



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

MEETING OF THE PARLIAMENT

Thursday 28 March 2013

Session 4

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Scottish Parliament

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[The Presiding Officer *opened the meeting at 11:40*]

Business Motions

The Presiding Officer (Tricia Marwick): The first item of business is consideration of business motion S4M-06125, in the name of Joe FitzPatrick, on behalf of the Parliamentary Bureau, setting out a revision to today's business programme.

The Minister for Parliamentary Business (Joe FitzPatrick): This revision will allow for a statement this afternoon on decrofting by owner-occupier crofters.

I move,

That the Parliament agrees to the following revision to the programme of business for Thursday 28 March 2013—

delete

2.30 pm Stage 3 Proceedings: High Hedges (Scotland) Bill

and insert

2.30 pm Ministerial Statement: De-crofting by Owner Occupier Crofters

followed by Stage 3 Proceedings: High Hedges (Scotland) Bill

Motion agreed to.

The Presiding Officer: The next item of business is consideration of business motion S4M-06124, in the name of Joe FitzPatrick, on behalf of the Parliamentary Bureau, setting out a timetable for the stage 3 consideration of the High Hedges (Scotland) Bill.

Motion moved,

That the Parliament agrees that, during stage 3 of the High Hedges (Scotland) Bill, debate on groups of amendments shall, subject to Rule 9.8.4A, be brought to a conclusion by the time limit indicated, that time limit being calculated from when the stage begins and excluding any periods when other business is under consideration or when a meeting of the Parliament is suspended (other than a suspension following the first division in the stage being called) or otherwise not in progress:

Groups 1 and 2: 35 minutes.—[*Joe FitzPatrick.*]

Motion agreed to.

General Question Time

11:41

The Presiding Officer (Tricia Marwick): Question 1, in the name of Helen Eadie, has been withdrawn. I am satisfied with Mrs Eadie's explanation.

Banks (Agency and Branch Closures)

2. Stuart McMillan (West Scotland) (SNP): To ask the Scottish Government, in light of the possible impact on jobs and communities, what its position is on banks closing agencies and branches throughout the country. (S4O-01976)

The Cabinet Secretary for Finance, Employment and Sustainable Growth (John Swinney): The Scottish Government fully understands the impact on local communities of agency and branch closures and we are particularly concerned to ensure that any job losses are minimised. Through initiatives such as the finance sector jobs task force and our partnership action for continuing employment, the Scottish Government works with relevant partners to provide effective support and help to any staff facing potential redundancy.

Although the Scottish Government is unable to intervene in commercial decisions that are made by financial services companies, the Scottish ministers engage regularly with senior representatives from the financial services industry in Scotland on matters of mutual concern, including maximising employment and ensuring access to finance.

Stuart McMillan: The cabinet secretary will be aware that a number of banks have announced the closure of agencies and branches in the west of Scotland, specifically in Gourrock in Inverclyde and Alexandria in West Dunbartonshire. That will mean that my constituents will have to travel a large distance, in some cases, to find a suitable branch. What further reassurances can the cabinet secretary provide to my constituents that the liaison that he mentions will continue, so that the banks that are closing agencies and branches will do so in a way that will have the most minimal effect on their clients and customers?

John Swinney: I quite understand the concerns that Mr McMillan is raising on behalf of his constituents. Clearly, genuine inconvenience can be caused to members of the public by bank branch and agency closures in their areas.

We encourage the banking sector to maintain dialogue with communities about the provision of accessible financial services in communities. We also encourage the provision of the services of

other financial organisations in communities, particularly credit unions. In Mr McMillan's region, there are a number of credit unions that provide accessible support and services to members of the public in their areas. The Government is actively involved in discussions with representatives of that sector about how we can develop further their presence in communities.

John Mason (Glasgow Shettleston) (SNP): The cabinet secretary might be aware that RBS is planning to close a branch in Shettleston, in my constituency, which will leave only one RBS branch for 70,000 people. Does the minister share my frustration that a publicly owned company should be treating the public with such contempt?

John Swinney: As I said to Mr McMillan, bank closures can cause significant inconvenience to members of the public. In the light of the issues that have been raised by Mr McMillan and Mr Mason, I will have further dialogue with the banks about ensuring that an accessible approach is taken to the delivery of bank branch services.

Banks are changing many of their models of operation but, for a number of members of the public, access to digital banking and other online services will not be a practical proposition or one with which they are comfortable operating. Given the importance of access to credible and strong financial services in our communities, we must ensure that such access is guaranteed to members of the public. I will raise those issues with the banks.

Neonicotinoids

3. Graeme Dey (Angus South) (SNP): To ask the Scottish Government what its position is on the continuing use of neonicotinoids. (S4O-01977)

The Minister for Environment and Climate Change (Paul Wheelhouse): The Scottish Government's position on the use of neonicotinoids continues to be informed by scientific advice from the Advisory Committee on Pesticides—ACP—and our scientists at Science and Advice for Scottish Agriculture—SASA.

We know that high doses of neonicotinoids in laboratory conditions are harmful to bees, but we also know that real-life field conditions are different. That is why the Cabinet Secretary for Rural Affairs and the Environment asked the ACP urgently to provide new advice on a review of field trials on bumblebees.

The Scottish Government received that advice last night. We will need to examine it closely and consider our next steps. Even when we have had time to consider the new scientific advice thoroughly, it may not give us complete clarity. However, we also need to bear in mind the precautionary principle. Therefore, if in light of the

new advice, the case for the European Union's precautionary measures is strong, I would want the United Kingdom Government to consider supporting them.

Graeme Dey: It is, of course, essential that any decision on the future use of neonicotinoids should be based on sound scientific evidence. Is the minister aware of the research carried out by the University of Dundee that suggested that neonicotinoids interfere with the brains of bees and that there is a striking and concerning difference between honey bee survival rates in the east of Scotland and those in the west of Scotland? Does he accept that it is becoming evident that there is a need to act to protect bee populations not only from a biodiversity perspective but to safeguard Scotland's hugely important soft fruit sector?

Paul Wheelhouse: Yes. Ministers agree that there is a need for urgency on the matter. As the Scottish Government received only late last night the advice that it requested from the Advisory Committee on Pesticides, ministers will now need to consider that and other evidence, such as the Dundee study to which Mr Dey refers, before commenting on the detail and any implications for biodiversity or the farming sector.

According to the last pesticide usage survey in the soft fruit sector, which was carried out in 2010, growers used a neonicotinoid on their crops that was not one of the three neonicotinoids suspected to be of concern. However, the Scottish Government recognises the impact on the farming industry and will take that into account when establishing a final view on the issue.

It is worth stating that only 1 per cent of pesticide use in Scotland is in the form of neonicotinoids, largely because our colder climate means that fungal pathogens are a greater threat to our crops than insect pests.

Claudia Beamish (South Scotland) (Lab): Will the minister confirm whether the Scottish Government has had and intends to have any discussions with the UK Government about the EU proposal to ban three types of neonicotinoid pesticides? As Graeme Dey's supplementary question noted, those neonicotinoids are dangerous to bees when used on flowering plants. That was stated in January by the European Food Safety Authority.

Paul Wheelhouse: I confirm that the cabinet secretary has had discussions with his counterpart, Owen Paterson, in advance of the Council of the European Union meeting. Discussions continue. I assure the member that the cabinet secretary is committed to examining the issue in depth and ensuring that we take a considered position.

“When parents are detained”

4. John Wilson (Central Scotland) (SNP): To ask the Scottish Government what its position is on the findings of the Mental Welfare Commission for Scotland’s report, “When parents are detained”. (S4O-01978)

The Minister for Public Health (Michael Matheson): The Scottish Government notes with interest the various recommendations in the Mental Welfare Commission for Scotland’s monitoring report, “When parents are detained”.

The report highlights some areas where the commission believes that improvements could be made, such as increasing awareness of duties under section 278 of the Mental Health (Care and Treatment) (Scotland) Act 2003; highlighting that care plans should take into account any possible impact on the patient’s family; improving communication between the various professionals involved in a case; and improving child-friendly resources.

The Scottish Government is committed to ensuring that the effects of parental mental illness on children and families are mitigated as much as possible. We shall, therefore, carefully consider the recommendations in the report and whether there are any ways in which we can assist in the promotion of good practice.

John Wilson: As the minister may or may not be aware, residents in the Strathkelvin ward in North Lanarkshire receive health provision from Greater Glasgow and Clyde NHS Board, not from NHS Lanarkshire. Can the minister advise me whether a review of the health board boundaries would assist in the Government’s commitment to fully integrate mental health provision and address the recommendations in the “When parents are detained” report?

Michael Matheson: The services that are provided by Greater Glasgow and Clyde NHS Board to which Mr Wilson refers should be at a similar level and of a similar nature to those that are provided in the area of NHS Lanarkshire’s responsibility. The report highlighted issues around section 278 of the Mental Health (Care and Treatment) (Scotland) Act 2003, which applies to all health board and local authority areas. I expect to see greater consistency in taking that forward, as is proposed in the seven recommendations in the report. We will look at what further measures can be taken to ensure greater consistency across health board and local authority areas in applying that particular provision of the 2003 act.

Supermarkets (Local Produce)

5. Dennis Robertson (Aberdeenshire West) (SNP): To ask the Scottish Government how it

encourages supermarkets to stock local produce. (S4O-01979)

The Minister for Environment and Climate Change (Paul Wheelhouse): It is vital that the people of Scotland have access to the fantastic range of fine food and drink that we have right here on our doorstep. The Cabinet Secretary for Rural Affairs and the Environment, Richard Lochhead, recently spoke with all the major retailers in Scotland at our regular retailers forum meeting, and again took the opportunity to encourage them to source more local products.

Dennis Robertson: Today, after having done a quick survey in my Aberdeenshire West constituency, I wrote to Tesco to express my disappointment that it is stocking only just over 25 per cent of Scots lamb while the remainder of its stock is New Zealand lamb. Does the minister agree that more needs to be done to encourage all supermarkets to stock more of our meat, poultry and fish?

Paul Wheelhouse: The member can be assured that the Scottish ministers will continue to do all that they can to promote the presence of our world-renowned Scots brands on retailers’ shelves. We urge all consumers to do likewise by asking their local stores to stock Scottish produce.

One of the positives to come out of the horsemeat scandal is that we know that consumers are looking for provenance and that the Scottish brand is associated with traceability and quality. In order to build on the recent upsurge in consumer demand for locally sourced meat, which has resulted in more than 90 per cent of butchers’ shops recording increased sales, the Scottish Government is providing an additional £1 million to Quality Meat Scotland, which will fund a number of promotional activities to further strengthen the visibility and provenance that underpin the Scottish label.

Maintenance of Land on Private Housing Estates (Consultation Findings)

6. Mark Griffin (Central Scotland) (Lab): To ask the Scottish Government when it will publish the findings of its consultation on the maintenance of land on private housing estates, which closed on the 11th June 2011. (S4O-01980)

The Minister for Community Safety and Legal Affairs (Roseanna Cunningham): We received 62 responses in that consultation, five of which requested confidentiality; the remainder have been published on the Scottish Government website. Unfortunately, a significant number of responses contained material that might be considered defamatory, and we had to carefully scrutinise them and redact sections of them. As the member may be aware, if the Government

published a defamatory statement, it would become party to that defamation.

Most responses supported changes to the legislation. There was also support for enhancing consumer choice by non-statutory means to make it easier for consumers to dismiss and replace their land maintenance company. However, difficulties were highlighted with the legislative approach where land is owned by the maintenance company, and careful consideration is having to be given to the consequences of that.

Mark Griffin: The maintenance of common land on private housing estates is a big problem across Scotland. In Cumbernauld in particular, residents are purchasing homes without the full knowledge that they will be burdened with future maintenance costs for areas of ground, play parks and public spaces.

It is not acceptable that the results of a consultation that closed in June 2011 have still not been published, despite two parliamentary questions and an oral question from Jim Hume. Parliament was promised answers early in the new year. How many other Government consultations are still outstanding?

Roseanna Cunningham: For obvious reasons, I cannot speak about anything other than what is in my portfolio. If the member is concerned about establishing how many other Government consultations are still outstanding, I have no doubt that he can ask what the position is across a range of them.

I would have expected the member to be more concerned about what has been happening in practice over the past two years. Although there have been problems as a consequence of the submissions to that consultation, it is not the case that things have not changed. Through the implementation of the Property Factors (Scotland) Act 2011, a home owner housing panel was established, and home owners may complain to it about the level of service from their land maintenance company or property factor. The member should be aware—if he has not been up until now—that, quite separately, the Justice Committee has been looking into the Title Conditions (Scotland) Act 2003, and some of its inquiry has related to aspects of this matter.

It is therefore not the case that nothing has been happening. We are carefully considering the consequences of changing legislation in this area. As yet, however, we have not been able to come to a definitive conclusion on that.

Healthcare Improvement Scotland (Review)

7. Jenny Marra (North East Scotland) (Lab): To ask the Scottish Government whether it will conduct a review of Healthcare Improvement

Scotland in light of reports that a fourth person has resigned from the organisation following the unpublished inspection into older people's care at Ninewells hospital. (S4O-01981)

The Cabinet Secretary for Health and Wellbeing (Alex Neil): The Scottish Government is in continuous discussion with Healthcare Improvement Scotland as part of the standard performance management arrangements for NHS Scotland. Those arrangements are supported by local delivery planning and the publicly held annual review.

