria, in seeking a diplomatic solution and in providing humanitarian assistance through support for the world food programme, the UN refugee agency and relief agencies that are involved in the provision of medical services and supplies.

However, the UK's claim to be a champion of human rights is undermined by the inhumane and unfair treatment of asylum seekers in this country—people who are themselves fleeing persecution. Research that was commissioned in 2012 by the Scottish Refugee Council, the British Red Cross and the Refugee Survival Trust revealed that

"Asylum support rates are below most poverty measures but, with no income, destitute asylum seekers fall below even the UN global poverty target of \$1.25 a day."

Moreover, as confirmed by the Refugee Council, almost all asylum seekers are not allowed to work and are dependent on limited state support. They are unable to access mainstream benefits or homelessness services unless and until they are granted the right to stay in the UK. According to the Refugee Council, asylum-seeking women who are destitute are vulnerable to violence in this country.

Often, asylum applications are refused on what seems to be a rather arbitrary basis. Data from the UK Home Office shows that most asylum claims are initially refused but that a high number of refusals are then overturned on appeal—in 2011, 68 per cent were refused and 28 per cent of those were overturned. As the Home Office itself says, that calls into question

"the quality of initial decisions."

Article 14 of the Universal Declaration of Human Rights states:

"Everyone has the right to seek and to enjoy in other countries asylum from persecution".

However, the question that we are entitled to ask is, why is the UK unable to fully honour that pledge?

The Deputy Presiding Officer: You must finish now.

Jim Eadie: As Scotland finds its own voice in the world, we have an opportunity to become a force for justice and fairness and to show our solidarity with people at home and abroad.

16:29

David Stewart (Highlands and Islands) (Lab): When the historians of tomorrow—those yet unborn—meet on the Mount Olympus heights of our great universities to assess devolution, where will the chapter open? What will be the points in time that really made a difference for ordinary Scots? Could it be Donald Dewar's electrifying but poetic speech at the opening of Parliament, the fight to take children out of poverty, the establishment of free personal care or the smoking ban?

I believe that the cross-party support for international development, not least in Malawi, will also be up there in lights. The work on human rights at home and abroad has been outstanding. The creation of the Scottish Human Rights Commission by this very Parliament in 2006 is an example of devolution at its best: outward looking, internationalist and fighting the corner for the powerless, the poor and the dispossessed.

Veteran human rights journalist John Pilger said:

"We are beckoned to see the world through a one-way mirror, as if we are threatened and innocent and the rest of humanity is threatening, or wretched, or expendable. Our memory is struggling to rescue the truth that human rights were not handed down as privileges from a parliament, or a boardroom, or an institution, but that peace is only possible with justice and with information that gives us the power to act justly."

Margo MacDonald (Lothian) (Ind): Will the member give way?

David Stewart: I am very sorry—I am really short of time.

The Scottish Human Rights Commission has been a success story. In 2010, it received A status and was recognised as fully compliant with the UN principles on the status of national institutions, which brings with it international recognition and speaking rights at the Human Rights Council and other UN bodies.

In the same year, the commission and Parliament hosted a national human rights conference, with an address by Mary Robinson, former President of Ireland and ex-UN High Commissioner for Human Rights.

In 2011, Scotland was elected chair of the European group of national human rights institutions. We undoubtedly have a strong team of commissioners and staff. I place on record the recognition by Parliament of Professor Alan Miller, chair of the Scottish Human Rights Commission, who is in the gallery this afternoon. He is a well-respected figure in the international human rights world and his reputation projects influence on the world stage.

The Scottish Human Rights Commission's recent report, "Getting it Right? Human Rights in Scotland", provides a textbook answer on the question of what human rights is. It is adequate housing, fair pay, fighting fuel poverty, standing up for the victims of crime, and disability action.

Aung San Suu Kyi said:

"Within a system which denies the existence of basic human rights, fear tends to be the order of the day. Fear of imprisonment ... fear of losing friends ... property or means of livelihood ... fear of isolation, fear of failure."

We all know that human rights institutions are not perfect. As a joint report from the House of Lords and the House of Commons in 2010 made clear, the European Court of Human Rights is in crisis, with a backlog of more than 120,000 cases. Those failures are, in part, a result of the failure of national Governments to implement court judgments. We need more pressure on Governments to implement convention rights at national level.

We have made good progress but still have some way to go. In our justice system, there have been positive developments in children's hearings and improved services for victims. However, as we have heard, there are gaps. There is an increase in hate crimes, a low prosecution rate in human trafficking and variable conditions in detention centres.

Adopting the UN national action plan for human rights, which is evidence based, will help us to develop ways to address those gaps. Those areas can be developed and strengths and weaknesses can be analysed. I look forward to the outcome of the participation stage this year. Let us aim for Scotland to pick up the challenge as a leading nation in human rights and an exemplar of best practice, not just in Scotland but in Europe and beyond.

16:33

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): I very much welcome this timely debate and the work that the Scottish Human Rights Commission is undertaking in this policy area. It definitely shows the way for many others around the globe.

I respect Jenny Marra's engagement in the subject of trafficking, which is well established and entirely proper, but I would have preferred to see a broader-based amendment. There are a large number of issues and trafficking is important, but by no means the only one.

In a short contribution, it is proper to focus on a narrow facet of what is inevitably a wide subject. Once again, I will talk about climate justice; it is a geographically wide topic, but relatively narrow in

policy terms. It is an area in which the rich impose an inescapable cost on the poor.

In 2009, the United Nations Human Rights Council recognised that

“human rights obligations and commitments have the potential to inform and strengthen international and national policy making in the area of climate change”.

I very much welcome the progress and engagement that our Government has made so far: the establishment of the climate justice fund, which reaches out to many other countries; the memorandum of understanding with the Inter-American Development Bank; carbon capture work with the Republic of South Africa; Commonwealth saltire professional fellowships; and so on. A great deal is going on.

I also very much welcome President Obama's appointment of John Kerry as part of his new Administration, which is a very encouraging sign of potential for movement in one of the world's wealthiest nations. I had the privilege to hear John speak at a UN conference and if he is able to deliver in government what he referred to in that speech, real progress will be made.

I regularly track the Mary Robinson Foundation—Climate Justice, which has laid out a number of headings, and I immediately want to pick up on gender equality and impact. It is in that area that the impacts appear to be happening fastest and the effects have the most direct potential to kill adults and, more especially, children. As temperatures rise across the globe, aridity follows and crop failures are an inevitable consequence. In many of the poorest countries in the world, women are at the front line. They are the primary farmers, who now have less food and have to walk further for fuel and water. They absolutely live on the margin. Women in poorer countries pay the price for our higher standard of living.

We will see migration, and the inevitable consequence is that much of that migration will be into countries that are only a little less poor. We cannot morally live with a policy and practice of spreading the poverty around more widely. We have to help countries mitigate the effects of climate change. The Government is doing something on that; I hope that all Governments, including our own, will do more.

The Deputy Presiding Officer: Please start to conclude.

Stewart Stevenson: We need to be committed as citizens and as Governments to turn down the world's thermostat. I want us to equip others to act on mitigation.

I acknowledge Labour's long-term record of engagement on human rights, which is worthy of

praise. However, the real challenge is to address the constitutional issue, so that we can do much more.

16:37

Alison McInnes (North East Scotland) (LD): Developing a national action plan for human rights is a welcome way of ensuring that the human rights that we assume that we have are, in practice, assured. As the SHRC explains, we have a fairly strong legal and institutional framework for human rights, but there are gaps in the realisation of those rights. The most important thing to strive for in developing the action plan is to ensure that it has relevance to people in the real world. Our human rights are not abstract; they are the basis for ensuring that, at every step in our lives, we are afforded the best possible opportunity, treatment and freedoms.

In the very short time that I have, I would like to talk briefly on two domestic applications of human rights on which we can and must do more. The first is the right to education. Education is vital to help people achieve their potential, but, for all the progress that we have made, too many youngsters still miss out. We must do more to ensure that disruptive and challenging children are not excluded from school. Why? Because we know what often happens to those who are excluded from and disenchanted with school: they end up entangled in the justice system.

I recently visited Polmont Young Offenders Institution and I have met a number of young offenders who take part in community justice schemes in the north-east. Sadly, the personal stories that I came across were all too familiar. Although the problem is not unique to Scotland, we have not done enough to find a workable solution. Children who are excluded from education at a young age—perhaps with behavioural or attention issues—often end up in court and in prison. Being in the justice system means that they miss out still more on the education that could make the difference to the path that they are taking. We must do everything in our power to ensure that no one misses out on the education that is rightfully theirs.

Secondly, I want to touch on the delivery of services to vulnerable and older people. In this instance, it is a question not of what care services are available—for the large part, they are efficient and fairly comprehensive—but of the quality of those services and, crucially, the manner in which they are delivered. Unfortunately, pressures can mean that care provision is driven solely by financial considerations.

Many members will be aware of the tragic case in Aberdeen of Ken Maitland, who had 106

different carers in a single year before his death last year. Clearly, that was unacceptable, but we can take practical and positive action to prevent such a situation from happening again.

Fundamentally, care provision, particularly for older and vulnerable people, must be focused on the individual. Being treated with respect and dignity is surely a fundamental right for anyone receiving care. We owe it to them to do more to ensure that that is a reality. The most marginalised and vulnerable in our society—some of the people whom I have mentioned in my examples—must be protected.

The Liberal Democrats have a strong and consistent record on human rights—the issue is at the very heart of our party. We have a strong record in government: in Scotland, Robert Brown was the minister who guided through Parliament the bill that established the Scottish Human Rights Commission; at Westminster, one of our first acts in government was to end child detention at Dungavel.