In February 2013, to strengthen its inspections, Healthcare Improvement Scotland invited external experts to review the processes surrounding the inspection that was carried out on the care of older people at Ninewells hospital. The review team will seek input from all those involved in the Ninewells inspections and from other stakeholders. A report is expected from the team in May 2013.

Jenny Marra: I asked the cabinet secretary whether he would conduct a review of Healthcare Improvement Scotland, as the debacle over this matter undermines its structure. There have now been five resignations—it was four when I lodged my question—of three inspectors and two public partners. Can the cabinet secretary tell me how many inspectors at HIS now hold the regulation of care award? It is my understanding that it is none and that HIS has lost every qualified inspector as a result of this mess. In his answer, will the cabinet secretary refrain from blaming the inspectors, as he has done to date, for the mess that he has presided over?

Alex Neil: Pots, kettles and calling them black come to mind in relation to Ms Marra's behaviour regarding this situation. She has already had to retract at least one of the statements that she made on the BBC in relation to a meeting with the chief executive of NHS Tayside. If Ms Marra wants to get the detailed information that she is looking for regarding the inspectors, I am happy to ensure that she is provided with it.

Healthcare Improvement Scotland continues to carry out inspections to a high standard. The review of the situation at Ninewells is being carried out by a team of three people external to HIS, all of whom are highly qualified: Audrey Cowie, David Cumming and Francis Dowe CBE, who is a former vice-principal of the University of Edinburgh and chaired a review of professionalism in nursing and midwifery. That is a strong team to carry out that review. We will listen to what the review has to say and we will learn the lessons. I am sure that the team will come up with much better ideas than Jenny Marra.

The Presiding Officer: I can take question 8 from Duncan McNeil if the questions and answers are very brief.

Cashback for Communities (Meetings with Partners)

8. Duncan McNeil (Greenock and Inverclyde) (Lab): To ask the Scottish Government when the Cabinet Secretary for Justice last met with cashback partners and what was discussed. (S4O-01982)

The Cabinet Secretary for Justice (Kenny MacAskill): The day-to-day management and interaction with all the cashback projects takes place through our delivery team at Inspiring Scotland. However, I regularly meet individual cashback project partners up and down the country. Most recently, I met representatives of Screen Education Edinburgh, which is delivering the £25,000 Xpress yourself film-making project for young people. This afternoon, I will meet representatives of basketballscotland.

Duncan McNeil: I refer the cabinet secretary to the recently published cashback for communities programme, which acknowledged that, disappointingly, we do not know the extent of the impact of the programme on young people. Given that the cashback programme has been running for six years and that £30 million has been claimed by the partners, is it not scandalous that we do not know how it has helped to divert young people from crime and antisocial behaviour? What will the cabinet secretary do to address those failings?

Kenny MacAskill: I think that the cashback scheme has been highly successful. That is why it is a pleasure to have met people who are involved in arts and drama, such as Screen Education Edinburgh, and in basketball, which is a minority sport that we seek to support—never mind the significant support that we give to the Scottish Football Association for grassroots football and indeed to the Scottish Rugby Union. I look forward to the opening of third generation pitches at Meadowbank and in Dumfries shortly, as a result of the cashback project.

The Presiding Officer: Before we come to First Minister's question time, members will wish to join me in welcoming to the gallery: from the National Assembly for Wales, Presiding Officer Rosemary Butler and Deputy Presiding Officer David Melding—[*Applause*—]—and from the Parliament of Queensland, Deputy Speaker Dr Mark Robinson MP. [*Applause*.]

First Minister's Question Time

12:00

Engagements

1. Johann Lamont (Glasgow Pollok) (Lab): To ask the First Minister what engagements he has planned for the rest of the day. (S4F-01285)

The First Minister (Alex Salmond): Later today I will join the other party leaders for a photo call in support of the Disasters Emergency Committee's on-going emergency appeal in response to the humanitarian situation in Syria. Millions of men, women and children have fled the violence and are trying to survive in freezing temperatures. They desperately need food, shelter and medical care. I am pleased to announce that the Scottish Government is today pledging £100,000 towards the appeal, which means that the running total from donations from Scotland is now £467,000. I urge everyone—I know that this call will be echoed across the Parliament—to help the Disasters Emergency Committee to meet its target of £500,000.

Johann Lamont: I welcome what the First Minister said and I hope that we can do our small bit to signal to people in Scotland that they should continue their generosity in supporting people in such terrible situations.

On Saturday I met a young girl who is in her sixth year at a school in my constituency. She has eight grade 1s at standard grade and five As at higher, and she is studying for three advanced highers at school and a fourth at her local college. She wants to be a doctor, but she has not been able to get even one interview at a Scottish university to study medicine. Can the First Minister think why that might be?

The First Minister: The pressure on medical places at university is intense and has been for some considerable time, but the Parliament should recognise that we had, thanks to the Government's efforts and our policy of not charging for higher education, a record number of students in higher education courses in Scotland last year. That is an indication that, across the piece, the policy is a wise one. It is one that we intend to continue.

Johann Lamont: That will be no comfort whatever to my constituent, or to students throughout the country who are facing problems. Simply to assert that a policy is working is not enough; the Government has a responsibility to create opportunities for young people.

Let us look at the lived reality, rather than at what the First Minister asserts. We know that in

Scotland just one in four students comes from the poorest backgrounds—for the rest of the United Kingdom, the rate is closer to one in three. We know that the drop-out rate at Scottish universities is 25 per cent higher than the drop-out rate in England. We know that although constituents like mine have to compete for a limited number of places with students from across Europe, English students can come north, if they have the money, to access unlimited numbers of places.

Does the First Minister recognise that on access, on drop-out levels and on university places, this Government is failing young people in Scotland who want to make the best of themselves?

The First Minister: Last year there was, in terms of full-time students, a record number of Scottish students in higher education in Scotland, a record number of English students in higher education in Scotland and a record number of international students in higher education in Scotland. I think that all three are a good thing; that is exactly what we should want from our higher education sector in Scotland. Would that have been the case if the Labour Party had had its way and imposed tuition fees, as it will do if it has its way in the future? Would that have been the case if the Lib Dem-Tory coalition had had its way and imposed tuition fees on Scotland?

We need only look south of the border at the collapse in numbers of full-time students in English higher education institutions to see where that policy would have taken us. It is not a matter of insignificance that we have introduced, and will maintain and defend, a policy of free higher education in Scotland. That is the future for the Scottish education system.

Johann Lamont: First, the First Minister is completely complacent. Secondly, it is one thing to talk about how to fund students who are at university, but the figures that I pointed out to him show that our access rates in Scotland are poorer than those in the rest of the United Kingdom, so it is nonsense for him to settle for a slogan rather than to find a solution for Scottish students.

The First Minister denies what is happening to young people all over the country, but what do we expect from a First Minister who claims that college spending is going up, when it is going down? What do we expect from a Cabinet Secretary for Education and Lifelong Learning who claimed that there are no waiting lists, when colleges have said that thousands are being denied college places? What do we expect from an education secretary and a First Minister who brutally cut college funding at the very point when we needed colleges most?

When colleges challenged him on waiting lists, did the First Minister say that that was something that the Government should investigate and get to the bottom of and ask, “Should we reflect on our spending priorities?” No. I will describe what the Government does. A private Government document that has been released under a freedom of information request says:

“The sooner we can produce our own version of events and discredit the Scotland’s Colleges survey the better.”

That is the Government’s approach—to get out its “version of events” rather than address the real problem. Once again, the Government says one thing in private and another in public. Does the First Minister understand why college lecturers have passed a motion of no confidence in Mike Russell?

The First Minister: What a long hotch-potch of nonsense. What the Government did was to examine the claims from the Labour Party, which were variously reported as 21,000 or 13,000 students waiting, depending on the time and who was speaking. We did that by conducting a survey that covered 12,866 applications. What did that survey find? It found that the claims from the Labour Party were a lot of piffle—its numbers did not exist. The lack of willingness to accept that point and that detail shows the emptiness of Johann Lamont’s questions. Of course, that is all in preparation for the Labour Party’s attempt to shift to a position of bringing tuition fees back in Scotland. Let us get to the reality.

In addition to our having a policy of no tuition fees and having the funding deal for universities—which everybody across the sector regards as excellent—we have provided £16 million for extra funded places at university in the coming year, which will provide more than 2,900 additional funded places, including more than 1,000 to increase articulation, 727 to widen access, 850 additional taught postgraduate places and 342 undergraduate places for key sectors. That is practical and detailed action to address the situation.

In a week in which the Labour Party’s hypocrisy has been blatant for all to see, a party that voted against legislation to widen access is in no position to complain about a lack of access in Scotland. [*Applause.*]

The Presiding Officer (Tricia Marwick): Order.

Johann Lamont: I can live with the First Minister insulting my intelligence, but he insults the intelligence of every young person across Scotland with that nonsense. The issue of college places absolutely describes the First Minister’s approach, which is, “If you don’t like what people say, shoot the messenger.” It was not the Labour Party that said that there were college waiting lists;

it was Colleges Scotland. How dare he show such disrespect to people who are living with the cuts that he is imposing on their sector?

The First Minister boasts that

“the rocks will melt with the sun”—[*Official Report*, 8 September 2011; c 1537.],

as if everything in our education sector is perfect. He needs to recognise that, for too many Scots, the rocks will melt in the sun before they get a place at a Scottish university or college.

He denies the existence of the young people who are waiting for college places when he should be helping them. He promises to turn our schools from good to great when half of teachers admit that they are unprepared for the new curriculum, maths examiners are quitting and teachers are voting to strike. Mr Russell sits there, and his only answer in his speech was that we need independence rather than to address the problems that young people face now.

Is the truth not that, after six years of this SNP Government, the First Minister has failed to give all of Scotland's young people the best chance in life and is now happy to hide behind soundbites rather than to create chances for students, with the promise of jam at some point in the future if the SNP ever wins the referendum question?

The First Minister: I will deal with those points in turn. Johann Lamont claims that

“It was not the Labour Party that said”

it. However, a Labour Party news release from 26 October stated that, according to Hugh Henry,

“over 21,000 students are on college waiting lists”.

However, on 25 January, in *The Herald*, Mr Henry is quoted as saying that

“likely more than 13,000 Scots were denied a place at college at a time of record high youth unemployment.”

I notice that the figure went down by 8,000 between October and January. The survey showed that those figures were a grotesque exaggeration and that Labour's claims were total piffle and nonsense.

The reason why Johann Lamont does not like the survey is that she does not like the facts when they are spelled out to her Labour colleagues, whose comments were totally and utterly indefensible. Let us remember that, last year, there were a record number of Scottish students with full-time places in higher education in Scotland: “a record number” means that there were more than ever before. There was also a record number of English students in higher education in Scotland and a record number of international students.

Those were last year's figures, while the number of university places was collapsing south of the border. Why was it collapsing south of the border? It was because of the punitive increased tuition fees. What does the Labour Party want to do? It wants to introduce tuition fees in Scotland. Every student and family knows full well that Johann Lamont's plan is to introduce the £9,000 tuition fees in Scotland, and every family in Scotland can count.

As to how people are regarded, we heard evidence of that at the weekend in a poll showing the party ratings. The SNP was at 47 per cent, and the Labour Party was at 30 per cent. I hope and believe that that is a commentary on the excellence of the SNP Government, but I must face reality and know that it is also a commentary on the poverty of the Labour Opposition.

Prime Minister (Meetings)

2. Ruth Davidson (Glasgow) (Con): I welcome the First Minister's announcement of significant donation to the Disasters Emergency Committee appeal.

To ask the First Minister when he will next meet the Prime Minister. (S4F-01283)

The First Minister (Alex Salmond): No plans in the near future.

Ruth Davidson: Last week, in his statement to the chamber giving the date for the independence referendum, the First Minister said:

“It is incumbent upon all of us, as parliamentarians, to lead by example, and to ensure that the level of this hugely important debate matches the expectations of the people who elected us.”—[*Official Report*, 21 March 2013; c 18118.]

Does he believe that the comments made this week by his former transport minister, Stewart Stevenson, which celebrated job losses at *The Scotsman* because of the newspaper's referendum coverage, meet those expectations?

The First Minister: I regret the job losses at *The Scotsman* and at BBC Scotland. We should all be united in saying that there are serious problems in the Scottish media at present. That is the Government's policy and that is what we believe. I do not think that individuals' tweets should be regarded as a statement of policy.

Every one of us should be concerned about job losses across the Scottish media—that should unite us. The debate that we are having in Scotland should be reported, articulated, covered, criticised and analysed by a healthy and vibrant media industry. The fact that there are many indications of serious difficulties across our media should be a matter of regret to us all.

Ruth Davidson: The First Minister is playing down Mr Stevenson's comments, but that is a slightly different approach from that of his Member of the European Parliament, Alyn Smith, who leapt to Mr Stevenson's defence by saying that having serious journalists complain about the tweet was a symptom of the problem.