We are pleased to support the Government motion and the Labour amendment. We commend the excellent work of the Scottish Human Rights Commission, and we look forward to the development of the national action plan. The motion is right to be outward looking. Human rights are the concern of the whole world, and it is right that Scotland does what it can to support those rights on the wider stage.

However, I end on a note of caution. We cannot get complacent at home. Legislation is becoming more careless in its human rights implications, as we saw with legal aid and sectarianism. I encourage the Government to take time to reflect on its approach and ensure, first and foremost, that Scotland's laws and actions set an example in being open, fair and free.

16:42

Linda Fabiani (East Kilbride) (SNP): When we talk about human rights at an international level, people tend to understand very quickly and look to places such as Syria and recognise that the people there do not have human rights. However, when we talk about human rights at a domestic level, all too often that relates to bad publicity. Annabel Goldie alluded to the erroneous statements that are sometimes made about who benefits from human rights in this country.

The Human Rights Act 1998 has had a positive impact on the lives of many people across the UK. It has been used, for example, to ensure that the dietary requirements of patients in hospitals and care homes are met; to prevent or remedy abuse or neglect of the elderly, learning disabled or otherwise vulnerable; to prevent disproportionate

targeting of black or ethnic minority people by police and other authorities; and to ensure that children with special educational needs are not prevented from receiving an education.

I am particularly interested in how the Scottish Human Rights Commission investigates those areas and comes up with recommendations. I commend its independent evaluation, care about rights, which has done much to inform those in the care sector about how people should be dealt with with dignity. However, we should not be complacent. We must monitor the situation because there are always things that can be improved. For example, I am working on a case concerning the right of a constituent—an incapacitated adult, whose care resulted in physical disability—to have the perceived shortcomings in his care properly investigated.

I am hugely concerned about the impact of Westminster's welfare reforms. I have no time to go into all that, but I suggest that members read the *Official Report* of this morning's Welfare Reform Committee. How people are being treated makes for harrowing reading.

I want to ask about the rights of someone who has lived in a social rented property for decades and who has spent years turning their house into a home only to be turfed out because of the imposition of the bedroom tax come April, with no consideration being given to why there is a spare room or, indeed, to the trauma and expense of their having to move house. That is further stigmatisation of the social rented sector. Is that not in itself an attack on the human right of dignity?

It is a bit rich of Lib Dems to talk about legislation in this place when they and their coalition partners are imposing heinous legislation on people in Scotland. A witness said at this morning's meeting that he did not believe that people in Scotland wanted to behave in that way. I certainly do not want to behave in that way and I hope that no one in this Parliament does.

The motion in the name of Roseanna Cunningham is on promoting and protecting human rights in Scotland, Europe and the wider world. That is a recognition of the brotherhood of man, which is why we must tackle trafficking in this country and detention at Dungavel. We might have stopped the practice of keeping children in Dungavel for any length of time, but children are just being punted down the road to detention centres south of the border. That is not looking after human rights.

I want a national human rights action plan that is meaningful. I do not want it to be eroded by people in Westminster who think that we in Scotland want to be cruel to people who live in this country and to

deny them their basic human rights and dignity. I am not about that and I do not want any member in the Parliament to be about that. I ask all members to think on, about how we can have meaningful human rights in our national plan.

16:46

John Finnie (Highlands and Islands) (Ind): It was good to hear the minister reaffirm the values that are proclaimed in the Universal Declaration of Human Rights. I hope that the whole Parliament will reaffirm those values at the end of business today.

The motion talks about an “inclusive Scotland”. I want to hear about the challenges in that regard. Neil Findlay talked about the right to work, in the context of blacklisted workers, which is clearly a challenge. Workers’ rights are also challenged in relation to safe workplaces, given cuts to health and safety and threats to the European working time directive.

The biggest challenge comes from the austerity programme and cuts in public spending. Human rights bodies have asked the UK Government and devolved Administrations to

“consider more effective processes for assessing the impact of legal, policy and practice steps on equality and human rights.”

It was therefore less than helpful of David Cameron to refer to equality impact assessments as “nonsense”. Politics is about priorities and competing demands, but whatever our differences, hard-fought-for human rights cannot be a casualty.

Our first national action plan for human rights will be Scotland’s plan, not the Scottish Government’s plan, and it is important that there is ownership in the chamber and beyond. The motion talks about embracing

“the opportunities presented by Scotland’s engagement in the wider world to promote respect for the universal and indivisible rights of all of humanity.”

I ask the Scottish Government to bear that in mind as it deals with regimes around the globe, not least China, Israel and the Maldives, where we have heard of late about shocking human rights abuses.

Margo MacDonald: Does my colleague agree that it would be no bad thing to remind people that there is a history of attention to human rights, with reference to the Scottish weavers and the people who fought for good contracts in the isles and so on? Attention to human rights in Scotland is not new.

John Finnie: I agree with my colleague. For that reason, we must sustain rights and not allow their erosion.

The plan will resonate, regardless of Scotland’s constitutional future. I am disappointed that Patrick Harvie’s amendment was not selected for debate, because it would have given us an opportunity to talk about a number of areas, not least what would be in a constitution in the context of important issues to do with civil rights.

Members mentioned relevance, which is key. The action plan must be relevant to people. The Scottish Human Rights Commission said that Scotland has made “notable progress” but “can do better”.

The Parliament must pass legislation that is ECHR compliant, and as we heard, legislation is shaped by the courts. Many members are concerned that human rights remains with the justice portfolio. That is not a criticism of the individuals who are involved. Rather, there is a view that the issue transcends all portfolios and should be part of every committee’s remit.

I am delighted that the amendment that I lodged, which called for the inclusion of a reference to human rights in the oath that new police officers take, enjoyed support from members of parties across the Parliament. It is important that we seek practical applications of our approach to human rights.

The Equal Opportunities Committee is conducting an inquiry into Gypsy Travellers, who seem to be the last group in Scotland whose rights are routinely disregarded by the public sector. We have heard shocking evidence and the issue needs to be addressed.

There needs to be better promotion of human rights in the areas that matter to people—their homes, neighbourhoods, workplaces and schools. Above all, the action plan must be relevant. We have heard that such an approach to human rights has had success elsewhere. I wish the Scottish Human Rights Commission all the best with its work and ask for the fullest participation.

16:50

Gil Paterson (Clydebank and Milngavie) (SNP): I welcome the opportunity to speak in the debate and highlight our country’s role in the world in defending human rights.

In Scotland, we have a proud tradition and history of protecting and promoting human rights, not only for our citizens but internationally. The principle of human rights is taken for granted in Scotland, which is why we have an obligation to ensure that our human rights are not infringed upon while doing our utmost to take the message across the world.

Scotland is an inclusive country and takes pride in its diversity. That is the Scotland that we

envisage and for which we strive on all points along the political spectrum. I am pleased that the Scottish Government and Parliament are building upon that with the development of a national action plan over the coming year. We may not be pioneers in creating such a plan, but we have the benefit of learning from the countries that have already developed their own plans and I hope that we can offer something distinctive to meet the challenges that we face in Scotland.

As a current member of the United Kingdom, Scotland is a signed-up member of the Universal Declaration of Human Rights. When we become independent—as surely we will—that will still be the case, but Scotland will play an even greater role.

There are occasions when people complain about the impact of the Universal Declaration of Human Rights on individual rights. Although those criticisms can sometimes be valid, we must look at the bigger picture. The overriding duty of the declaration at a multinational level is to defend the most vulnerable and marginalised in society and to protect the individual whom those in authority might persecute simply to silence them.

I share the Scottish Human Rights Commission's concerns about the United Kingdom Government's response to the global economic crisis—in particular, the welfare reforms that it is introducing—and believe that the concept of human rights should be at the core of the decision-making process. The most vulnerable in our society will be affected the most, and I fully endorse the actions of the Scottish Human Rights Commission and the many other organisations that have raised the issue with the UK Government. For the sake of those in need, I hope that the UK Government takes those concerns on board.

The Scottish Government and Parliament have done a great deal to promote human rights on an international level—from working with other Governments to combat human trafficking, to highlighting the importance of climate change, which is increasingly becoming a human rights issue.

It is imperative that, in the run-up to the referendum, those who are in favour of independence and those who are against it express their visions of how Scotland can best help to promote human rights, whether as an independent country or otherwise. An independent Scotland has much to offer on the international stage and will be able to build on the actions that the Scottish Government has taken.

I commend the Scottish Government's approach and the Parliament's long-running approach to human rights. I fully support the motion.

16:54

Iain Gray (East Lothian) (Lab): As all things Danish seem to be the political flavour of the week, I note that Søren Kierkegaard wrote:

“Life can only be understood backwards; but it must be lived forwards.”

Rights are lessons that are understood from our past and through which we can better live our future. I once heard John Hume of the Social Democratic and Labour Party say:

“If you want to see the foundation stones of the EU, then look at the war memorials in every town in Europe.”

The politics of today might distort that European vision, but its fundamental purpose remains to develop a continent that is so bound by social and economic ties that it can never again drag itself into the abyss of total war.

Post-war leaders—not least, Churchill—learned another lesson, which was that the internal legitimacy of the states of Europe, as well as the relationships between them, matters. That is why the Council of Europe was created; it was to make human rights legally enforceable through adoption of the ECHR in 1950. The European Union was created to ensure peace between nations, and the ECHR was adopted to guarantee that those nations were, and would remain, democratic.

Rights fundamentally underpin our modern civilisation and do not simply reflect society as it is, but shape what it will become. That is not always comfortable or convenient, but then neither is democracy. In the same way as we may baulk sometimes at the outcome of democracy, we may baulk sometimes at the consequences of human rights. For example, I dislike the idea of prisoners having the vote, and many resent the freedoms that rights extend to some, but surely we never wish to see again the tyranny that the abrogation of human rights inevitably heralds.