This week, the Minister for Local Government and Planning, Derek Mackay—who is sadly absent from the chamber just now—retweeted his desire to hit David Cameron in the face with a shovel in the most insulting of terms. We have also had James Dornan MSP saying that a party for saving the union is like “supping with the Devil”.

Even worse, the First Minister's aide, Joan McAlpine MSP, has taken to the pages of a national newspaper to compare the United Kingdom to an abusive marriage, and, shamefully, Councillor David Berry has been forced to resign for saying that the UK is akin to the slave trade.

Of course, all of that stems from the top. Did not the First Minister open the flood gates by calling a BBC executive a Nazi official after failing to bully his way on to the television as a rugby pundit? [*Interruption.*]

The Presiding Officer: Order.

Ruth Davidson: The First Minister is right when he says that the people of Scotland expect a high standard of debate and that his parliamentarians should be setting the tone, but on that evidence they are not. If that is allowed to continue unchecked, the next 18 months will descend into little more than an anti-British hate campaign. When will he and his party clean up their act?

The First Minister: If that line of questioning is allowed to go unchecked, the Tories will go even lower than the 12 per cent that they were at in this week's opinion poll.

I will tell members what I will do for Ruth Davidson: I will draw a line in the sand under all such comments. We should all be elevated and follow the advice of Murdo Fraser from this week. On the day that the line in the sand was no more, the

“Rev Fraser”

—not the Rev I M Jolly—tweeted his

“text for today: Luke 15 v 7.”

I looked up Luke chapter 15, verse 7, which says:

“joy shall be in heaven over one sinner ... repenteth, more than ... ninety and nine ... persons”.

I can see that Ruth Davidson enjoys the loyal support of her entire band of Conservative MSPs.

The Presiding Officer: We have a constituency question from Bruce Crawford.

Bruce Crawford (Stirling) (SNP): I thank the Presiding Officer for allowing me to raise this constituency question. Members might not be aware, but there was a serious gas explosion this morning in the Callander area in which a house was totally destroyed, and two elderly people have been hospitalised. I am sure that members will join me in wishing them well and sending their thoughts to them and their families.

If it turns out to have been a gas explosion, that may raise issues about gas safety, which will be of concern to the community of Callander. Will the First Minister therefore ensure that the appropriate minister liaises with me on this important matter at the earliest possible date?

Alex Salmond: Yes, I am happy to do that, and the expressions of concern from the constituency member will of course be shared by members on all sides of the chamber.

We should not draw conclusions as there has been no investigation as yet, but I assure the constituency member that the matter will be taken very seriously by the authorities and by Government ministers, and we will reply in detail to him in due course. We join Bruce Crawford in sending our sympathy to those who have been affected by the incident.

The Presiding Officer: We have a constituency question from Tavish Scott.

Tavish Scott (Shetland Islands) (LD): The First Minister will be aware that Iceland and the Faroes announced an illegal grab of 52 per cent of north Atlantic mackerel this week, and that the Faroes announced a new quota of three times the international agreement on Atlanto-Scandian herring.

On 7 February, the First Minister told Parliament that he was appointing an international figure to mediate. Can he tell Parliament what has happened to that initiative? No fishing representative could tell me of any progress. Will he now push harder for international sanctions, which are the only measure that those countries will understand?

The First Minister: Tavish Scott should know that we have been pressing for international sanctions over the past few years, and we continue to do so. He does a disservice to what we have said, precisely because of the logjam and the blockage that affect his constituents, my former constituents in East Aberdeenshire and in Buchan, the fishing community of Scotland and the people who depend on fishing for their livelihoods. This is a hugely serious issue, and he does a disservice to the fisheries secretary, who has been trying desperately—as he has been doing for the past four years—to focus key attention on the matter, get the sanctions, and look

for an initiative that might break the logjam. I would hope that all fishing MSPs would welcome every single effort to make progress on the issue.

Cabinet (Meetings)

3. Willie Rennie (Mid Scotland and Fife) (LD):

To ask the First Minister what issues will be discussed at the next meeting of the Cabinet. (S4F-01293)

The First Minister (Alex Salmond): Issues of importance to the people of Scotland.

Willie Rennie: Investing in a child before the age of three can change the child's life for ever, yet at the weekend I heard the First Minister say that he will delay a transformation in childcare until 2016 at the earliest—he will turn his back on progress until he gets a yes vote.

In England, the Government is helping 40 per cent of two-year-olds, which would equate to 24,000 children here in Scotland. That is being done under the same budget constraints as face the First Minister. In England, there is a determination to make a change. Why is the First Minister wielding a veto? Why has he put his referendum before Scotland's children?

The First Minister: Let us start with what we have already done on childcare. When we took office, the childcare provision was at 412.5 hours a year. In 2007, we extended that to where we stand now, at 475 hours of free school education per annum across Scotland. That has benefited 120,000 children per year.

As the member knows, we now have a legislative framework to move to 600 hours per year for three and four-year-olds, which is greater than that which pertains south of the border. That will be another substantial expansion of nursery provision—to a minimum of 600 hours—and will be an increase of almost 45 per cent since 2007. By any standards, that is a major step forward.

I think that we need to do more, but I caution Willie Rennie on the terms of what he is proclaiming happens south of the border. The last time that we discussed the issue, I raised a question about the child to staff ratios, which are being diluted south of the border as a means of introducing the system. Willie Rennie said that that was not significant, but that is not the view of Professor Cathy Nutbrown, who carried out the review for the United Kingdom Government and is now criticising its strategy. On 19 March, she said:

“Trading staff-to-child ratios for higher-qualified staff is nonsense. Watering down ratios will threaten quality. Childcare may be cheaper, but children will be footing the bill.”

Rather than present to this Parliament an illusion of the great progress that his colleagues are

making south of the border, why does Willie Rennie not believe the words of the very person who carried out the review for the UK Government?

Willie Rennie: It is no good the First Minister boasting about plans that he has delayed or setting up some kind of sub-committee to look at plans for the future, when others elsewhere on these islands are just getting on with it. Giving children the best start and giving their parents real help is within his power right now. I have shown him—as the finance secretary, who is sitting beside him, knows—costed plans for 24,000 places, but he thinks that a few hundred places is enough.

In England, they are doing it all and they are providing better staff—[*Interruption.*]

The Presiding Officer: Order. Let us hear Mr Rennie.

Willie Rennie: Despite what the First Minister says, changes are being made in England. Staff are being paid more and there is an insistence on better qualifications and on higher quality. He could match all that right now. Some 72,000 children could miss out while he delays. He is insisting on refusing to act until he gets his way in the referendum. Why has he become the road block? Why is he the delay?

The First Minister: Let us take three points. First, I think that the move from 412 hours, which we inherited from the Labour-Liberal Democrat coalition, to 600 hours is a major advance for Scotland.

Secondly, in terms of transforming how Scotland does, if we look across Europe we can see much better examples of how childcare can have a significant and beneficial effect not only on children but on women's participation in the workforce. That transformational aspect is child centred but it is also economic centred, because one of the great arguments for increasing childcare is the increase in the country's wealth and therefore the tax income that flow from having that higher participation. How can we argue for that if we do not argue for control of the very tax income levers that are fundamental to achieving that transformation?

Finally, since Willie Rennie did not believe the words of the UK Government's expert who carried out the review, let me quote the even stronger words of the chief executive of the Pre-school Learning Alliance, Neil Leitch, on the situation in England at the moment:

“Relaxing childcare ratios will be a recipe for disaster for children. The quality of provision will be lowered, there will be less one-to-one care and it will introduce additional child safety and child protection implications.”

That was from *Children & Young People Now* on 19 March. I know that Willie Rennie does not want to hear the reality, but most people will regard those experts as knowing infinitely more about the situation than Willie Rennie does.

Welfare Reform

4. Kevin Stewart (Aberdeen Central) (SNP): To ask the First Minister what recent analysis the Scottish Government has carried out of the impact of the United Kingdom Government's welfare reforms on the people of Scotland. (S4F-01288)

The First Minister (Alex Salmond): The most recent analysis shows that people in Scotland would be hit with a cut of £4.5 billion in the five years to 2014-15 as a result of the welfare reforms. That is £2 billion more than was originally claimed by the UK Government. It also shows that £1 billion of the welfare cuts will have a direct impact on children living in Scotland.

Kevin Stewart: By the UK Government's own admission, these changes will dramatically increase the number of people in poverty. It is one thing for Governments to fail in tackling poverty, but it is quite another for them to create it intentionally. Many of the changes hit those who are working hardest, shattering the claims that they are being made in the name of making work pay.

The Presiding Officer: Can we get a question, Mr Stewart?

Kevin Stewart: Yes. Given that 80 per cent of Scottish MPs voted against welfare reform and that 90 per cent voted against the bedroom tax, how would the First Minister suggest the people of Scotland democratically resist those changes?

The First Minister: There is a huge problem—which was amply displayed yesterday in Nicola Sturgeon's demolition of Jackie Baillie on these issues—of people who argue that they are against Tory cuts but then join with the Tories in trying to prevent matters of social security from being run by this Parliament. That is a huge problem. It is perhaps a part of the Labour Party's embarrassment on this issue that, in almost 50 outings at First Minister's questions, Johann Lamont has not once centred on the bedroom tax.

Junior Doctors' Hours

5. Jackie Baillie (Dumbarton) (Lab): To ask the First Minister what the Scottish Government's position is on reports that junior doctors are regularly working up to 100 hours per week. (S4F-01286)

The First Minister (Alex Salmond): All junior doctor rotas are monitored twice a year by Scottish Government officials. That is the

information that is used to ensure that they comply with working time regulations. The evidence shows that there are no junior doctor rotas in Scotland that have an average of more than 48 hours per week.

Jackie Baillie: Does the First Minister agree with the words of Tom Berry, the chair of the British Medical Association's junior doctors committee in Scotland? He said that, despite the working time directive,

"There are junior doctors who are still working rotas which include 7 consecutive 13 hour nightshifts. It is clear that making junior doctors work 90 hour weeks is not in the spirit of the legislation and can have serious implications for the health and wellbeing of doctors and as a result, affect patient care".

Does the First Minister agree that the practices uncovered by the Channel 4 programme "Dispatches" are truly concerning and that transparency is needed from boards on the extent of the issue and the impact on patient care? Would he therefore agree that the matter should be independently investigated by Audit Scotland?

The First Minister: We keep this matter under very close review. I also looked at the reporting of the Channel 4 programme because I was concerned about some of the claims that were made. I looked in particular at the words of the junior doctors committee chairman, Tom Berry, who said that he regularly worked more than 100 hours over 10 to 12 days—that is, over a two-week shift. He did not claim, as was reported in the press, that that meant that he would be working more than 100 hours in a single week.

It is important to understand that the working time regulations allow that for junior doctors the reference period over which the average of 48 hours a week is to be determined is a 26-week period. That is why we are so keen—and why we monitor—that the working time regulations are kept to. It is a serious issue that we treat seriously.

Jackie Baillie's credibility on all of these matters would be enormously enhanced if, when she came with her latest suggestions, she at some point referred to her apology that is due to members for claiming that Scotland is the "superbug capital of Europe" under the Scottish National Party, given that her figures referred to 2005-06 when the Labour Party was in control and that, under this Administration, hospital-acquired infections have dropped by 70 per cent. If we ever get an apology from Jackie Baillie, perhaps her other points will be treated with more credibility.

Police Scotland

6. Jim Eadie (Edinburgh Southern) (SNP): To ask the First Minister what impact Police Scotland will have on policing in communities. (S4F-01295)

The First Minister (Alex Salmond): The police in Scotland's communities are performing excellently. Crime is at a 37-year low, supported by the 1,000 additional officers that the Scottish Government has delivered since 2007. The new single service, Police Scotland, will protect those hard-won gains and safeguard the local policing that communities depend on.

There will be a local policing plan for every council ward in Scotland and a local commander for each area. They will work with the communities, councils and other partners to shape policing policy.

Jim Eadie: Is the First Minister confident that Police Scotland will not only defend front-line policing in our local communities but bring about additional benefits such as addressing human trafficking, improving rape investigation and providing vital policing for our trunk roads, airports and ports? That is in stark contrast to the cuts that are being imposed south of the border.

The First Minister: Police Scotland will safeguard front-line policing in communities and it will deliver the additional benefits that a single service brings. The specialist crime division is up and running already, with more than 2,000 detectives and staff working on functions that are co-ordinated nationally but delivered locally.

Jim Eadie is right to draw the contrast between what is happening in Scotland and what is happening south of the border. These matters are important because the current funding arrangements for Scotland mean that we get a percentage of the expenditure south of the border. Therefore, it is substantially to the satisfaction to note that, under this Administration, police numbers in Scotland have been rising and crime has been falling, whereas south of the border police numbers are falling like a stone—even faster than are students in higher education. That is why we will continue to defend a world-class police service serving the communities of Scotland.

The Presiding Officer: That ends First Minister's question time. I will allow a short pause to allow members who are not participating in the next debate to leave and for the public gallery to clear.

Bowel Cancer

The Deputy Presiding Officer (Elaine Smith): The next item of business is a members' business debate on motion S4M-05656, in the name of Sandra White, on bowel cancer—don't take a chance, take the test. The debate will be concluded without any question being put.