We are complacent about our rights at our peril. That includes those who would replace them with codified constitutions and written bills of rights. The universality of rights—their international reach—provides us with protection by dint of our common humanity rather than our common nationality and raises them to the highest importance.

In the Parliament, we have deliberately and knowingly fettered our sovereign power with human rights obligations with which we must comply or see our legislative labours struck down. The First Minister made exactly that point in his recent speech on constitutions. However, the logic of the point leads us to the ECHR as the best internationally based platform for Scotland— independent or not—rather than to a national, not international, constitutional bill of rights.

Annabel Goldie was right to say that most universal rights are qualified. They have proved themselves to be adaptable to changing times—far more so than the US constitution's second amendment, on militias, which blocks gun control in the US to this day. I know that the Scottish Government likes to reference Jefferson and Lincoln, but surely the message of the current movie on Lincoln is about not how easy but how hard the Bill of Rights made it to abolish slavery.

We must proactively seek to apply our human rights to the issues of our day. That is why we need a commission and why Labour's amendment on human trafficking is right to draw attention to that concern.

The Deputy Presiding Officer: I must ask you to conclude.

Iain Gray: I believe in the state as a place where we can organise for the common good, but the interests of the majority must not ride roughshod over the interests of the minority or the individual. Our rights must be jealously guarded and constantly implemented. That should be the task of the commission, the purpose of the action plan as it develops and the obligation of Parliament every day.

16:58

Roderick Campbell (North East Fife) (SNP): I accept that we can always do more, but we should welcome the many positive things that we have heard today about the progress that Scotland has made across the board in relation to human rights. I welcome the comments that David Stewart and others have made.

It is worth noting that the Scottish Human Rights Commission has pointed out that

“a number of laws of the Scottish Parliament”

have been

“cited as good practice in human rights and in their subject field.”

However, it is fair to say that, although we have effective structures in place and various actions have been undertaken, including the development of the national action plan, we need to work on our outcomes. The commission says that the influence

“decreases the closer to real life we look.”

As all students of human rights know, the traditional focus in the UK has been on looking at human rights in terms of political and civic rights. Economic, social and cultural rights have played second fiddle—the Scottish Council for Voluntary Organisations has recognised that point. Despite what Iain Gray said, if we are to have a charter of human rights or some kind of constitutional rights in an independent Scotland, or legislation that

encompasses human rights, I think that there is plenty of scope for Scotland to lead the way; I take a different view to Mr Gray. It will be interesting to see whether any British bill of rights that the current UK Government introduces takes up the challenge in respect of economic, social and cultural rights. I guess that it probably will not.

In the limited time that is available, I would like to say a little about human rights in the context of caring for the elderly—in particular, those with conditions such as dementia. Article 3 of the ECHR states that no one should be subjected to “inhuman or degrading treatment”. Article 8 makes provision to protect private and family life. When people begin to lose control of their cognitive faculties and become more dependent on their carers, whoever they may be, there is always a danger that their vulnerability might not be adequately addressed.

In its report, “Getting it Right?”, the Scottish Human Rights Commission details its views on Scotland's treatment of the elderly in terms of dignity and care. The report notes the increasing recognition of the importance of unpaid carers, which was demonstrated recently by the event called the carers parliament. It also identifies some areas for improvement; for example, it cites research from 2007 that showed that only half of a sample of dementia patients in hospital had a recorded life history in their medical notes, which the SHRC has described as an important part of social care.

Care of the vulnerable and, in particular, the elderly is one area where we can say with cautious optimism that we are making progress in human rights terms. Although the charter of rights for people with dementia and their carers, which was produced in the previous session of Parliament, has no statutory footing, it certainly highlights the need to promote and protect the human rights of those with dementia, and reaffirms society's responsibility in ending discrimination. That is the human rights agenda in practice.

Other members have referred to the impact of welfare reform; it seems to me that the proposed bedroom tax and its impact on, for example, divorced fathers raises potential article 8 issues, at the very least.

In its briefing, the Glasgow Disability Alliance raises an important issue on the right to independent living, and the First Minister has referred recently to the rights of the homeless. In addition, I am pleased that the new oath for policemen contains a commitment to human rights. Those are all steps in the right direction.

We must recognise that, under existing international obligations, states have an obligation to achieve progressively the full realisation of

social, economic and cultural rights. Politicians and Governments everywhere, take note: human rights are not set in stone. The ECHR is a living instrument, and one to which all Governments must respond.

I believe that the development of a national action plan is a positive and important step forward and an effective way of ensuring that the human rights of all vulnerable people are embedded in everything that we do. I support the motion and the amendment.

17:03

Patrick Harvie (Glasgow) (Green): I very much welcome the work that has been done on human rights by successive Administrations domestically and globally, through the work of our colleagues on the SHRC, the Scottish Government and public bodies throughout Scotland. We need a human rights action plan that positively asserts the value of a human rights culture, as opposed to the slightly resentful attitude that we hear, all too often, from certain quarters at Westminster.

I welcome the Labour Party's amendment, which raises important issues that deserve to be taken seriously across the chamber. I am glad that the Government will accept it, but it is a shame that the minister seemed to have so little time for the member who moved it, in whose speech I could find nothing to disagree with; I could find nothing to disagree with, either, in Neil Findlay's comments on the employment rights issues that he raised.

John Finnie referred to my amendment, which was not selected for debate. As ever—for anyone who is interested—it is available near the back of the *Business Bulletin*. It sought to raise some other aspects. It is not my usual style to lodge an amendment praising the First Minister, but that is what I did in relation to his recent comments on the prospect of constitutional rights. I believe that that is an important idea that we should take seriously. It is echoed in "Scotland's Future: from the Referendum to Independence and a Written Constitution", which was published today.

Jim Eadie: I would not want to encourage Patrick Harvie to agree with the First Minister regularly, but does he agree that a written constitution is the perfect antidote to the unwritten parliamentary sovereignty of Westminster?

Patrick Harvie: I reassure Jim Eadie on his first point and I partly agree with his second, but I do not have time, at the moment, to go into it in detail.

The document that has been published today does, indeed, set out a proposal to embed a wide range of rights in a constitution for Scotland. It is important to remember that there is a wide range

of such instruments—not just the universal declaration of human rights. Members will have heard about the covenants on economic, social and cultural rights and the covenant on civil and political rights, and my amendment referred to the United Nations Convention on the Rights of the Child. That is not an exhaustive list, by any means.

Today, of all days, when our colleagues in the Westminster Parliament are hearing some excellent 21st century speeches and some abysmal 19th century speeches on same-sex marriage, it is important to reflect on the UN declaration on sexual orientation and gender identity, which seeks globally—Scotland could contribute to this argument globally—to protect

"individuals from homophobic and transphobic violence";

to

"Prevent torture and cruel, inhuman and degrading treatment"

of lesbian, gay, bisexual and transgender people; to decriminalise homosexuality; to prohibit

"discrimination based on sexual orientation and gender identity";

and to respect

"freedom of expression, association and peaceful assembly for all LGBT people."

What an opportunity Scotland could have to contribute to that debate, not only domestically but globally.

Today's document is not an attempt to exclude or extract Scotland from the international framework that Iain Gray was so right to talk about. It is quite the reverse; it is an attempt to embed in Scotland those rights and to ensure that the many people out there who I believe are open minded about independence but not yet convinced can be reassured to know that they will be voting for an independent Scotland that will embed those rights and prohibit future Parliaments and Governments from abrogating or denying those rights. This is an opportunity that all members should take seriously. I look forward to voting for the amendment and the motion tonight.

The Deputy Presiding Officer: That brings us to the closing speeches. Murdo Fraser has four minutes.

17:07

Murdo Fraser (Mid Scotland and Fife) (Con): It has been an interesting and diverse debate. We have had some thoughtful contributions and I was very taken by what Iain Gray had to say, although I do not necessarily agree with all of it.

I am sure that everybody here and pretty much everybody in the population agrees in principle on the importance of upholding human rights, both at home and abroad. There is very little in the ECHR with which people will disagree. Basic rights to life, freedom from torture and ill-treatment, freedom from slavery, the right to a fair trial, the right to private and family life, and freedom of religion, expression, assembly and association are all key rights to which we believe everyone should be entitled.

We should also accept that there will be areas of disagreement. As Annabel Goldie said fairly, there will on occasion be conflicts of rights between individuals—for example, where a crime has been committed and there is a conflict of rights between aggressor and victim. We need to be careful how we interpret human rights. Many people think that the courts have gone too far in interpretation of those rights—for example, by paying compensation to prisoners for slopping out or, indeed, giving them the right to vote. As Annabel Goldie pointed out, a recent YouGov poll showed that 75 per cent of the population thinks that the Human Rights Act 1998 had gone too far and was being used too widely to create rights that it was never intended to protect.

However, I wish to spend most of my speech looking at the international situation, because I believe that we have a duty to promote human rights internationally, using our influence and power as a trading nation. It is worth examining the record of the UK Government and, indeed, of the Scottish Government in this field and looking at a couple of examples.

The first example is China. In it we have a very important trading partner, but one in which freedom of speech, of the press, of movement, of religion, of sexuality and of politics are all strictly forbidden. Executions and torture are regularly used by authorities there against those who question the state, and between 5,000 and 8,000 people are executed every year. As members might expect, the UK Government has been very vocal on the issue of Chinese human rights. In 2010, on his first state visit to China, David Cameron made clear his concern about Chinese human rights and established the human rights dialogue between the two Governments, which started in January 2011. That approach won respect from the Chinese.