Motion debated,

That the Parliament welcomes the launch of the campaign to encourage people between the ages of 50 and 74 to participate in bowel screening; understands that bowel cancer is the third most common cancer in Scotland with early detection resulting in nine out of 10 people surviving the cancer; further understands that Glasgow has the highest rate of deaths from bowel cancer in Scotland; welcomes what it sees as the success of other campaigns such as the breast cancer campaign, part of the Scottish Government's £30 million detect cancer early drive, which aims to increase the early detection of cancer by 25%, and hopes that the bowel screening campaign will be as successful in raising awareness and early detection of bowel cancer.

12:32

Sandra White (Glasgow Kelvin) (SNP): I thank my fellow MSPs for supporting this members' business debate. Without their support, we would not be having the debate, so I thank them very much. I also thank those who have been able to stay behind to take part.

Some 3,400 new cases of bowel cancer are diagnosed in Scotland each year. We know that increasing the number of people who live healthy lifestyles would cut that number and prevent bowel cancer. I know that some of my colleagues will use and speak about the facts and figures, but I want to keep my remarks to the bowel cancer—don't take a chance, take the test screening, as this is a fantastic opportunity to bring that to the fore.

I attended the launch of the campaign at the Centre for Contemporary Arts in Glasgow. The Scottish Government launched it as part of the detect cancer early programme, which is backed by NHS 24 and the Scottish cancer coalition.

It is true to say that the campaign has certainly raised some eyebrows. It features Ford Kiernan in a very visual situation on television and in a very good voiceover on the radio, and it does not leave a lot to the imagination. I am sure that members have seen it. I think it is absolutely brilliant. Some people have said that it is designed to shock, but certainly it brings to people's attention exactly what bowel cancer is.

The campaign's aim is to bring home bowel cancer, particularly to men and particularly to men on the west coast. As we know, men find it particularly difficult to talk about their health and certain illnesses. In the case of bowel cancer,

many men do not just find it difficult to talk about it but are very embarrassed and would not take the time to go to the doctor.

Bowel cancer is the third most common form of cancer in men, so anything that makes people sit up, take notice and take the test can only be a good thing. When we announced the campaign and that I was going to lodge a motion on it, it was obvious that some people who had seen the video were quite embarrassed and shocked by it. However, as I said, I thought it was brilliant. If it makes people sit up and take notice, it is a very good thing.

A couple of weeks ago, I had a conversation with Jackson Carlaw about the test. A number of us in Parliament will have received the test and not used it, set it aside or put it in the bin. I am not saying that Jackson Carlaw did that, but we did have a conversation about it.

The test kit is aimed at 50 to 74-year-olds and I appeal to people: when the kit lands on their doorstep, they should please take the test. It comes through the door every two years, it is very effective and simple to use, and the diagnosis is excellent. People can start treatment if bowel cancer is caught early enough, and if people do not have signs of bowel cancer but are worried about it, those worries could be completely gone after taking the test. That plea is the reason why I lodged the motion—I am sorry about the pun. People have to take the test because it can save so many lives.

It is really important that bowel cancer should be caught early. With early detection, nine out of 10 people can survive bowel cancer. As the motion says, Glasgow has the highest rate of bowel cancer deaths in Scotland, so it is imperative that people take part in the screening initiative. I thank Beating Bowel Cancer, Bowel Cancer UK and Cancer Research UK for their work and the magnificent job that they have done of highlighting the issue.

At the launch at the CCA, I met Lynn Faulds Wood, a broadcaster whom many people know. She is Scottish but now works and lives in London and she is a survivor of bowel cancer, which she had in her early 20s. Not only older people get bowel cancer. Lynn is such a good ambassador for this campaign; she speaks very highly of the people who have worked on it and says how important it is that people take part in it.

I also spoke to other survivors and people who are receiving treatment. They are very positive in their outlook, while recognising the real challenges that lie ahead. I will not name the person, but not so long ago I lost a very dear friend and colleague to bowel cancer. Six weeks before he was diagnosed, he had been playing squash, running

and leafleting up and down tenements in Glasgow. If he had thought about taking the test, he might still have been with us here today. There are many other examples.

The message that I want people to take out of the debate is that bowel cancer is treatable if caught early enough. Help is there: there is a website and a hotline that people can phone if they happen to have thrown their kit in the bin. I make a plea, particularly to men who think that they do not need to take the test because bowel cancer will not happen to them and who would be embarrassed to talk about it: they should listen to the radio campaign, watch the video on TV and take the test. If nine out of 10 people survive a positive diagnosis, one of those nine could be any of them.

Thank you for giving me the opportunity to debate the motion, Presiding Officer. I thank members for supporting it.

12:39

Malcolm Chisholm (Edinburgh Northern and Leith) (Lab): I congratulate Sandra White on lodging this motion and think that we should also congratulate the Scottish bowel screening campaign, particularly its leader Professor Bob Steele, who has led it from the beginning. I remember meeting him about 10 years ago when he was piloting the programme in Tayside, and we were very pleased that he attended last night's meeting of the cross-party group on cancer to talk about cancer surgery.

Although bowel cancer is the second most common cancer in men and the third most common in women, a very welcome fact is that deaths from the group that accepts screening have fallen by 30 per cent over the programme's very short life. There is a very good reason for that. Of those who go to the doctor with symptoms, only 8 per cent are diagnosed with stage A, the first of the four stages of bowel cancer, whereas 49 per cent of those who are diagnosed through screening have stage A. That is very important, because more than 90 per cent of those diagnosed at the early stage—stage A—go on to survive for five years whereas only 7 per cent of those diagnosed at the fourth stage survive.

That emphasises the importance of the detect cancer early initiative. I congratulate the Scottish Government on that great initiative, which is particularly necessary for bowel cancer, for which the uptake of screening is about 55 per cent, which is much less than the uptake of screening for bowel cancer, for example.

We all know that there are particular challenges with certain sections of the population and, as a

result, specific initiatives are important. In its briefing for the debate, Bowel Cancer UK talks about a project that it has been running and which has been successful in increasing uptake among those with learning disabilities, and I am sure that the Government will want to look at that and any other good examples.

Of course, screening is not a panacea; other messages about bowel cancer have to be sent. For a start, as people can get what are called interval cancers, they still have to watch out for symptoms between screenings. There are also the key messages about prevention, which are mainly about diet and exercise.

I will be interested to hear from the minister whether there are any plans to build on the screening programme, because I think that it might be possible to improve what is already a very good programme. In its briefing, Cancer Research UK mentions an alternative called the faecal immunochemical test, which, I am told, is more accurate and less complicated. I have to say, though, that I have never found the test to be particularly complicated, having taken it several times since I turned 50—which is unfortunately quite a long time ago.

The other possible development is the flexible sigmoidoscopy procedure. It is regarded as an even better test because polyps, which are always the precursor to cancers, can be removed. I am told that there might well be a pilot in that respect in Scotland—I believe that it might be in Tayside, which is once again leading the way—and the minister might wish to mention that. Of course, that raises the whole question of capacity not just for sigmoidoscopy but for colonoscopy, which is required for those who get a positive result in a faecal occult blood test. The news has highlighted controversies about capacity in that respect, including here in Lothian. However, this is not a debate about complaining; instead, it is about celebrating the success of the screening programme and the possibility of building on it to make it even more successful.

I have already mentioned Bowel Cancer UK, which I think is a great campaigning organisation. Indeed, I was pleased to sponsor a recent event that it had in the Parliament. The chief executive, Deborah Alsina, whom I recommend people follow on Twitter as her tweets contain an awful lot of useful information about bowel cancer, gave a very inspiring speech in which she emphasised the importance of taking account of patient experience; of improving access to various bowel cancer treatments, including some of the drugs that we have heard about in other contexts; and, crucially, of early diagnosis, which of course is the subject that we are discussing and whose successes we are celebrating.

12:44

Jackson Carlaw (West Scotland) (Con): I am from a generation brought up on “Carry On” comedies. My favourites are “Carry On Screaming”, “Carry On Doctor”, “Carry On Cowboy” and “Carry On Camping”, but I will never forget Charles Hawtrey as Dan Dann the Lavatory Man in “Carry On at your Convenience”.

Part of our character in this country is our tendency to laugh at what we think to be uncomfortable, and what we think to be uncomfortable is anything to do with the bowels—so much so that if that topic ever came up in any of the films, one could rely on Kenneth Williams to look full on at the camera and say, “Matron.” Basically, that is most people’s response before moving on. For a number of men who are asked anything about the nether regions, the traditional response is to look the inquirer in the eye and say, “Church of Scotland,” before moving on to a different subject. We must recognise that while we have in Scotland an excellent screening programme, we do not have an excellent record on bowel cancer.

I congratulate Sandra White on securing the motion. In the cancer debate a few weeks ago, I confused the subject with breast cancer—I was getting my breasts and my bowels confused—but I absolutely agree with the sentiment of and everything underpinning the motion.

My father-in-law died of bowel cancer in his early 60s. Bowel cancer will be detected in 4,000 Scots a year, which is one of the highest incident rates in the UK. We also have one of the lowest survival rates across the European Union—25 per cent of those who are identified with bowel cancer will die. Crucially, 90 per cent of those whose cancer is detected early through screening will survive for five years, while only 7 per cent of those who are detected late will survive for five years. Early screening is crucial. That is what the motion seeks to promote and what my remarks have been directed towards.

The campaign is aimed at people in their 50s. I know that for some people in their 50s anything beyond Brylcreem and Old Spice is to be thought about only by those who work in the theatre or the BBC; they do not want to talk about grooming. However, the next generation of younger men are more on the ball about health issues, as are the younger generation of children.

I must say to men in their 50s that they are no longer on the pull. I know that they think that they are still an icon, the glass of fashion and the mould of form, but I am sorry to say that they are in fact past that. Older women are looking for younger toyboys and younger women are interested only in those with a lot of money and, to be frank, that will

not be anyone who lives in Scotland. The primary concern of men in their 50s ought to be their survival. If a screening programme is available every two years, for goodness' sake, take advantage of it and be part of the 90 per cent of those unfortunate to be detected with bowel cancer who have a genuine chance of surviving it.

Therefore, my message to younger men and to children who have a father in their 50s who is part of the recalcitrant generation in relation to their health is to be aware that the screening programme exists. Tell Dad, "It ain't pretty, but get over it." Tell him that he must have the screening done, and ensure that for himself, his family and his generation, he does what will ensure that he is part of the 90 per cent who survive.

12:48

Jim Eadie (Edinburgh Southern) (SNP): I congratulate Sandra White on securing this important debate and on her compelling contribution. I add my support to the tributes paid to charities such as Beating Bowel Cancer, Bowel Cancer UK and Cancer Research UK. We owe them all a debt of gratitude for their work, day in, day out, on behalf of people with bowel cancer.

It has been mentioned that Scotland has the highest incidence of cancer and bowel cancer in the UK. As Sandra White reminded us, bowel cancer is the third most common cancer in Scotland. Therefore, there is a huge responsibility on us all to do what we can to raise awareness; to educate ourselves in how to recognise the symptoms of the disease; and to disseminate throughout the general population the vital information that everyone needs if we are to obtain back the testing kits that can help people to detect the disease and ensure that they go on to access appropriate treatment.

Early detection and treatment of the disease are vital. Malcolm Chisholm highlighted the reduction in mortality rates that we have seen in recent years. If bowel cancer is detected early, nine out of 10 people go on to survive. That is an impressive statistic, but it is too easy to forget that a human story lies behind each of those statistics—perhaps that of a son who survives bowel cancer and goes on to live a fulfilling and productive life, or of a mother who survives bowel cancer and is able to enjoy a happy retirement with her grandchildren.

The Scottish Government is to be commended for extending the bowel screening campaign from April of this year. The latest public awareness campaign carries the message, bowel cancer—don't take a chance, take the test. The chief medical officer for Scotland, Sir Harry Burns, has said:

"I hope that this campaign will get people talking about bowel screening, and show that screening is the most effective way of detecting bowel cancer early."

Scotland has led the way by starting screening at the age of 50 rather than 60, as is the case in England. However, there is no room for complacency, because our survival rates and outcomes lag behind those of the rest of the UK and, as the motion outlines and as has been stated, Glasgow has some of the worst mortality rates in the country.

Only yesterday, the chief executive of Beating Bowel Cancer, Mark Flannagan, wrote in *The Scotsman*:

"There are some reasons to be optimistic about Scotland's efforts to tackle bowel cancer. Scots now have the lowest screening age in the UK, thanks to the government's understanding that early treatment saves lives."

Currently, men and women between the ages of 50 and 74 are invited to participate in screening every two years and, in the future, those who are over the age of 74 will be able to self-refer every two years. However, it is important to remember that bowel cancer is not confined to the over-50s. Although it is rare, men and women in their 20s, 30s and 40s can also get bowel cancer.

Therefore, it is essential that we all overcome our natural reticence to talk about our vital bodily functions and that we all learn to recognise the symptoms of bowel cancer. That point was made with characteristic eloquence and humour by Jackson Carlaw. The symptoms of bowel cancer can include a change in your bowel habit, bleeding from the bottom or blood in your poo. We are going to have to overcome the taboo surrounding bowel cancer and get used to talking about bowels and bottoms, blood and poo.

The important message from today's debate is that bowel cancer is a killer disease, but it can be beaten and is survivable. The bowel cancer screening programme has a vital role to play as part of the detect cancer early initiative. The evidence is clear: early detection saves lives. Each year, more than a quarter of the people who are diagnosed with bowel cancer in Scotland will die from the disease, yet bowel cancer can be beaten if it is diagnosed early. More than 90 per cent of patients who are diagnosed with early-stage bowel cancer will survive five years from diagnosis, whereas less than 7 per cent of patients who are diagnosed with late-stage disease will do so.

In the public debate on bowel cancer, we are where we were with breast cancer 20 years ago. Then, no one talked about breast cancer and it was seen as a death sentence. Today, it is no longer a common cancer killer but a disease that people talk about, get tested and treated for and—

most important—survive. That is the position that we want to be in for bowel cancer, so let us have that ambition for Scotland.

The Deputy Presiding Officer: I have had a late bid to speak from Nigel Don.

12:53

Nigel Don (Angus North and Mearns) (SNP): Thank you very much, Presiding Officer. As you will realise, I was in the chamber to listen and had not intended to contribute to the debate, but I would like to make a few remarks.

First, I congratulate Sandra White on bringing her motion before the chamber. Secondly, I will take any opportunity that I get to congratulate Professor Bob Steele, who has been instrumental in raising awareness of bowel cancer.

I would also like to pick up on Jackson Carlaw's comments. I think that he got it absolutely right. Men of a certain age, of whom I am one, can be pretty reticent—although I am not sure that the flowers who are in the chamber are especially reticent—to talk about such things, so it is hugely important that we make the point to our families and the rest of the population that they must pester us. I agree with Malcolm Chisholm—I am struggling to see how any future test could be any easier. I did not think that the test was a problem, but if someone can make it easier, that is fine. It is that reticence that we must get folk to overcome. Quite frankly, if we need some children's pester power, so be it.

12:54

The Minister for Public Health (Michael Matheson): Like other members, I congratulate Sandra White on securing time for a timely debate that coincides neatly with the publicity campaign that we are running on taking the test for bowel cancer.

I have no doubt that every member in the chamber knows someone who has been affected by cancer and I recognise that people hold a deep fear about the possibility of being diagnosed with cancer because of the consequences and difficulties that can arise from that. It is only natural that people tend to be reluctant or reticent to be tested for the possibility of having cancer. We must balance that issue with the need to inform people that if they do have cancer, then the earlier it is diagnosed the more likely that it can be effectively treated. That is exactly what the bowel cancer screening programme intends to do.

Cancer is a key priority for the Scottish Government and for the National Health Service in Scotland and it is essential that we make progress by detecting cancer at a much earlier stage. A

number of members referred to the detect cancer early programme, which is a four-year, £30 million programme that is a key part of progressing earlier intervention and prevention. The programme is ambitious, because we are dealing with deeply held cultural views about going to the doctor and getting medical advice and checks at a much earlier stage. Nonetheless, the programme is extremely important and that is why the Cabinet Secretary for Health and Wellbeing, when he launched the campaign to raise awareness of the Scottish bowel screening programme last month, emphasised the point that detecting cancer earlier will, quite literally, save lives. That is why participating in the programme is extremely important for those who are of an age—of which I am not, as yet—to be invited to participate.

In their contributions, Sandra White and Jim Eadie highlighted the fact that if bowel cancer is detected early then nine out of 10 people can expect to survive, which is fantastic news. As Jim Eadie illustrated, there is a human story behind those statistics and they highlight how treatable the condition is if it is detected at an early stage.

Jackson Carlaw and other members highlighted the fact that Scotland continues to lag behind other European countries on cancer survival rates, and with an aging population we expect to see an increasing number of cancer instances. Clearly we must do more and that is why all men and women aged between 50 and 74 have been invited to participate in the Scottish bowel screening programme every two years, and why, as of April, those who are over 74 will be able to request a screening kit every two years through the Scottish bowel screening helpline.

I hope that the campaign, which several members referred to, will help to empower people to talk about things much more openly and frankly. I witnessed the campaign a few weeks ago when I was at Firhill watching Partick Thistle. The campaign team was there on the concourse, mixing with the fans and providing them with information about the screening programme. The club also made some announcements during the course of the half-time break. Obviously, as a fan I am biased about the club, but I congratulate Partick Thistle on participating and on working with the screening programme to progress the campaign. I encourage other football clubs to do that because it is a very good way of reaching a key group, particularly men of the age groups that can participate in the programme.

The important thing is that a person diagnosed with bowel cancer will receive the best possible services and treatment available. We have made progress in those areas. In his speech, Malcolm Chisholm asked about future developments. He referred to two particular areas. One was the

faecal immunochemical test—FIT—that has been developed. We are carrying out some work on that in Scotland as part of the screening programme. The FIT is a more costly test and we need to evaluate it to determine whether it would be effective as a first-line test. We are currently carrying out some pilot work to find out how effective it could be, because it has the potential to detect some forms of bowel cancer that the existing test may not identify.

The second point that he made concerned flexible sigmoidoscopy—I am told that the short term is flexi sig. That screening programme has other benefits, and we have provided some £2 million to run a pilot over the next two years to determine whether that test could be used in Scotland to continue to make progress.

We have been making progress and we need to make further progress in the years to come. The public awareness campaign has an important part to play in breaking down some of the existing barriers and encouraging people to participate in the testing scheme. That can help to improve people's survival of bowel cancer should they be diagnosed with it.

I encourage all members to continue to do what they can in their constituencies to encourage their constituents to participate in the screening programme. I have no doubt that all the members who are in the chamber will join Prostate Cancer UK in trying to raise awareness of another cancer that, if diagnosed early, can be treated effectively. That charity is lobbying the Parliament today to try to raise awareness among men about getting treated early for prostate cancer.

13:01

Meeting suspended.

14:30

On resuming—

Decrofting of Owner-occupied Croft Land

The Presiding Officer (Tricia Marwick): Good afternoon. The first item of business is a statement by Paul Wheelhouse on decrofting by owner-occupier crofters. The minister will take questions at the end of his statement, so there should therefore be no interventions or interruptions.

The Minister for Environment and Climate Change (Paul Wheelhouse): Presiding Officer, crofting is very much valued by this Parliament, by this Scottish Government, and by me, as the minister who has responsibility for crofting.

Clearly there are, in respect of crofting, many issues of importance that demand Parliament's attention, in order to ensure a sustainable future for crofting and the future prosperity of all those who live in Scotland's crofting counties. I look forward to continued engagement with members and stakeholders on those issues and I am confident that together we can deliver a brighter future for Scotland's crofters.

However, today I am grateful for this opportunity to inform Parliament of the Scottish Government's intentions to address a particular issue that has come to light in relation to crofting legislation—specifically, the Crofting Reform (Scotland) Act 2010. The issue concerns owner-occupier crofters' ability to apply to the Crofting Commission to decroft their croft land.

Decrofting, which is provided for in sections 23, 24 and 25 of the 2010 act, means removing the land in question from crofting tenure and the provisions of the 2010 act. It can be applied for in relation to all or part of a croft and might be used, for instance, to allow for a house to be built on decrofted land, which can help to facilitate the handing down of a croft from one generation of a crofting family to the next, or it may enable the building of a dwelling for a new entrant to crofting on a croft that does not currently have such provision.

The 2010 act was the first crofting act to make specific reference to owner-occupier crofters, even though crofters had, for many years, enjoyed the right to buy their crofts. The 2010 act rectified that situation by explicitly distinguishing between tenant crofters and owner-occupier crofters.

Unfortunately, a flaw has come to light in the way in which that distinction applies in the case of decrofting of land. It was the Scottish Government's intention that tenant and owner-occupier crofters should be treated equally, and

we believe that that was also the Scottish Parliament's intention during the passage of the 2010 act. However, as some members will be aware, the Crofting Commission has received legal advice that sets out that, in fact, the 2010 act inadvertently limits the circumstances in which owner-occupier crofters can apply to decroft land. That being the case, the Crofting Commission has decided to suspend the processing of such applications from owner-occupier crofters—a decision which was, of course, not taken lightly.

Since the problem came to light, the Scottish Government, along with the Crofting Commission, has taken a number of steps. First, in the matter of due diligence, it was necessary to confirm our belief that the will of the Scottish Parliament was indeed that owner-occupier crofters, as well as tenant crofters, should be able to apply to decroft. That required us to check carefully the documentation relating to preparation of the 2010 act.

Having satisfied ourselves on that point, the Scottish Government naturally considered whether it would be possible to overcome the flaw in the 2010 act without recourse to legislation—I know that others have done their own analysis on that point. It had been suggested to us that ministers could simply direct the Crofting Commission to continue to process and sign off on applications. Unfortunately, the advice to ministers is clear that no such solution exists under the terms of the 2010 act. That means that in order to correct the flaw in question, an amendment to the crofting legislation is required.

The Scottish Government has also had discussions with stakeholder organisations, including the Scottish Crofting Federation and the National Farmers Union of Scotland, as well as with the commission itself, of course. In the light of those discussions and our analysis, I inform Parliament that the Scottish Government intends to introduce a bill as soon as possible after the Easter recess to address the issue. I intend to propose a timetable for the bill that will enable Parliament to consider carefully the proposed changes, while ensuring that the matter is resolved quickly.

While we are opening the doors for owner-occupier crofters to decroft their land, we should recognise the vital and important role that croft land plays in the life of this country, and of the crofting counties in particular. Crofting brings multiple benefits to our nation; it supports the social and cultural fabric of many communities and it maintains agricultural production in the Highlands and Islands, which it does in a way that delivers the environmental benefits that come from extensive grazed livestock systems. Moreover, although comparatively few crofters are full time,

crofting makes a significant contribution to the economies of the crofting counties.

Given the important benefits that crofting provides, members will want to be assured that in supporting the forthcoming bill that I am announcing today they will not be opening the floodgates and allowing massive decrofting to take place. I am happy to give that assurance.

The bill's precise form will have to be worked out with the parliamentary draftsman, as there is more than one potential way to draft the bill to address what is a rather technical issue. However, our clear intention is that the safeguards that apply to other forms of decrofting, including the need for approval by the Crofting Commission, will also apply in owner-occupier crofter cases.

I know that several members have been contacted by crofters who are, quite understandably, concerned about the issue and I have also mentioned that the commission has suspended processing of such applications that are in the pipeline. That was the only decision that the commission could reasonably take in the circumstances, based on the legal advice that it had received, although I am aware that the effective moratorium has left nearly 60 crofters in the uncertain position of not knowing when or even whether their decrofting application might be approved. There are also more than 170 cases in which the commission had in good faith already granted approval to decroft before this problem came to light. In the Government's view, it is essential that their situation be addressed as part of the solution. I hope that Parliament will support us in that.

I am very grateful to members who represent crofting counties and to others for the details that they have sent me or my officials on the impact that is being felt by crofters. That information has been a very helpful supplement to the information that I have had from the commission itself, and all of it has contributed to the Government's conclusion that the legislation should be amended.

Although I cannot discuss the specifics of individuals or families involved, I can give examples of the impacts that owner-occupier crofters face. Some are unable to start building their houses until the land is decrofted; however, because time-limited planning consent has been granted, deadlines for completion might be approaching. Others are unable to decroft to increase the size of the house site in order to extend their houses and provide sufficient garden ground for them.

One young crofter feels unable to proceed with acquiring part of an owner-occupier crofter's croft because of the uncertainty of being able to decroft part of his new croft to build a house for himself to

live in. A young crofting couple who are planning to start a family are unable to decroft the house site so that they can sell it to finance a larger house while retaining the original croft land. There are other examples of owner-occupier crofters being unable to decroft potential wind turbine sites or other parcels of croft land for development in the knowledge that personal financial investment will be required.

I believe that those examples demonstrate the importance of addressing the issue quickly but effectively. Any move to request expedited parliamentary consideration of a bill is not taken lightly, but on the evidence of the difficulty that is faced by crofters, I believe that in this instance such a move is necessary.

I am therefore grateful to Parliament for this opportunity to announce the Scottish Government's intentions in relation to the decrofting issue in the 2010 act and hope that the announcement gives some comfort to crofters that a solution is on its way. I understand the very real concern that exists in the crofting communities and look forward to receiving Parliament's support in the coming months to resolve the issue, in the interests of owner-occupier crofters who are being disadvantaged and in the interests of crofting as a whole.

The Presiding Officer: That ends the minister's statement. Members who wish to ask a question should press their request-to-speak buttons now.

Claire Baker (Mid Scotland and Fife) (Lab): I thank the minister for providing an advance copy of his statement.

This is not the first time in this session that the Government has had to seek to reverse a decision on crofting. It is not good enough. Will the minister apologise to the crofters who have been affected by this recent situation, which is deeply worrying to the 179 crofters who have already decrofted and the 60 who are waiting to do so?

It is perhaps not surprising that there are problems with the 2010 act. At the time, Labour called for greater scrutiny of the bill, but the Government pushed through legislation that has now been shown to be flawed. In his statement, the minister said:

"there is more than one potential way to draft the bill".