The First Minister made a state visit to China in 2009, describing it as

“the greatest country on earth.”

He has since made two visits and I can find no record of him on any occasion speaking out about human rights issues in China. Famously, the Scottish Government played down the Dalai

Lama’s recent visit to Scotland. The First Minister cold-shouldered him after supposedly coming under pressure from the Chinese authorities. Who mentioned hypocrisy?

The second example is Qatar—a country in which migrant workers are oppressed and homosexuality is illegal and punishable by up to five years’ imprisonment. Human Rights Watch says that the football world cup that is to be played in Qatar in 2022 will be

“a crucible of exploitation and misery”

for poorly paid and migrant workers. The Amir of Qatar is an active supporter of the Muslim Brotherhood, and it is widely believed that he also funds dissidents in Mali. When the location of the 2022 world cup was announced, the Prime Minister made it clear that football is for everyone and that no one should be excluded based on their race, religion or sexuality. However, when the First Minister visited Qatar, he was full of praise for the country and the “remarkable similarities” between our nations. Again, there was no mention of oppression or human rights. Who mentioned hypocrisy?

The Deputy Presiding Officer: I am afraid that you must begin to conclude.

Murdo Fraser: There is nothing wrong with promoting international trade, and it will be distasteful for us to deal with some of the countries that we deal with, which gives us the added responsibility of speaking out when we see that. The First Minister’s track record on these issues so far has been dismal, so I hope that the Minister for External Affairs and International Development’s remarks will indicate a change of direction.

17:11

Patricia Ferguson (Glasgow Maryhill and Springburn) (Lab): This has been an interesting and worthwhile debate to which there have been some interesting contributions from around the chamber. It is, of course, fitting that we should debate the topic today, immediately before Parliament is asked to recommend Professor Alan Miller for reappointment as chair of the Scottish Human Rights Commission. I am sure that we all welcome that reappointment and congratulate Professor Miller on it. I might be jumping the gun a little but I am sure that colleagues will not mind that too much. As my colleague David Stewart did earlier, I thank Professor Miller and his colleagues for their contribution to the issue.

Today’s wide-ranging debate has been informed by the many briefings that members have received from organisations that are active in the promotion and protection of human rights. It has been helpful

to hear about the issues that they wish to prioritise and the concerns that they have articulated. We might not have been able to cover all those issues, but reading about them will remind us to reflect on the points that those organisations have made.

As my colleague Jenny Marra said in her opening speech, Scottish Labour decided to prioritise the issue of human trafficking in our amendment. I will say a little more about that later because we take that issue very seriously indeed. We are pleased that we seem to enjoy the support of our colleagues across the chamber in that today.

As colleagues have said, the ECHR is of course enshrined in this Parliament's legislation. Those who were involved in establishing the Parliament did not feel that we had to be independent to strive for the highest standards. Unlike the First Minister's vision, which Ms Cunningham portrayed today, many of us are ambitious for Scotland to play its part regardless of the constitutional settlement. I enjoyed Ms Cunningham's opening speech—she chose a relevant quotation that exemplifies that human rights is not just a matter for Governments, although, of course, what Governments do matters because of the example that they set.

As I said, we have heard some interesting contributions from around the chamber. I will reflect on one or two of them. My colleague Graeme Pearson was absolutely right to highlight the fact that victims need to be supported through the struggles that they will undoubtedly face. He was also right to highlight the right to work and the attack on human rights that is being perpetrated in the name of welfare reform.

Stewart Stevenson was correct to mention climate justice. He alluded to the fact that the poor are the worst affected and suffer because of our actions, selfishness and greed. All members should welcome the action taken by Scottish Governments of whatever complexion in using international development policies to promote climate justice and environmental mitigation measures.

I was very interested in Alison McInnes's speech, particularly her comments about the exclusion of young people from school. We have all seen young people who, because they cannot go to school, are on the streets. I highlight a school in my constituency, John Paul academy, which has reduced its previously very high exclusion rate to practically zero. Nothing has changed, except that there is the will, the leadership and the recognition that young people need support. Some need support more than others, and where it is needed it is given. I encourage Ms McInnes to visit that school if she finds herself in Glasgow some day.

John Finnie was absolutely right to highlight the plight of Gypsy Travellers. Although the chamber and our various committees have been examining the issue for a long time now, we have not been able to tackle it in a way that recognises and respect people's rights. I hope that the work of our Equal Opportunities Committee colleagues will ensure that that happens.

I cannot disagree with a word of my colleague Iain Gray's excellent contribution to the debate. He helped us to focus on the fact that a written constitution comes with its own difficulties and suggested that instead of adopting that model in a rush we give further consideration to what we want. Of course, we also have to think about our international obligations in that regard and our international place in the world.

Patrick Harvie: I wonder whether the member would be willing to go just a little further. The Parliament is legally prohibited from passing legislation that conflicts with the Human Rights Act 1998. If we are getting into a debate about the kind of Parliament that it is to grow into, can we not all agree that we want the Parliament and indeed Governments to remain constrained in that way and that a constitutional debate is one way of achieving that?

Patricia Ferguson: I think that, as with everything to do with the constitution, we have to wait and hear what the people decide. I want to do that—I want to engage in that debate.

As I said, Scottish Labour wants to highlight the issue of human trafficking in today's debate. After all, with the Commonwealth games only a year away, it is extremely important that we get this right. We think that greater clarity in the law and the adoption of the Palermo definition would help to foster better detection and prosecution and greater protection of victims' rights. Only last week, the Committee of the Regions unanimously agreed an opinion on the European Union strategy towards the eradication of trafficking—

The Deputy Presiding Officer: I am afraid that you must close now.

Patricia Ferguson: One of the strategy's key elements was a recognition of the key role played by local authorities—be they police authorities, local councils or health services—in detecting such things at a local level and responding to victims' needs. That is certainly something that we in this chamber want.

I thank the Government for supporting our amendment.

17:18

The Minister for External Affairs and International Development (Humza Yousaf):

Earlier the minister Roseanna Cunningham quoted Eleanor Roosevelt; I will open my closing speech by quoting someone closer to home—Robert Burns, who once wrote:

“Man’s inhumanity to Man
Makes countless thousands mourn!”

In 2013, man’s inhumanity can be witnessed every day all over the world.

However, before I concentrate on the various international aspects that members highlighted, I want to commend members on the tone of the debate. We had some fantastic speeches from across the chamber, some of which have already been mentioned. Although I disagreed somewhat with Iain Gray’s analysis, I thought that his speech was fantastic, and I thought that David Stewart, Gil Paterson, Christina McKelvie, Linda Fabiani, Alison McInnes, Patrick Harvie, John Finnie and Annabel Goldie, too, made fantastic contributions.

On the international front, we are confronted every day with human rights abuses across the world. As Jim Eadie and John Finnie so eloquently pointed out, tragic events are happening in Palestine, Syria and even Egypt as the new Arab spring democracies face fundamental challenges in coming to grips with democracy. However, they make us realise that Scotland’s strong and enduring commitment to human rights cannot be taken for granted and places a responsibility on us as a nation to ensure that other countries develop and maintain a similar commitment.

I am pleased that we will accept the Labour amendment to the motion. Jenny Marra has quite rightly been vociferous—I might even say tenacious—on the issue of human trafficking, as Christina McKelvie and others from across the chamber have been. I look forward to the middle of the year when we will receive the report back and recommendations from the summit, to which one of my colleagues will no doubt respond on behalf of the Government.

There is worldwide recognition of Scotland’s commitment to democracy, the rule of law and fundamental human rights. Scotland uses its international engagement as an opportunity to help to increase respect for, and understanding of, human rights worldwide. We do that not through arrogant lecturing or condescension but through mature, even-tempered discourse with our international partners on how we can support their progress towards becoming states that respect and progressively realise human rights.

On that issue, Murdo Fraser asked me to address a couple of points. In our discussions with China, the Cabinet Secretary for Culture and

External Affairs has personally mentioned Tibet to Chinese ministers. That is a sensitive issue, but it was handled sensitively. After discussions with Amnesty International and the Scottish Human Rights Commission, the First Minister has raised issues that are creeping up the global agenda, such as climate justice. In the recently drafted China plan—I do not know whether Murdo Fraser has a copy of it—one of the four guiding principles is respect for human rights and the rule of law. We are unashamed in our promotion of human rights where and when we can.

Murdo Fraser also said that Qatar, which the First Minister has visited, supports the Muslim Brotherhood and denies women’s rights and so on. I do not disagree that those are important issues, but does the member not know that the UK Government has signed an agreement with Qatar to make this a year of culture between the UK and Qatar? If his point is that we should not engage with unsavoury characters, has he no shame about the fact that a UK Prime Minister is selling arms to some of the world’s worst human rights abusers?

Murdo Fraser: As the minister will know from my speech, that self-same UK Government has spoken out clearly against human rights abuses in Qatar. I searched in vain for any comments from the First Minister on human rights during his visit to Qatar. Can the minister correct the record by telling me what the First Minister said about human rights in Qatar? Where can I find that reference?

Humza Yousaf: It seems that it is okay to lecture Qatar about human rights and then provide it with guns afterwards. That is a logic that I cannot understand.

Developing those relationships cannot help but further increase understanding of shared world values. On a practical level, that allows others to utilise our practical experience—whether that be effective policing, good civic governance, low-carbon economic development or better healthcare—to improve the lives of people overseas.

We are equally happy to open ourselves to international scrutiny, which I think we must do. In May, as part of the UK, Scotland was assessed positively by the UN on our realisation of international human rights standards. Indeed, the Scottish Human Rights Commission, which as we heard is accredited by the UN as an “A” status national human rights institution, spoke at that meeting. The commission, which was created by this Parliament, is hugely respected at an international level—a respect that was shown and shared by many members in the debate today.