However, although the Government accepts the need for emergency legislation, it does not yet know what form that legislation will take. Will the minister say more about timescales? Will we be in a position to start work on the issue immediately after recess? For those who are left in limbo until new legislation is passed, will it be possible to use the Crofters (Scotland) Act 1993 in the meantime? The longer the situation continues, the greater the

financial pressure that is being put on crofters across Scotland.

Finally, in introducing emergency legislation, will the Government allow independent scrutiny of the act to guard against further flaws?

Paul Wheelhouse: First of all, I should say how disappointed I am in Claire Baker's attitude. This is a very serious matter and it is pointless to make party-political points on it. I also point out that in the previous parliamentary session, when the legislation was passed, this party had neither an absolute majority in Parliament, nor a majority on the committee that scrutinised the bill. Cross-party support is required.

I hope that, following this statement Claire Baker reflects on her comments and chooses to take a more bipartisan approach to addressing the matter. Clearly, there is a flaw in the legislation. I recognise that it exists—I do not deny it—but we must take action as a Parliament to ensure that it is addressed quickly.

I point out that we are not proposing emergency legislation; rather, we are talking about a short crofting bill that will—with the will of Parliament—be subject to expedited procedures.

Jamie McGrigor (Highlands and Islands) (Con): I thank the minister for early sight of his statement. I pledge Scottish Conservative support in principle to enable the proposed bill to go through the appropriate stages as quickly as possible in order to remedy the unfortunate situation that has, as the minister suggested, caused uncertainty and worry to a number of crofting constituents.

Will the legislation clarify the legal position on decrofting a croft that has been divided? The Crofting Commission say that people who own part of a croft cannot decroft in that part without the concurrence of the neighbours who own the remainder of what was the original croft. I apologise for that complicated question.

Has consideration been given to an interim measure that will allow applications to be progressed up to the point of issue but without a decrofting direction being issued until the required solution is in place? What is the minister's response to owner-occupier crofters who face financial loss because of the predicament in which they find themselves?

Paul Wheelhouse: I will write to Jamie McGrigor to provide clarity on decrofting a croft that has been divided. The issue has been raised by at least one lawyer at the cross-party group on crofting. I undertake to address the matter.

We have communicated with the Crofting Commission to request that it consider processing applications and to come back to us with an

opinion on whether it can process applications that are in the pipeline to ensure that—with the will of Parliament—legislation is progressed, we are in a position to respond quickly and we can ensure that people are not unduly delayed.

We will take into consideration financial losses that have occurred, although I am not aware that any financial loss has been presented. However, we will listen to any evidence that members have at their disposal.

Rob Gibson (Caithness, Sutherland and Ross) (SNP): I welcome the minister's proposal for a speedy and safe solution. I suppose that the legislation may come to the Rural Affairs, Climate Change and Environment Committee, which is the committee that I convene. I am sure that committee members will help to scrutinise it thoroughly and quickly.

I seek the minister's help in relation to people who are caught by the legal hitch that has been uncovered in the 2010 act who are between decrofting and legitimate house-building and diversification plans. Will a cast-iron guarantee be given to allow them to begin planning processes for new uses for the decrofted land on a date ahead of the legislation's being completed in Parliament to amend the act?

Paul Wheelhouse: Rob Gibson raises an extremely important point. I welcome his support for the steps that we are taking.

I realise that the situation could, as I have indicated, present problems to people whose planning permission is running out. Because the solution requires legislation, the Government cannot dictate the exact time when the bill will be passed; that is a matter for the will of Parliament, although I hope that we will have support in that. We will need to agree a timetable with the parliamentary authorities and business managers, which we will publicise as soon as is practically possible so that crofters can take that into account and amend their projects accordingly.

There is nothing in theory to stop crofters from starting the planning process before their decrofting application has been processed, should they wish to do so. However, they should not proceed with a change of use until such time as decrofting has been approved. That will require the new legislation to have been passed, which, as I said, will happen only with the will of Parliament. However, there is no obstacle to Mr Gibson's constituents engaging with the planning process in the meantime.

Claudia Beamish (South Scotland) (Lab): I thank the minister for sight of his statement. It has been highlighted that more than 170 people whose land has been decrofted will no longer have title to their property and may not be able to secure

lending in the interim. Indeed, they may have to wait in order to sell. What is the Scottish Government doing to help them financially and legally?

Paul Wheelhouse: I am grateful to have the opportunity to clarify something: it is my understanding that title is not affected for people in that position. I hope that that reassures Claudia Beamish.

I understand that there may be an implication for valuation of land because of the assumption that the land would no longer be in crofting use; the owner of the property and the lender will have assumed that it would be decrofted. We are aware that there is a potential issue. The valuation that is placed on the land depends on the attitude of the lender, because it might be treated as having an agricultural value rather than a housing value. The implications for standard security rather than title are among the reasons why we are keen to progress the proposed legislation as quickly as possible.

Dave Thompson (Skye, Lochaber and Badenoch) (SNP): I thank the minister for his statement and for the speedy resolution of what is a complex and difficult matter. We all live in the real world, in which, unfortunately, things go wrong. We just have to put them right, and that is what the minister and the Government are doing.

Once the legislation has been passed, will the Crofting Commission be in a position to deal quickly with any backlog of decrofting applications and so on that has built up because of the legislative problem? If not, will it be given help to ensure that it can deal with such applications very quickly indeed?

Paul Wheelhouse: That question relates to the point that I made in response to Jamie McGrigor's question. We will certainly do whatever we can to support the crofters who are in that position. The Crofting Commission is responsible for processing applications, which is why we have asked it to consider how it can progress existing decrofting applications from owner-occupier crofters, as far as is possible short of approving them, so that when we get to the point at which—with the will of Parliament—legislation is passed, it is in a position to capitalise on that and minimise any future delay.

Tavish Scott (Shetland Islands) (LD): I thank the minister for his statement.

The Presiding Officer will recall that when Parliament passed the Mental Health (Public Safety and Appeals) (Scotland) Act 1999, the process took 13 days—if I have my numbers correct—from the introduction of the bill to royal assent. I commend that approach to the minister. I appreciate that he must have all-party support; he certainly has the support of the Liberal Democrats.

Will he undertake to work with MSPs—not that many of whom are directly affected by the issue—on a cross-party basis to resolve the situation and fix the problem as quickly as possible, while ensuring that due account is taken of the need for proper scrutiny?

Paul Wheelhouse: Absolutely. I welcome the support of their parties that Jamie McGrigor and Tavish Scott have indicated for what we propose. To facilitate rapid progress of the bill, we need to work together as a Parliament. I undertake to work as closely as possible with members to ensure that we bring matters to a swift conclusion.

Rhoda Grant (Highlands and Islands) (Lab): Will the Government publish its legal advice, so that solicitors can properly advise clients? Will it fund the taking of legal advice? Will it look at paying builders and others in the supply chain who have already undertaken work and incurred costs that can no longer be met by crofters because of the flaw in the legislation?

Paul Wheelhouse: As far as the financial cost to people who are involved in such projects is concerned, I would welcome any evidence that Rhoda Grant can provide so that I can understand the full scale of the issues to which she refers. I would rather not make a statement today on how we could respond to that, but we recognise that it was not the intention to put suppliers in such a position. I will do whatever I can to look sympathetically at their position, but I will need to see the detail on the costs that we might be facing before I give a response.

As far as legal advice is concerned, I am sure that Rhoda Grant knows the constraints that exist in that regard. In progressing the bill, we will try to make it as clear as possible why we think that the legislation is flawed and what we need to do to rectify that. We will try to give as much clarity as possible on the rationale for the action that we propose to take.

Dr Alasdair Allan (Na h-Eileanan an Iar) (SNP): Although only a minority of my crofting constituents are owner-occupiers, the crofting community in general will certainly welcome the minister's intention to close the loophole. He has indicated that the legislative measure that will be taken will be an expedited one. What will he do to seek crofters' views on the bill's content as it makes it way through Parliament?

Paul Wheelhouse: We want to progress the proposed bill as quickly as possible, but as I said in my statement, we want also to provide due opportunity for scrutiny. I am keen that, as well as working with other parties in the Parliament, we work closely with the Scottish Crofting Federation, NFU Scotland and other organisations that have interests. I give Dr Allan an undertaking that if he

has any particular suggestions on how to consult crofters in his constituency, I will be happy to consider them.

Mike MacKenzie (Highlands and Islands) (SNP): I am sure that the minister is aware that concerns have been raised by NFU Scotland that some crofters who have entered into renewable energy agreements might not be able to progress their projects due to the decrofting issue. Can the minister assure Parliament that owner-occupier crofters will not be put at a disadvantage when they are progressing renewable energy projects?

Paul Wheelhouse: Unfortunately, I cannot offer a guarantee about what we will do, as what happens is dependent on the will of Parliament in terms of the legislation's being passed, and on matters that are outwith my control in terms of the renewable energy projects themselves.

As I said in my statement, the Scottish Government is aware of the practical difficulties that are faced by owner-occupiers, many of whom might well have renewable energy projects in mind. I hope that the course of action that I have set out today will rectify the problem as soon as is reasonably possible for all owner-occupier crofters, including those who are engaged in renewable energy projects. However, as I said, the issue is dependent on the will of Parliament, and the timing will depend on discussions with parliamentary authorities.

Jayne Baxter (Mid Scotland and Fife) (Lab): How many of the 60 crofters who are currently waiting for their applications to be approved are tied into renewable energy projects that require decrofting? What are the implications for those fledgling enterprises of the—as the minister put it—inadvertent flaw in the act?

Paul Wheelhouse: I apologise to Jayne Baxter, but I do not have a breakdown of the projects that the 60 applicants are involved with. I undertake to investigate that and will try to get back to her in writing. As the member acknowledged, the flaw is an unintended one. We are taking the necessary steps to put it right, and I hope that we have her support and the support of her party in resolving the situation.

Jean Urquhart (Highlands and Islands) (Ind): I thank the minister for his statement and for bringing the matter to the chamber as speedily as he has done.

I would like to reassure the minister that, from all the communications that I have received, it seems that most people understand that the situation is an unforeseen consequence of the legislation and do not blame the Government of the time.

Most of the questions that I was going to ask concerned timescale and process. Is the minister

in a position to assure people that they can continue to process applications, and that the situation is not frozen at this time? That would reassure people that we are about to simply correct the bill, and not to change it or do anything to impede the progress that is being made.

Paul Wheelhouse: I assure Jean Urquhart that our intention is to focus purely on sorting out the problem. We will do that as soon as we can reasonably agree in Parliament to do so.

I appreciate the point that Jean Urquhart is making about trying to allow more applications to be made. It would be sensible, at this stage, to say that people who are considering making applications should progress their plans, think about what they want to do and discuss their projects—whether they are renewable energy projects or housing projects—with the appropriate people. However, for all sorts of reasons that are connected to standard securities, mortgages and so on, we will have to rectify the problem before it is possible for them to make an application. At this stage, therefore, it would be sensible for people to wait until there is clarity, following the amendment to the law.

High Hedges (Scotland) Bill: Stage 3

14:53

The Presiding Officer (Tricia Marwick): We now move early to the next item of business, which is stage 3 proceedings on the High Hedges (Scotland) Bill.

In dealing with amendments, members should have before them the bill as amended at stage 2, which is SP bill 16A; the marshalled list, which is SP bill 16A-ML; and the list of groupings, which is SP bill 16A-G.

The division bell will sound and proceedings will be suspended for five minutes for the first division of the afternoon. The period of voting for the first division will be 30 seconds. Thereafter, I will allow a voting period of one minute for the first division after the debate.

Members who wish to speak in the debate on any group of amendments should press their request-to-speak buttons as soon as possible after I call the group.

Section 1—Meaning of “high hedge”

The Presiding Officer: Amendment 5, in the name of Anne McTaggart, is in a group on its own.

Anne McTaggart (Glasgow) (Lab): I am pleased to begin the debate by speaking to my amendment 5. The amendment seeks to achieve the same effect as one that I proposed at stage 2 at the Local Government and Regeneration Committee and later withdrew on the strength of an undertaking from the minister that he would reconsider the issue in detail.

Amendment 5 seeks to expand the definition of a high hedge so that the bill will not be unnecessarily restrictive and will be able to offer remedies to those who suffer from high hedge disputes irrespective of the type of hedge or nuisance vegetation concerned.

The current definition of

“a row of 2 or more evergreen or semi-evergreen trees or shrubs”

in section 1(1)(a) is unnecessarily restrictive, and I am concerned that the exclusion of deciduous species will leave those involved in some of the longest-standing disputes without resolutions to the problems that they face.

Therefore, my amendment seeks to amend that provision by removing “evergreen or semi-evergreen” altogether and changing the definition of a high hedge to simply “a row of 2 or more trees or shrubs”. That approach will enable the inclusion

of deciduous species by default, as it will exclude no species of shrub, tree or hedge from the bill. That means that home owners who suffer from high hedge disputes would be more likely to achieve successful resolution to neighbour disputes and would not be restricted from achieving such an outcome as a result of a subtle technicality.

I move amendment 5.

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): As Anne McTaggart knows, we have had a long discussion about this matter. We have been up hill and down dale trying to find a way to get “deciduous” into the bill. The simplest thing is to delete everything else and make the bill refer to shrubs or trees in groups of two or more. It seems frivolous, but it is not really.

I remember saying at stage 1 that I felt an amendment coming on. Anne McTaggart obviously felt it coming on faster. That is not a problem.

In our discussions at stage 2, it was mentioned that, in certain parts of the country, shrubs or trees that we might say are deciduous simply are not. In many parts of Scotland, beech trees retain their leaves. A thick beech hedge can be impenetrable to light and interfere with reasonable living next door.

Sometimes in life, but not often, the solution is simple. Amendment 5 is one such case. I am delighted to support it because, if we leave “evergreen or semi-evergreen” in the bill, mischievous people could simply plant—we know that sometimes it is vindictive—a deciduous hedge that does not do what the seed packet says it is supposed to do and does not drop its leaves at all.

I am happy to support—and I hope that the member in charge and the minister will support—this simple but important amendment.

Sarah Boyack (Lothian) (Lab): I am glad that the amendment has been put in front of us. We debated the issue at stage 1 and again at stage 2. My sense is that we could address it today or wait another five years. It is clear that, if we do not agree to the amendment, some of the deepest conflicts will remain. This is our opportunity to put in place a rigorous framework and ensure that things are done coherently.

I strongly support the amendment that Anne McTaggart has moved. It will not keep everybody happy, because high hedge disputes tend to be of long standing and involve deeply held views, but it will provide a resolution process. That is what the amendment is about and I hope that the minister will be able to support it.

The discussion at stage 1 and stage 2 was good. If the amendment was agreed to, it would strengthen the bill. Of course we would have to review it over time, but it is better to make the change at this stage rather than come back in five years’ time, wishing that we had done it and having to allocate more parliamentary time to the matter.

I support the amendment.

Margaret Mitchell (Central Scotland) (Con): The question of whether we should include deciduous trees in the bill was discussed at length in the committee. Scothedge presented compelling evidence for including them in the bill. In fact, it suggested that one in five cases in which quality of life and enjoyment of property were affected involved deciduous trees and that the definition should therefore be amended to include them in their own right. Equally, concerns were expressed by other organisations.

The issue is complex. However, having considered all the issues at length, the Scottish Conservatives are minded to support Anne McTaggart’s amendment.

15:00

Stuart McMillan (West Scotland) (SNP): I have a couple of comments to make.

I welcome Anne McTaggart’s amendment and am delighted that I dissented at stage 1 to keep the item on the agenda so that we could discuss it further at stage 2 and today.

I have a question that I hope that Anne McTaggart will be able to answer in summing up. Can she provide any information about an increase in cases that might be covered by the amendment so that, when we discuss issues with our constituents after today, we can perhaps provide a bit more clarity on the cases that they have?

Patrick Harvie (Glasgow) (Green): I apologise for coming to the chamber a wee bit late for the debate, given the early start.

The Deputy Presiding Officer (John Scott): That apology is noted.

Patrick Harvie: As a result, I may have missed something in Anne McTaggart’s initial comments. If she has covered this matter already, I hope that she will be able to reprise what she said in her closing remarks.

The Scottish Wildlife Trust and the RSPB have given evidence and argued against the amendment, particularly in relation to the possible impact on biodiversity. A constituent has written:

“Urban biodiversity is increasingly important both for birds and pollinators many of whom are suffering serious

decline. Green corridors through cities can be critical and large trees are essential for that to be viable for many species."

Will Anne McTaggart respond to those criticisms from that constituent and from the two non-governmental organisations that gave evidence?

The Minister for Local Government and Planning (Derek Mackay): Anne McTaggart's amendment 5 reflects the amendment that she lodged at stage 2, and it seeks to widen the bill's definition of a high hedge to include all types of trees and shrubs by removing the words "evergreen or semi-evergreen" from section 1.

At stage 1, I said that the Government had quite a relaxed view of the definition in the bill and that it would listen to what members think is the appropriate way forward, but I made it clear that I would want to consult local government if we were to propose changing the definition substantially.

I therefore wrote to local authorities at stage 2 to seek their views on the potential impact of widening the definition of a high hedge in the ways proposed. I remain grateful to Anne McTaggart for agreeing to withdraw her amendment at stage 2 to enable the Government to consider the responses from local authorities on the proposed change before reaching a decision on the issue.

I have received a total of 18 responses from local authorities. There was a broad mix of views. One council welcomed the amendments and another council agreed that they should be made. A further council had no issues with them, and two councils had no comments. The remaining councils raised objections to them.

Those objections included concerns that the amendments would capture field hedgerows; concerns about the potential impacts on wildlife and the appearances of towns; and concerns that decisions would be more difficult, time consuming and costly to make. Some of those concerns also reflected representations that I have received from the Scottish Wildlife Trust and RSPB Scotland regarding the potential impact on biodiversity of widening the definition.

I have discussed those issues with Mark McDonald and considered how those concerns can best be addressed. I think that the key is to ensure that the Government's guidance to local authorities makes it clear how those considerations should be taken into account in reaching decisions on high hedges, and I am satisfied that the bill will enable that to happen.

Patrick Harvie: Will the minister reflect on the biodiversity arguments as well as those that he has listed? Will biodiversity specifically be considered in guidance?

Derek Mackay: I am sure that that is a reasonable request and that those arguments can be considered when guidance is produced and issued in due course.

I have every confidence that local authorities will use the guidance appropriately and will be able to take proper account of all the concerns in reaching their decisions. I know that the first step in that process was taken on Monday this week, when representatives of local authorities across Scotland attended a meeting with Government officials in Edinburgh to discuss the implementation of the legislation.

I have confirmed to Mark McDonald that the Government would welcome the participation of the Scottish Wildlife Trust and RSPB Scotland in future meetings on the development of the guidance to ensure that their concerns are addressed. I am also content that the bill provides that local authorities can recover the costs associated with high hedges, although I am happy to keep that under review as part of the Government's continuing dialogue with local authorities on the issue.

I can confirm that the Government will support Anne McTaggart's amendment 5.

Mark McDonald (North East Scotland) (SNP): As I have taken the bill forward I have been keen to listen to the views and representations of members, interested organisations, professional bodies and members of the public. I know that many people are happy that the bill's current definition of a high hedge will solve the vast majority of high hedge problems, the typical scenario involving fast-growing conifers.

Although the current definition includes hedges containing deciduous trees and shrubs as long as they do not form a majority of the hedge, I have been conscious that that definition would not deal with problems caused by high hedges that are wholly or mainly composed of deciduous trees or shrubs. Although wholly deciduous high hedges would typically pose less of a problem than coniferous hedges in respect of forming a barrier to light, I want to ensure that the bill solves as many problems as possible. I therefore have sympathy with people whom I have spoken to or who have written to me about problems with deciduous hedges.

For me, the question has been whether the bill can be extended in that respect without causing problems for its operation in practice. Some of the potential problems have been highlighted in correspondence, to which Patrick Harvie alluded and which members will have recently received, from the Scottish Wildlife Trust and RSPB. Their correspondence re-emphasises the points that they raised at stage 1 about the greater wildlife

and biodiversity value of deciduous trees in comparison with conifers, and it underlines their concerns about the potential for a wider definition to have a negative impact on biodiversity.

Those are important issues, which deserve serious consideration, and officials supporting me in relation to the bill met representatives of both those organisations at a very early stage in the bill's development to ensure that my consideration has been fully informed. As a result of that, I am aware that there are already many measures in place to protect wildlife and biodiversity, ranging from legislation such as the Nature Conservation (Scotland) Act 2004 to local authorities' biodiversity action plans. Local authorities will need to take all those protections into account in making decisions regarding high hedges, and I am satisfied that they are capable of doing so.

For that to happen in practice, it is important that the guidance that the Government is to issue on the operation of the legislation provides full details regarding those matters. I have discussed the issue with the minister, and he has agreed that the Scottish Wildlife Trust and RSPB will be invited to contribute to and comment on the guidance before it is published to ensure that it fully addresses their concerns. I have written to both organisations to confirm that, and I hope that they will accept the minister's invitation to participate actively in the development of the guidance.

I have been keen to ensure that the bill provides local authorities with a means of resolving disputes without demanding that they find additional resources to do so. I was pleased that the Minister for Local Government and Planning wrote to local authorities at stage 2 to consult them on the potential impact of widening the bill's definition. I believe that the majority of the issues that local authorities raised about that potential impact can also be addressed through the guidance that will be produced by the Government. I know that local authorities will be fully involved in that, and I welcome the minister's confirmation that the initial meeting to discuss implementation earlier this week was a positive one.

The main issue that cannot be addressed by way of guidance relates to the concerns that were expressed by some authorities about the potential for additional costs to be incurred in dealing with deciduous hedges. I am satisfied, however, that the bill provides that local authorities can charge on a cost recovery basis, and that the flexibility exists for different fees to be charged for different types of case, should local authorities choose to do so. That should enable local authorities to address any issues around additional costs should that prove to be necessary in practice.

Taking all of that into account, I am happy to support Anne McTaggart's amendment 5, and I urge all members to do likewise.

Anne McTaggart: I am pleased that the Minister for Local Government and Planning and Mark McDonald, the member in charge of the bill, have fully considered my amendment and will be supporting an expansion of the definition of a high hedge. I am grateful to have received cross-party support on the issue, and I thank all members who have made thoughtful contributions to the debate.

I recognise the importance of protecting biodiversity in all areas of Scotland, and I am reassured that the bill will not have a negative impact on local wildlife populations. I anticipate that the bill will apply only to a limited number of cases, where all other options have been exhausted. In those circumstances, it is right that we offer home owners a remedy to on-going disputes and an opportunity to remove intrusive trees and hedges from neighbouring properties.

Stuart McMillan asked about the financial impact of an increase in cases following the expansion of the scope of section 1. I reassure members that section 25 provides for local authorities to recover the costs of enforcement. It is clear that expansion of the definition will not vastly increase the financial burden on local government. The campaign group Scothedge says that only 20 per cent of its members are in dispute about a deciduous high hedge, and it anticipates that the increase in workload will be minimal.

I support the bill as a means of resolving community breakdown following disputes over hedges on neighbouring properties. The bill should be fit for purpose, offering a remedy to all who suffer from such issues. That is why I lodged amendment 5 and strongly believe that it will increase the bill's scope and effectiveness.

Amendment 5 agreed to.

Section 31A—Report on operation of Act

The Deputy Presiding Officer: Amendment 2, in the name of Margaret Mitchell, is grouped with amendments 3 and 4.

Margaret Mitchell: Amendment 2 would reduce the maximum period after which a review must be carried out from five years to two years. The bill was amended at stage 2 to ensure that the legislation will be reviewed, but the amendment set an upper level of five years, which is potentially too long. The legislation will have bedded down sufficiently after two years. Particularly now that deciduous trees have been included in the bill's scope, a review could and should be carried out as soon as possible.

Amendment 3 would reduce the period that is allowed for publication of the report on the act's operation from 18 months to 12 months.

Mark McDonald: Does Mrs Mitchell agree that there is nothing in the current drafting of section 31A that would prevent a review from being carried out and a report from being published earlier?

Margaret Mitchell: I concede that, but it might be five years before a review is carried out and six and a half years before the report is published. There is nothing in the bill that would stop all that taking a very long time.

As the bill stands, the report on the operation of the act must be published within 18 months of the end of the review period. The point that I want to emphasise is that, if the review period remains up to five years, it might be six and a half years before a report is published, which is far too long.

Amendment 4 specifies four aspects that would have to be covered in a report on the operation of the act. Reports would not be limited to those areas but would have to include comment on them. The four areas are: how local authorities have exercised their functions under the legislation; what the costs to local authorities have been of implementation; what issues have arisen in relation to the definition of "high hedge"; and whether the act should be amended to include reference to deciduous trees and shrubs.

Given that Anne McTaggart's amendment 5 has been agreed to, the third and fourth aspects are even more important. Deciduous trees are now included by default, but amendment 4 would ensure that consideration is given to whether the legislation should include specific reference to them.

Although it is to be expected that the four aspects that I set out would be covered in a report on the act's operation, amendment 4 would ensure that they are considered.

I move amendment 2.

15:15

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): We very much welcomed the amendment in the name of Christine Grahame and moved by Anne McTaggart—

Christine Grahame: Other way round.

Stewart Stevenson: I am reminded that the amendment was moved by Anne McTaggart and supported by Christine Grahame.

The context of that amendment touches in many ways upon what Margaret Mitchell wishes to do with her amendments. My understanding of the

last part of amendment 4 is that its context is the need for the definition of high hedges to be changed. Now that that is no longer part of what reasonably can be included in amendment 4, the whole rationale for this set of amendments falls.

I note that Margaret Mitchell has offered no specific arguments to support the reduction of the period after which a review must be carried out from five years to two or the reduction in the period that is allowed for publication of the report on the act's operation from 18 months to 12. In a sense those figures are arbitrary, but I would argue in favour of the five-year period because this issue will touch 32 local authorities and, indeed, the two national parks.

The experience in different parts of Scotland will vary. The climate in north-east Scotland is very different from that in the south-west and the issue in the north-east—in so far as it exists at the same level as in the south-west—will be different. It is very unlikely that we will have anything approximating to complete understanding of the effect of the bill within a period of two years.

I will listen carefully to any arguments that say otherwise, but I am not minded to support any of the amendments in this group. The context for them has now been overtaken by events and the argument for the proposed new timescales has not properly been made.