Coincidentally, I note that members will vote later today on Professor Alan Miller's renomination as chair of the Scottish Human Rights Commission. I am not sure which way Professor Miller wants that vote to go, but we shall see the result soon enough.

The Scottish Human Rights Commission's international stature certainly puts paid to the notion that Scotland is too small to make a difference. On the contrary, it is our duty to be good global citizens by joining the debates on such issues. David Stewart's speech in particular made that point incredibly well.

At the international level, key actors seem increasingly to be drawing a distinction between the progressive, mature debate that is happening here in Scotland and the reaction that we often witness whenever human rights are discussed down south. As Annabel Goldie rightly pointed out, we need to do something to win the public over. Perhaps that will feed into the discourse on our action plan.

We want to have a different conversation here. Scotland has a good story to tell, whether that be about our history through the weavers—to which Margo MacDonald referred—or about modern-day times. We have much to learn from others, but we have much to teach as well. We will continue to urge states all over the world fully to realise international human rights law and to open themselves up to international scrutiny in the same way.

Just as we have sought to engage in a positive fashion on international human rights issues, so the Scottish Government continues to try to make a direct practical difference on the ground to the lives of those in the most materially deprived communities in the world.

As members will know, we support projects in eight countries, including Malawi and other countries in sub-Saharan Africa as well as countries in south Asia. Those projects make a real difference to the lives of some of the world's most vulnerable people. For generations, Scots have reached out across the world to build economic, educational and cultural links with countries such as Malawi.

Today, human rights are increasingly focused on environmental issues, as climate change remains at the top of the international agenda. The Scottish Government has actively championed the cause of climate change, as Stewart Stevenson mentioned in a good speech. The issue would not be so high up in the Government's programme if it was not for his efforts. As well as inventing the computer, the internet and everything else in the world, he can rightly lay claim to bringing the agenda to Scotland and the Scottish Parliament. It

is early days, but we hope that that work will bear fruit and will contribute to improving some of the poorest communities internationally.

In Scotland and overseas, the Scottish people do things differently, not because we are elitist or exclusionist, but because we are trying to embed some of the international human rights obligations that are on us. We do that not merely because we can, but because we want to. We are a modern and responsible nation that is preparing to join the global community of nations as an equal member. The Scottish Government is committed to creating a Scotland that realises human rights and to ensuring that Scotland can play its part in creating a world where the human rights of all are protected, respected and realised. I hope that the chamber can unite around that vision, and I urge members to support the motion.

Scottish Parliamentary Corporate Body Motions

The Deputy Presiding Officer (Elaine Smith):

The next item of business is consideration of Scottish Parliamentary Corporate Body motions. First, we will consider motion S4M-05541, in the name of David Stewart, on the reappointment of the chair of the Scottish Human Rights Commission. I call David Stewart to move the motion on behalf of the Scottish Parliamentary Corporate Body.

17:26

David Stewart (Highlands and Islands) (Lab):

Parliament is invited to agree to the motion in my name on behalf of the Scottish Parliamentary Corporate Body to nominate Professor Alan Miller to Her Majesty the Queen for reappointment for a second term as the chair of the Scottish Human Rights Commission.

The reappointment process comprised three elements: independent evaluation, interview and nomination. The office-holders that the SPCB supports are subject to annual evaluation, based on set criteria that include, for example, fulfilling the functions of the post; managing the day-to-day running of the office; leadership and motivation skills; and forward planning. A report on the office-holder's performance is prepared by the independent assessor and submitted to the SPCB, and that forms part of the information that the SPCB considers during the reappointment process.

The SPCB sat as a reappointment panel on Tuesday 11 December to consider Professor Miller for reappointment. The panel members were Linda Fabiani, Mary Scanlon and me. I place on record my thanks to Louise Rose for confirming by way of a validation certificate that the nomination is made on merit following a fair and robust reappointment process that conformed to good practice. Details of the information that the SPCB considered and the criteria on which Professor Miller was assessed are set out in a report that the SPCB has lodged in the Scottish Parliament information centre.

Professor Miller was appointed on 3 March 2008 as the first chair of the Scottish Human Rights Commission. His first task was to establish his office and then, in consultation with the three part-time commission members, to set the strategic direction of the commission. As we heard in the previous debate, the commission has achieved much in its short life. On behalf of the corporate body, I wish Professor Miller and his commission continued recognition and success.

I firmly move,

That the Parliament nominates Professor Alan Miller to Her Majesty The Queen for reappointment for a second term as the Chair of the Scottish Human Rights Commission from 3 March 2013 until 2 March 2016.

The Deputy Presiding Officer: The question on the motion will be put at decision time.

Next, we come to consideration of motion S4M-05537, in the name of Mary Scanlon, on the appointment of a member of the Standards Commission for Scotland. I call David Stewart to move the motion on behalf of the Scottish Parliamentary Corporate Body.

17:29

David Stewart: As you know, Presiding Officer, Mary Scanlon is unfortunately ill today, and I have been asked to speak to the motion in her name.

As a member of the appointment panel, I invite members to agree to the appointment of Lindsey Gallanders as a member of the Standards Commission for Scotland.

As members are aware, under the Ethical Standards in Public Life Act 2000, members of the commission are appointed by the SPCB with the agreement of the Parliament. This is the first such appointment undertaken by the corporate body, as until 1 April 2007, the commission was sponsored by the Scottish Government and members of the commission were appointed by Scottish ministers.

The role of the commission, as members are aware, is to encourage high ethical standards in public life. It does that by promoting and enforcing the codes of conduct for councillors and members of devolved public bodies. The corporate body sat as a selection panel on 10 December last year. The members of the panel were Liam McArthur, Mary Scanlon and me. From a very strong field of candidates, we are seeking the agreement of Parliament to appoint Lindsey Gallanders as a member of the commission.

On behalf of the corporate body, I thank Louise Rose, the independent assessor who oversaw the process and who has confirmed by way of a validation certificate that the appointment process complied with good practice and that the recommendation to appoint Lindsey Gallanders is made on merit after a fair, open and transparent process.

We believe that Lindsey Gallanders will bring to the post enthusiasm, integrity, discretion and a commitment to ensuring that high ethical standards are upheld in public life. I am sure that the Parliament will want to wish her every success in her new role.

I move,

That the Parliament agrees, under section 8 of the Ethical Standards in Public Life etc. (Scotland) Act 2000, to appoint Lindsey Gallanders as a member of the Standards Commission for Scotland.

Decision Time

17:31

The Deputy Presiding Officer (Elaine Smith): There are five questions to be put as a result of today's business.

The first question is, that motion S4M-05535, in the name of Mark McDonald, on the High Hedges (Scotland) Bill, be agreed to. Are we agreed?

Motion agreed to,

That the Parliament agrees to the general principles of the High Hedges (Scotland) Bill.

The Deputy Presiding Officer: The next question is, that amendment S4M-05556.2, in the name of Jenny Marra, which seeks to amend motion S4M-05556, in the name of Roseanna Cunningham, on promoting and protecting human rights—Scotland, Europe and the wider world, be agreed to. Are we agreed?

Amendment agreed to.

The Deputy Presiding Officer: The next question is, that motion S4M-05556, in the name of Roseanna Cunningham, on promoting and protecting human rights—Scotland, Europe and the wider world, as amended, be agreed to. Are we agreed?

Motion, as amended, agreed to,

That the Parliament reaffirms the importance in a modern, democratic Scotland of the values proclaimed in the Universal Declaration of Human Rights; acknowledges and asserts the inalienable rights enumerated in the European Convention for the Protection of Human Rights and Fundamental Freedoms and enshrined in international treaty; dedicates itself once more to the vision of an inclusive Scotland that respects, protects and realises the human rights of all; commends the work of the Scottish Human Rights Commission, Scotland's independent national human rights institution; looks forward to the development of Scotland's first national action plan for human rights over the course of 2013, and embraces the opportunities presented by Scotland's engagement in the wider world to promote respect for the universal and indivisible rights of all of humanity, and believes that tackling human trafficking should be an essential part of the national action plan for human rights, including a clear commitment to review the current law to ensure that the crime of human trafficking is defined as clearly and comprehensively as possible.

The Deputy Presiding Officer: The next question is, that motion S4M-05541, in the name of David Stewart, on behalf of the Scottish Parliamentary Corporate Body, on the reappointment of the chair of the Scottish Human Rights Commission, be agreed to. Are we agreed?

Motion agreed to,

That the Parliament nominates Professor Alan Miller to Her Majesty The Queen for reappointment for a second term as the Chair of the Scottish Human Rights

Commission from 3 March 2013 until 2 March 2016.

The Deputy Presiding Officer: The next question is, that motion S4M-05537, in the name of Mary Scanlon, on behalf of the Scottish Parliamentary Corporate Body, on the appointment of a member of the Standards Commission for Scotland, be agreed to. Are we agreed?

Motion agreed to,

That the Parliament agrees, under section 8 of the Ethical Standards in Public Life etc. (Scotland) Act 2000, to appoint Lindsey Gallanders as a member of the Standards Commission for Scotland.

The Deputy Presiding Officer: That concludes decision time.

Property Maintenance and Repairs (Cold Calling)

The Deputy Presiding Officer (John Scott): The final item of business today is a members' business debate on motion S4M-05219, in the name of Dave Thompson, on prohibiting cold calling for property maintenance and repairs. The debate will be concluded without any question being put.

Motion debated,

That the Parliament welcomes the campaign by the Scottish branch of the Trading Standards Institute (TSI) that seeks to introduce legislation to prohibit cold calling for the purposes of property maintenance and repairs on the grounds of community safety; notes that TSI Scotland has stated that the practice is "one of the most disturbing and socially significant issues" faced by trading standards officers; condemns rogue cold calling, which, it believes, often targets vulnerable citizens in the Highlands and Islands and across the country; notes that such activity can be part of serious and organised crime networks; welcomes the backing for this campaign from Citizens Advice Scotland, Neighbourhood Watch, the Scottish Business Crime Centre and others, and notes calls for the Scottish Government to meet TSI Scotland to discuss its campaign.

17:34

Dave Thompson (Skye, Lochaber and Badenoch) (SNP): I thank members of all parties for supporting my motion and thereby enabling tonight's debate. I particularly thank those members who are here to speak on this important subject.

Before I go any further, I must declare an interest, as I am a vice-president of the United Kingdom's Trading Standards Institute and a past director of trading standards and protective services.

The issue of cold calling for property maintenance and repairs causes a huge amount of stress for Scottish consumers. I have come across many such cases over the years. Last year, between April and November, the citizens advice helpline dealt with 421 cases of such cold calling, involving nearly £700,000 of consumer expenditure, and that is just the tip of the iceberg—an iceberg that the Scottish branch of the Trading Standards Institute has labelled

"one of the most disturbing and socially significant issues that is faced by Trading Standards Officers today."

Due to the nature of property maintenance work, it is particularly important to ensure that consumers are not being misled, taken advantage of or tricked into agreeing to unnecessary work. The purchase of many other items or services from cold callers is protected by legislation that creates a cooling-off period, which means that people can change their minds, but that is not the

case for property maintenance and repairs. People are protected by a cooling-off period if they buy double glazing or insurance from a cold caller, but not if they agree to a property maintenance or repair job such as fixing a roof or tarring a drive.

The added problem is that many property maintenance and repair jobs are not easily reversible. If a trader resurfaces a driveway or harls a wall, it cannot simply be undone. For that reason, it is critical that consumers are afforded the time to make an informed decision on such jobs.

Direct marketing through online adverts, emails and phone calls is fairly easy to deal with. Consumers are protected from intimidation and are offered a reasonable period of time between contact being made and the work starting. However, when someone appears at the door who is often ready to start the work immediately, it can be intimidating, and it is worrying to note that many cold callers target vulnerable groups, particularly older people, who might not feel confident in refusing rogue traders.

In a case last year in Newtonmore, in my constituency, which was reported in the *Strathspey and Badenoch Herald*, an elderly couple agreed to have their drive tarred for £600. The two men poured an oily liquid on to the drive and brushed it in and then told the couple that they had run out of material and needed £300 to buy more from their boss, who was allegedly running road works on the A9 and would supply them with his leftovers. The money was handed over and, of course, they disappeared. Fortunately, but unusually, the suspects were traced and the two men returned and handed back the money, but the drive was ruined.

As well as the evidence from Citizens Advice Scotland on the number of people who are dissatisfied with jobs completed as a result of cold calling, a worrying amount of anecdotal evidence highlights some appalling practices. In a worrying number of cases, the final bill is far larger than the price that was agreed before the work was started. Most troubling of all, there are all too many descriptions of customers being intimidated into paying, and even extreme examples of customers being marched to their closest cash machine or bank and handing over large sums of cash to rogue traders.

Practices such as those not only adversely affect consumers; they damage the vast majority of businesses, which are honest and conduct their affairs properly. Without official records, and operating through cash payments, rogue traders avoid tax and VAT liabilities and undermine the local economy.

The Trading Standards Institute has been running an excellent campaign to encourage people who are confronted by cold callers not to be pressured into agreeing to work on the spot. It has created a "No to Cold Calling" poster for its website, which has been downloaded more than 15,000 times. Unfortunately, however, such measures will not put off the worst offenders.

In order to protect consumers and honest businesses, we must ensure that the police and trading standards officers have the tools to tackle cold calling for property maintenance and repairs. The best way to achieve that is by bringing in legislation to outlaw the practice on the ground of community safety, making it a criminal offence for people to cold call at people's doors to do property maintenance and repairs. By making cold calling for property maintenance and repairs illegal, we would deter rogue traders from the practice, while giving the public increased confidence to refuse a rogue trader and a solid reason for doing so. The police and trading standards officers would have a far stronger hand to play when tackling such incidents and would be able to greatly reduce the number of people who end up as victims of the poor service, extortion and scams that go hand in hand with the practice.

However, I would also like to sound a note of caution. Last week, the Accounts Commission published a report entitled, "Protecting consumers", which highlighted just how stretched Scottish trading standards services are. The report highlights the fact that trading standards budgets have been cut disproportionately compared with those of other council departments and says that the number of officers is at a record low and that they are poorly co-ordinated.

The benefit of legislation such as I am suggesting relies on effective enforcement, and we must ensure that we take the Accounts Commission's recommendations on trading standards seriously so that we can safeguard consumers and honest businesses alike.

I hope for a positive response from the minister on the introduction of legislation to curb cold calling for property maintenance and repairs, and for an assurance that the Government will seriously consider the Accounts Commission's report, which calls for a redesign of the trading standards service in Scotland.

17:41

Fiona McLeod (Strathkelvin and Bearsden) (SNP): I thank Dave Thompson for bringing this incredibly important topic to Parliament.

As Dave Thompson said, the elderly are often the target of these ruthless criminals. Those in the chamber know that my constituency, Strathkelvin

and Bearsden, encompasses one of the fastest-rising elderly populations in Scotland. At the moment, 22 per cent of the population are aged 60 years and over.

It has been interesting to read what people have written about older folk and their vulnerability. In 2006, Help the Aged found that older people are three times more likely to become victims of property crime than of personal crime. We all worry about the old lady being mugged and having her handbag stolen, but property crime, which relates to cold calling, is more common. The Alzheimer's Society found that 15 per cent of people with dementia had fallen victim to cold calling, scam mail and misselling.

In November 2009, in my constituency, it was reported that police had received calls about cold calls every day throughout the month. One call was from an old person who had already lost £10,000 to cold callers, and it was only the intervention of the police that prevented that from reaching the sum of £17,000.

In East Dunbartonshire, we are taking the issue seriously. Dave Thompson has extolled the virtues of trading standards officers, and I will do the same for the ones in my area, who have decided to trial an item called trueCall, which is a call-blocking system that can be added on to a telephone and which enables people only to receive calls from people from whom they want to receive calls. It is quite an expensive piece of equipment, but the trading standards officers have got some in so that older, more vulnerable people in my constituency can give them a try and see whether they help to keep them safer in their homes.

In March, in Bishopbriggs, the adult protection committee is going to hold a whole-day conference on financial safeguarding. That shows how seriously the issue is being treated. Trading standards officers have entered a year-long partnership with the police across my constituency, stopping and checking traders to determine whether they are legitimate and using intelligence-led policing to take patrols past vulnerable households where they know that old folk have been targeted.

I am terribly sorry, Presiding Officer, but I am not sure how much time I have left.

The Deputy Presiding Officer: One minute.

Fiona McLeod: Thank you.

This is not just about money or the attack on property. When this happens to older, vulnerable people, they lose their confidence and, often, their sense of independence. We must take it seriously.

In my constituency, a dreadful incident was reported in the local papers last year. An elderly

lady in her 70s was persuaded into a car. When the police stopped, the chap took off and abandoned the car with the elderly lady in it. Eight police cars and helicopters and dog units went after him. The old lady was left in the back of the car, terrified and upset, all because this man thought that he could take her to an ATM and get money out of her.

17:45

Helen Eadie (Cowdenbeath) (Lab): I, too, congratulate Dave Thompson on securing this members' business debate. As Fiona McLeod rightly says, it is an incredibly important issue. I warmly welcome the campaign by the Scottish branch of the Trading Standards Institute and the drive to get legislation put in place. I note from Dave Thompson's motion that he supports the TSI in its call for legislation and that he hopes that the Scottish Government will meet the TSI to help with that campaign. I add my voice in support of the motion and urge that it be given 100 per cent support from us all.

The debate has brought back memories of my parents when they were alive. As I was to learn once I became an MSP, their experience was not dissimilar to the experiences of some of my constituents. Both of my parents were frail and elderly. My father was bedridden in my parents' living room. My mother answered the door and there were two men on the doorstep who offered to do some work at the back of the house. One took my mum to the back door to show her what they proposed and the other stayed with my dad in the living room. Mum's handbag was next to her armchair. The other guy leaned over to my mum's bag and lifted more than £1,000 from the bag. My dad was powerless to stop him. It was not long before the other man returned and only a few minutes before they were both gone, but it was too late and the money was gone. Once their victims realised what had happened, they were very distressed.

Like many old people, my parents had been saving for their funerals and the money was in my mother's purse. The crooks took the purse but they did not know that there was another £1,000 in a polythene bag in the same handbag. Like many elderly people, they liked to have cash in hand. Although they had a bank account, they wanted to have that cash in hand, too. We later learned from the police that there had been a number of victims that day, all in the vicinity of Stenhousemuir and Falkirk, where I was brought up by my parents in our family home.

The work of the Trading Standards Institute, the Office of Fair Trading, Citizens Advice Scotland and the police is invaluable. I congratulate the various television producers on their first-class

work on programmes such as “Watchdog”, “Don’t Get Done Get Dom”, “Cowboy Trap” and “Rip Off Britain”, to mention just a few. Those are powerful programmes. Apart from highlighting some dreadful cases, they frequently help to put wrongs right. More importantly, by taking the public step by step through what people have done, they illustrate how others can put things right. All of those involved in the production of these programmes deserve special commendation.

Anyone involved in protecting consumers deserves the highest praise, since victims are just left distressed and powerless to know what to do next. Thankfully, these days there are many silver surfers, of which I am one. It is great when I hear about 90-plus-year-olds going to classes to learn about their rights, how to do their shopping online and how to keep in touch with friends and family through social networking sites. No doubt some of them will watch this debate.

Above all, the important message to get out there into the public domain, to everyone throughout the country, is not to trade with anyone that people do not know and for whom they do not have references. Research on behalf of the Office of Fair Trading has shown that a fifth of people over 70 are not confident when it comes to deciding whether to employ a doorstep sales person. One in five agreed with a range of statements that suggested that they might be vulnerable to rogue doorstep salespeople. People should deal only with financial firms authorised by the Financial Services Authority. They can check if a firm is authorised by calling the FSA register.

I agree with Dave Thompson’s last point, about the cuts in local government budgets. One of the cuts that we had to endure in Fife Council was a cut to the money advice programme, which was run by trading standards. It was a superb service.

I wish Dave Thompson well in his endeavours. If I can help in any way, I will be right behind him.

17:49

David Torrance (Kirkcaldy) (SNP): I, too, thank Dave Thompson for bringing to Parliament this debate on prohibiting cold calling for property maintenance and repairs, and for highlighting problems that are associated with cold calling.

It is likely that every one of us will have had to deal with constituents’ complaints about cold calling and the distress that it has caused, especially to elderly people. The TSI campaign to prohibit cold calling for property maintenance and repairs is backed by Citizens Advice Scotland, Neighbourhood Watch Scotland and many others. The campaign must be welcomed because, too often, the most vulnerable people in society become the victims.

Cold calling for property maintenance and repairs has led to an increase in doorstep-crime incidents that have been reported to the police and trading standards over the past few years. The people who initiate doorstep calling—namely bogus workmen, high-pressure sales people and fake officials—often target older people and those who live alone. A consequence of that is often burglary, when distraction techniques are deliberately employed to enable theft to take place. On several occasions, victims have lost their life savings and through embarrassment are often fearful of telling relatives or friends. The financial implications frequently result in those people living in hardship for many years.

The vast majority of identified rogue traders have no local connections and no fixed premises in the area, which makes them extremely difficult to track down.

A recent survey by the TSI that got feedback from 9,000 householders showed that 96 per cent of households do not want doorstep callers. The figures surely show that the public would overwhelmingly back legislation to prohibit cold calling for the purposes of property maintenance and repairs.

There have been several local campaigns, such as TSI’s campaign in Aberdeenshire entitled “Cold calling—don’t buy it” and Fife Council’s trusted trader scheme. However, the most successful has to be the cold calling control zones scheme that was initiated by Cardiff Council, which was supported by police community officers and trading standards teams.

Since its inception in the spring of 2008 in the Heath and Canton areas of Cardiff, 83 per cent of residents believe that the number of cold callers has decreased, 80 per cent believe that they are safer in the zone and 90 per cent are more confident in being able to turn cold callers away. The police reported a significant reduction in crime of all types in cold calling control zones, including burglaries, theft from motor vehicles and all other types of theft.

The cold calling control zones have been so successful that they are being rolled out to another 11 locations across the city. It is encouraging that Highland Council is setting up a cold calling control zone in Inverness and is trying to establish further zones across the Highlands, in conjunction with various partners.

A substantial amount of evidence illustrates that prohibiting cold calling can have a significant impact on the community. It reduces crime and thus reduces the misery that is inflicted on the most vulnerable sectors of society. I hope that the Scottish Government will take the opportunity to

discuss the TSI in Scotland's campaign to prohibit cold calling.

17:53

Alex Johnstone (North East Scotland) (Con):

I congratulate Dave Thomson on bringing this issue to the Scottish Parliament for debate and I offer the apologies of Mary Scanlon, for whom I am a last-minute replacement. Mary is a signatory to the motion and had intended to participate in the debate. I hope that I can do justice to what she intended to say.

There is an obvious issue with regard to cold calling and property repairs. We have heard that cold calling provides an extraordinarily effective opportunity for illegal activity, and I am sure that all members have heard from people who have suffered as a result of it. The debate will highlight that once again.

I am fully supportive of appropriate regulation of cold calling, in order to prevent the kind of attacks that have happened, particularly on the weak, vulnerable and elderly, which I do not wish to see continue. It surprises me that there are two groups here. There is a group of people out there who are so set against people participating in doorstep trade that they will not believe anyone who comes to their door. People who have been approached about the installation of home energy efficiency measures—some of which are claimed to be supported by the Government—are quite often resistant, simply because they are being approached by a cold caller. Some of those calls may be quite legitimate, for all I know.

I have a sensitive issue that I will raise carefully so that I am not misunderstood. I have been aware of the issue for a while, but I learned more about it only yesterday when I, along with members of the Equal Opportunities Committee, visited a Travellers site at Clinterty, near Aberdeen. We had the opportunity to interact with a number of agencies and Travellers, followed by a full committee meeting in the afternoon.

As many members will know, there are quite a number of people in the Traveller community for whom the business model is, in effect, cold calling and who often offer property repairs, landscaping or gardening services. I am not suggesting that those people are the problem; I am suggesting that they—for all we know—may well be legitimate. For the Traveller community, that is the only available business model through which they can operate.

Although I am fully supportive of Dave Thomson's proposals, I am concerned that simply outlawing cold calling for property repairs and similar services may drive legitimate Travellers who use that business model to the point at which

they are no longer legitimate traders. That is why, if I am to support our going down this road, we must ensure that we apply some thought to how legitimate members of the Traveller community can be allowed to continue their business in some form but without cold calling. I am afraid that I have not had the time or the opportunity to come up with a formal proposal, but I would not wish to see those members of our community marginalised simply because their business method has—possibly quite rightly—been made illegal.

With that said, I redouble my support for the principles that lie behind the motion, and ask that we work together to find a way through the problem.

17:57

Nigel Don (Angus North and Mearns) (SNP):

I, too, thank Dave Thomson for securing this incredibly important debate. I also thank Alex Johnstone for his speech. First, because he articulated clearly that cold calling relating to property is a good opportunity for the crook to get their foot—quite literally—in the door or round the back. Essentially, the crook gets into the house and into the confidence of an uncertain and possibly vulnerable mind, which then gives them the opportunity to carry on doing what they are doing.

Secondly, I support Alex Johnstone's comments about Travellers. I have been involved with Travellers in the past, and he eloquently made the point about their work model and the possible unintended consequences of what is being suggested. It may well be that they have to change their model, but I thank him for bringing that matter to us.

I remind colleagues that we are dealing with rogues. There is absolutely no value in talking about how to train people properly, or about methods of operation or in suggesting that people should study this or stick to that or the other protocol. It will not happen, and it has nothing to do with what we are talking about.

The moment we talk about victims of cold calling, it is important to reflect on the characteristics that make somebody vulnerable. It is partly their age, undoubtedly. Of course, if people stick around, they get older. We are all working on it; it is an instinct. It is also partly, of course, ignorance. I do not mean that unkindly, because there are many things of which we are all ignorant. By and large, whether or not the tiles on the roof need fettled is something that most of us are not good at judging. I have a suspicion that, by the time I reach 80, although I may be capable of judging that, it will be difficult to look. In such

matters we are, simply by dint of our circumstances, very vulnerable to a person coming along and telling us what they think—and it is extraordinarily difficult to tell them that they are wrong.

Scams are not mentioned in the motion, but they are part of the issue. Human beings like to think that we are going to get something for nothing; instinctive greed kicks in when we are told that we have an insurance claim or have won something. It is awfully easy to believe that. Once we have fallen for a scam, how do we react? We are embarrassed. We do not want to tell people. We are also ignorant. We do not know what to do. We do not expect the law to be effective and we do not really want to tell the police and our family. We heard how older people lose confidence.

The problem has been around for a long time. I am assured that the Eiffel tower has been sold for scrap: “It’s a secret deal and you’re going to get a wonderful bargain, my boy. The French Government couldn’t possibly make this an open tender, so you must pay up front and take it down at your leisure.” So effective was the scam that it happened twice. It is what we do, is it not?

Time is running away, as it always does. The law is not as effective as it needs to be. We must recognise that most of us will become vulnerable if we hang around long enough. We need to protect vulnerable people in society. It will not be easy, but who said it would be easy? We must deal with the issue and I thank Dave Thompson for bringing it to Parliament’s attention.

18:01

Ken Macintosh (Eastwood) (Lab): I thank Dave Thompson for lodging his motion and giving the Parliament an opportunity to discuss this important issue. I also thank Paul Holland, who is a trading standards officer in my area, East Renfrewshire, for alerting me to the serious nature and extent of the issue, and Brian Smith and Brian Wilson, from the Society of Chief Officers of Trading Standards in Scotland, who helped to make this a national campaign.

Scams in general are on the increase. It is difficult to put a financial value on them. In 2005, the Office of Fair Trading estimated that mass-market telephone and mail scams were costing consumers about £1 billion every year. Doorstep cold-calling crime is not on the same financial level, but its psychological impact is far more serious. As members said, it is underreported, for many reasons, including the embarrassment and humiliation experienced by individuals who have been left feeling foolish.

In some cases, residents are frightened to report offenders. That is not surprising when we

consider who is targeted. The typical vulnerable resident might be an 84-year-old woman, who lives alone without the support of family or friends. Traders quickly establish the situation and prey on the person’s vulnerability. Residents say that they feel coerced into agreeing to work that is not what they requested or is completely unnecessary. The trader persists in using excuses to visit the resident to extort more cash. Such persistence can leave consumers feeling confused and distressed, and they can agree to almost anything in the hope that they will be left alone.

If work is carried out, the workmanship is often shoddy, and more often than not the original problems are not satisfactorily repaired, so the consumer has to contact the trader time and time again. The trader becomes aggressive and abusive and refuses to rectify the problem.

It can get even more serious. Sometimes the trader insists on cash payment and accompanies the resident to the bank, to ensure that cash is paid on demand. It is a frightening ordeal for someone to be taken in a vehicle with people that they do not know. The impact on the consumer is devastating. They are often left feeling mentally and physically unwell, with little or no support.

We have all but agreed on the extent of the problem; the important point is that we recognise that there are many things that we can do about it. I will give an example from East Renfrewshire, where simple methods were used: 20,000 no cold calling stickers and 6,000 no cold calling leaflets were issued. That simply gave residents information and the confidence to say no to such callers.

More interesting steps were also taken. East Renfrewshire trading standards service provided training materials to banks in the area in the form of a training video called “The Bank Job” on spotting suspicious withdrawals. East Renfrewshire Council is also working to put in place formal support procedures to identify vulnerable residents with dementia. We particularly need to target that group.

Even more proactively, the trading standards service worked with the police to target the tradesmen themselves. They used the law on the right to cancel contracts, identified hotspots, tried to check on benefit fraud and identified whether vehicles were suitably insured, taxed and roadworthy. In other words, they took a number of steps to clamp down on the traders.

The abuse of vulnerable residents by cold callers can currently be treated as fraud or a consumer protection issue. As the Trading Standards Institute has highlighted, it can also be treated as a community safety issue. The point is

that we can, and must, do more if we are to tackle the crime.

I congratulate Dave Thompson once again on securing the debate and look forward to the minister's reply on behalf of the Government.

18:06

Graeme Dey (Angus South) (SNP): Whatever the extent of underreporting, the number of serious doorstep crime incidents linked to cold calling that are drawn to the attention of the police and trading standards services has grown significantly over the past few years.

All too often, rogue cold callers target the most vulnerable members of our society, particularly the elderly. Incidents involving older people losing thousands and thousands of pounds emerge with worrying frequency. Unfortunately, the response and support of enforcement agencies have not kept pace with the skills, organisation and shamelessness of the criminals involved or the changing nature of cold calling-related misbehaviour. We surely must consider how to address that.

Despite various education and awareness programmes being established by trading standards services, there remains a lack of grasp of the dangers that cold callers can bring. In a national survey by the Trading Standards Institute, only 13 per cent of people reported asking for identification from cold callers and only 1.3 per cent checked out those IDs. Similarly, the use of door chains was disappointingly low, with only 39 per cent of households having fitted one and only 6 per cent ever using them.

Those statistics make it clear that a great deal more needs to be done. As the TSI believes, an outright prohibition of cold calling for property maintenance, upgrading or repair has surely become worthy of consideration. Despite the campaigns, some of our most vulnerable fellow Scots continue to be open to the risk of falling victim to unscrupulous or outright criminal traders. Often, people are worn down by repeated and sustained targeting over a long time.

One example provided by trading standards officers from my area concerned a man in his 80s who was widowed and living alone. He was visited by itinerant traders over a two-month period in late 2011. They sought to persuade him to have the communal track to his property resurfaced—an action that would have required the agreement of, and a financial contribution from, all parties with an interest in the track. After a brief respite over Christmas, the visits and the pressurising recommenced until, eventually, having been offered a so-called discount rate of £1,640—down from £2,600—he gave in.

Some six weeks after the commissioned work was carried out, the trader's son convinced the gentleman that he needed to spend another £650 to repair the surface further. For the grand total of £2,290, all that was done was the filling in of a few potholes and a degree of general improvement work that was independently assessed as being insufficient to last beyond the very short term.

A different, more general example of scandalous exploitation of the vulnerable from my part of the country involves a very elderly consumer who had been persuaded to sign up to £10,000 worth of solar panels, paying a £1,000 deposit following a cold call. When his carer realised what he had done, they contacted the company seeking to get him out of the contract. Initially, the firm concerned agreed, before then claiming that he would be in breach of contract.

The trading standards service was called in, and officers immediately realised that the gentleman had problems with his memory. In fact, they determined that he was suffering from Alzheimer's and Parkinson's. They pursued the company, pointing out that the gentleman did not have the capacity to enter into an agreement. Eventually, the deposit was refunded and the contract was cancelled. However, what would have happened if trading standards officers had not become involved in the case?

That example may not sit entirely within the parameters that Dave Thompson envisages, but I highlight it because it raises the question: if the regulated market is prepared to exploit the clearly vulnerable in that way, what restraint can we expect the rogues to show?

In cases of wilful exploitation, prosecution is of course extremely difficult. The unscrupulous choose their victims carefully: they target those who would be incapable of being convincing witnesses in any court, if those involved were caught and a case went to court. That is why, in the instances that the motion highlights, we need to offer additional consumer protection that goes beyond the established or conventional and which might well need to take the form of prohibiting cold calling.

I congratulate my colleague Dave Thompson on lodging the motion. I offer my support not only to it but to the work of trading standards officers the length and breadth of Scotland.

18:10

The Minister for Community Safety and Legal Affairs (Roseanna Cunningham): I, too, congratulate Dave Thompson on securing the debate. I know that he has a long-standing professional interest in trading standards, and he

is probably the right person to raise such an issue in the chamber.

The debate is apposite, given that we have just debated human rights in general this afternoon. We are now discussing an individual right—the right to live our lives free from crime and the fear of crime. Everyone has the right to feel safe in their community and it is unacceptable for people to feel intimidated in their own home. Our aim is to make Scotland a safer and stronger place and an inclusive and respectful society.

The United Kingdom Government's plans to restructure the consumer landscape are being implemented. Of course, I believe that Scottish consumers' interests would be best served if relevant Consumer Focus powers were devolved to this Parliament—members would expect me to say that. Consumer protection is devolved in Northern Ireland, but a request to do a similar thing in Scotland has been—inexplicably, in my view—declined. We must therefore focus on ensuring that the UK Government's policies deliver for consumers in Scotland.

The role of trading standards in local authorities is crucial in helping to safeguard citizens' health, safety and environment. Trading standards services have an established history of protecting citizens and ensuring a fair market in which business can flourish. I take the opportunity to join other members in thanking trading standards officers for their contribution to combating rogue traders.

I welcome all the good work that local authorities, the police service and trading standards already do across Scotland to tackle cold calling. In doing so, it is important to acknowledge that cold calling can be part of serious and organised crime networks. That aspect has not been debated tonight, but it must be taken on board.

I welcome the recent report from Audit Scotland entitled "Protecting consumers". I recognise the work that the Convention of Scottish Local Authorities and councils are doing to improve national co-ordination and I note the scope for better integration between councils, which is an important aspect of the intelligence gathering and sharing that are probably required to tackle cold calling.

Members have talked about specific issues in their areas. The groups of people who carry out the scams do not confine themselves to just one area; they move from area to area, so intelligence sharing is extremely important.

Fiona McLeod, David Torrance, Helen Eadie, Ken Macintosh and Graeme Dey are all right to raise the differential impact of such behaviour on older people. That is a function of the fact that

older people tend to be at home during the day far more often; they are sitting ducks—sitting targets—for such activity. The stories that all the members related were harrowing.

I was interested to hear of the local trial in Fiona McLeod's constituency. I met the Scottish Pensioners Forum recently—in November last year—and I am only too aware of the physical and mental impact that cold calling can have on individuals who are often elderly and vulnerable, which in turn increases the fear of crime among individuals and communities.

Alex Johnstone raised a particularly sensitive issue and he should be commended for making such points in the debate. He reminded us that not all cold callers are bogus; some might be acting for Government initiatives and others might rely on cold calling as a business model. That means that how cold calling is dealt with must be carefully thought through, to avoid the law of unintended consequences, of which Nigel Don reminded us.

As members such as David Torrance and Ken Macintosh related, many initiatives to tackle cold calling are already in place across Scotland; perhaps they need to be more joined up, as I said earlier. For example, last year Lothian and Borders Police launched a new initiative that was focused on doorstep crime, which aimed to decrease the number of bogus callers and rogue-trader workmen who were targeting the communities of West Lothian. That initiative fostered in the community an increased feeling of empowerment to challenge such individuals and reduce the chance of becoming a victim. My colleague Kenny MacAskill saw the initiative for himself in March last year and was impressed by its impact.

To date, we have provided funding of more than £400,000 to Neighbourhood Watch Scotland to support its work. It plays an important role in offering reassurance to local communities by sharing alerts on potential criminal activities in their area, providing advice on how to keep safe and encouraging members of communities to look out for one another, especially the elderly and vulnerable.

The initiatives that the Scottish Business Crime Centre promotes are also crucial. Its adults at risk of financial harm conference in 2012 brought together a number of delegates from the Scottish Government, local authorities, the business community, law enforcement, fire and rescue services and the voluntary sector. All parties agreed on a strategic commitment to collaborate consistently and effectively with a common objective—the protection of vulnerable adults who might be subjected to financial abuse by others. Cold calling was addressed at the event in presentations by Scottish scambusters, Lothian

and Borders Police and Angus Council—Graeme Dey might be interested to hear that.

The SBCC is also working closely with a range of partners to deliver a scam-free Scotland, and a joint awareness campaign is to be launched in the spring. I recommend that members look out for that. My officials are already working with the SBCC to provide a central intelligence hub, which will go some way towards addressing the lack of national data on the issue.

I thank Dave Thompson for lodging his motion and I thank other members for their valuable contributions to the debate. I recommend to members some of the existing schemes, the upcoming campaign and the work that is being done—as well as the work that is being looked at—in respect of cold calling for maintenance and repairs.

Meeting closed at 18:17.

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