Stuart McMillan: I lodged the original amendment that included section 31A in the bill because I thought that the five-year period would provide for a measured examination of the legislation. As Stewart Stevenson has said, much of the reasoning for the five-year period was to do with the definition of high hedges, because we were still deciding whether that definition should be widened. Stewart Stevenson is correct that events have overtaken this particular group of amendments.

It is also worth considering that, if the amendments in this group are accepted today, members will be looking at the issue of high hedges again towards the end of this session of Parliament. I do not think that the public would want us to do that or thank us for doing that, so I hope that Margaret Mitchell will consider withdrawing her amendments.

Derek Mackay: Amendments 2 and 3 seek to impose a tighter timeframe for the review period set out in section 31A and a tighter timeframe for when a report must be made by a committee or sub-committee of the Parliament. Amendment 4 details what should be scrutinised by that sub-committee.

Amendments 2 and 3 both provide for less time than was agreed at stage 2, when the Local Government and Regeneration Committee agreed

to Stuart McMillan's amendment adding section 31A to the bill. Margaret Mitchell suggests that it might be six and a half years before a report on the review is forthcoming, but that is the absolute maximum time period.

At stage 2, I made the point that a future

"committee would not want to be bound by a timescale that provided no flexibility".—[*Official Report, Local Government and Regeneration Committee*, 6 March 2013; c 1830.]

I reiterate that point. Shortening the maximum review period to two years and the maximum reporting period to one year after that effectively gives no discretion to the future committee to determine its own priorities and set the appropriate timescales.

On amendment 4, post-legislative scrutiny is not necessary for every piece of legislation that we produce. If it was, that would suggest that we did not have confidence in the legislation that we considered and enacted. A mandatory reporting requirement such as that in section 31A needs particular justification. I understand that the Local Government and Regeneration Committee had particular concerns in relation to this bill and that that is why we have section 31A.

The review requirement was agreed by the committee at stage 2 to reflect particular concerns that were being expressed and to provide the comfort of post-legislative scrutiny on the bill. However, I have strong concerns about going further than section 31A goes. It is one thing to require a committee to report by a certain date; it is another to dictate in detail the terms of its report. Members can leave it up to a future committee to determine the content of its report.

For those reasons, I encourage members not to support Margaret Mitchell's amendments.

Mark McDonald: Although I am grateful that Margaret Mitchell did not bring back some of the amendments that she withdrew at stage 2, I am nevertheless disappointed that she has sought to pursue these amendments. They seek to set a shorter timeframe for the review period that is set out in section 31A and for the period for making a report after review. They also seek to detail in the bill what should be scrutinised in that report.

Section 31A was added at stage 2 following a committee recommendation for post-legislative scrutiny, and the committee's unanimous recommendation was a five-year period. That is in the amended bill, and the member should know that the provision introduced by Stuart McMillan's amendment is flexible enough to allow that period to be shortened should a future committee wish it to be. Section 31A provides that the review period shall end five years after the date on which section 2 comes into force

"or on such earlier date as may be determined by the committee or sub-committee making the report".

It is therefore already the case that, if the future committee decides to do so, it may set a shorter timeframe for the review period.

Section 31A also provides that a report

"must be made no later than 18 months after the end of the review period."

Again, that means that the committee or sub-committee can make the report earlier if it so wishes. I am satisfied that section 31A gives a sufficient balance between the certainty that the legislation will be reviewed within five years and the flexibility for the future committee to make a judgment on when best to conduct its business.

Amendment 4 seeks to ensure that any report on the operation of the legislation considers

"the way in which local authorities have exercised their functions",

the costs that they have incurred in exercising those functions,

"any issues arising from the meaning of 'high hedge'"

and whether the definition of a high hedge

"should be amended to apply also to a row of two or more deciduous trees or shrubs."

As we have amended section 1 to allow deciduous trees to be included, the requirement in amendment 4 for the report to assess whether deciduous trees or shrubs should be included does not appear to make sense. For that reason alone, I ask Margaret Mitchell not to move that amendment.

That also demonstrates the danger of trying to detail in legislation how a committee of the Parliament should go about its business. I am perfectly happy to leave the committee to determine for itself what should be in its report rather than impose prescriptive detail in legislation, as is suggested by Margaret Mitchell.

Section 31A is designed to guarantee post-legislative scrutiny of this new piece of legislation, and I am satisfied that it meets that purpose without any amendment. I therefore ask Margaret Mitchell to withdraw amendment 2 and not to move amendments 3 and 4. Otherwise, I urge members to resist amendments 2, 3 and 4.

Margaret Mitchell: The combination of the three amendments—especially amendment 4—ensures that there is clarity that deciduous trees are included rather than, as in the current situation, included merely by default. There is the opportunity to improve the bill in that way by including amendment 4.

Stewart Stevenson appears to ignore the fact that, under the provisions as they currently stand,

the report on a review's findings could be delayed and could take up to six and a half years. I consider that far too long. There is an opportunity—which should be grasped—to ensure that the bill is operating as intended, and I see no reason why any committee scrutinising it would not want to ensure that local authorities have exercised their functions according to the bill. We do not want the bill to sit on the shelf and be ignored. Including the provision to look at how it has operated after three years would ensure that that would not happen.

Mark McDonald: Does Mrs Mitchell agree that amendment 4 would potentially set an alarming precedent of legislation prescribing what a committee of the Parliament should do as part of its workload?

Margaret Mitchell: If the member takes the time to look again at the provisions regarding what must be covered in the report, he will see that the report would not be limited to those areas but would have to include comment on them. I see no reason why those areas should not be commented on, and the amendment gives some guidance on the issues that the committee thought were important in scrutinising the bill. The amendment would ensure that those issues are included in the report, in order to determine whether they have been acted on and whether the bill is working properly when it is implemented.

Stuart McMillan: Will the member give way?

Margaret Mitchell: If the member does not mind, I will make some progress.

Secondly, amendment 4 looks at the cost to local authorities, which is germane—is that preventing them from going ahead and implementing the bill as it should be implemented? It looks at the whole definition and it provides an opportunity to include deciduous trees specifically in the legislation.

Stuart McMillan: I thank Margaret Mitchell for taking an intervention. Does she agree that, if the amendments were passed, the review would take place in this parliamentary session? Does she agree that that is probably not a good use of parliamentary time—to bring forward a bill, pass it and then have a review within the same parliamentary session?

Margaret Mitchell: If this Parliament has one failing, it is lack of scrutiny, and we have just found out why from Stuart McMillan. If anything, passing the amendments would set a precedent that when we pass legislation we look at how it works in practice and that we are serious about legislation and we pass it because we believe in its provisions.

I press amendment 2, and I intend to move amendments 3 and 4.

The Deputy Presiding Officer: The question is, that amendment 2 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division. I suspend the proceedings for five minutes.

15:26

Meeting suspended.

15:31

On resuming—

The Deputy Presiding Officer: We will now proceed with the division on amendment 2.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Brown, Gavin (Lothian) (Con)
 Carlaw, Jackson (West Scotland) (Con)
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
 Davidson, Ruth (Glasgow) (Con)
 Dugdale, Kezia (Lothian) (Lab)
 Fee, Mary (West Scotland) (Lab)
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Griffin, Mark (Central Scotland) (Lab)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Kelly, James (Rutherglen) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Macintosh, Ken (Eastwood) (Lab)
 Malik, Hanzala (Glasgow) (Lab)
 Marra, Jenny (North East Scotland) (Lab)
 Martin, Paul (Glasgow Provan) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McMahan, Michael (Uddingston and Bellshill) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McTaggart, Anne (Glasgow) (Lab)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Murray, Elaine (Dumfriesshire) (Lab)
 Pearson, Graeme (South Scotland) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Smith, Drew (Glasgow) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, George (Paisley) (SNP)
 Adamson, Clare (Central Scotland) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)

Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 Brodie, Chic (South Scotland) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Burgess, Margaret (Cunninghame South) (SNP)
 Campbell, Roderick (North East Fife) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Finnie, John (Highlands and Islands) (Ind)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 Johnstone, Alison (Lothian) (Green)
 Keir, Colin (Edinburgh Western) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lyle, Richard (Central Scotland) (SNP)
 MacAskill, Kenny (Edinburgh Eastern) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 MacKenzie, Mike (Highlands and Islands) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (North East Scotland) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Aileen (South Scotland) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMillan, Stuart (West Scotland) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Salmond, Alex (Aberdeenshire East) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Urquhart, Jean (Highlands and Islands) (Ind)
 Walker, Bill (Dunfermline) (Ind)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Yousaf, Humza (Glasgow) (SNP)

The Deputy Presiding Officer: The result of the division is: For 42, Against 62, Abstentions 0.

Amendment 2 disagreed to.

Amendment 3 moved—[Margaret Mitchell].

The Deputy Presiding Officer: The question is, that amendment 3 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Baxter, Jayne (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Brown, Gavin (Lothian) (Con)
 Carlaw, Jackson (West Scotland) (Con)
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
 Davidson, Ruth (Glasgow) (Con)
 Dugdale, Kezia (Lothian) (Lab)
 Fee, Mary (West Scotland) (Lab)
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Griffin, Mark (Central Scotland) (Lab)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Kelly, James (Rutherglen) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Macintosh, Ken (Eastwood) (Lab)
 Malik, Hanzala (Glasgow) (Lab)
 Marra, Jenny (North East Scotland) (Lab)
 Martin, Paul (Glasgow Provan) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McMahan, Michael (Uddingston and Bellshill) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McTaggart, Anne (Glasgow) (Lab)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Murray, Elaine (Dumfriesshire) (Lab)
 Pearson, Graeme (South Scotland) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Smith, Drew (Glasgow) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Liz (Mid Scotland and Fife) (Con)

Against

Adam, George (Paisley) (SNP)
 Adamson, Clare (Central Scotland) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 Brodie, Chic (South Scotland) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Burgess, Margaret (Cunninghame South) (SNP)
 Campbell, Roderick (North East Fife) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Finnie, John (Highlands and Islands) (Ind)
 FitzPatrick, Joe (Dundee City West) (SNP)

Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 Johnstone, Alison (Lothian) (Green)
 Keir, Colin (Edinburgh Western) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lyle, Richard (Central Scotland) (SNP)
 MacAskill, Kenny (Edinburgh Eastern) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 MacKenzie, Mike (Highlands and Islands) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)
 Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (North East Scotland) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Aileen (South Scotland) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMillan, Stuart (West Scotland) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Salmond, Alex (Aberdeenshire East) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Urquhart, Jean (Highlands and Islands) (Ind)
 Walker, Bill (Dunfermline) (Ind)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wilson, John (Central Scotland) (SNP)
 Yousaf, Humza (Glasgow) (SNP)

The Deputy Presiding Officer: The result of the division is: For 44, Against 62, Abstentions 0.

Amendment 3 disagreed to.

Amendment 4 moved—[Margaret Mitchell].

The Deputy Presiding Officer: The question is, that amendment 4 be agreed to. Are we agreed?

Members: No.

The Deputy Presiding Officer: There will be a division.

For

Baillie, Jackie (Dumbarton) (Lab)
 Baker, Claire (Mid Scotland and Fife) (Lab)
 Baker, Richard (North East Scotland) (Lab)
 Baxter, Jayne (Mid Scotland and Fife) (Lab)
 Beamish, Claudia (South Scotland) (Lab)
 Bibby, Neil (West Scotland) (Lab)
 Boyack, Sarah (Lothian) (Lab)
 Brown, Gavin (Lothian) (Con)
 Carlaw, Jackson (West Scotland) (Con)
 Chisholm, Malcolm (Edinburgh Northern and Leith) (Lab)
 Davidson, Ruth (Glasgow) (Con)

Dugdale, Kezia (Lothian) (Lab)
 Fee, Mary (West Scotland) (Lab)
 Ferguson, Patricia (Glasgow Maryhill and Springburn) (Lab)
 Findlay, Neil (Lothian) (Lab)
 Fraser, Murdo (Mid Scotland and Fife) (Con)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (East Lothian) (Lab)
 Griffin, Mark (Central Scotland) (Lab)
 Henry, Hugh (Renfrewshire South) (Lab)
 Hume, Jim (South Scotland) (LD)
 Johnstone, Alex (North East Scotland) (Con)
 Kelly, James (Rutherglen) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Lamont, John (Ettrick, Roxburgh and Berwickshire) (Con)
 Macintosh, Ken (Eastwood) (Lab)
 Malik, Hanzala (Glasgow) (Lab)
 Marra, Jenny (North East Scotland) (Lab)
 Martin, Paul (Glasgow Provan) (Lab)
 McArthur, Liam (Orkney Islands) (LD)
 McGrigor, Jamie (Highlands and Islands) (Con)
 McMahan, Michael (Uddingston and Bellshill) (Lab)
 McNeil, Duncan (Greenock and Inverclyde) (Lab)
 McTaggart, Anne (Glasgow) (Lab)
 Milne, Nanette (North East Scotland) (Con)
 Mitchell, Margaret (Central Scotland) (Con)
 Murray, Elaine (Dumfriesshire) (Lab)
 Pearson, Graeme (South Scotland) (Lab)
 Pentland, John (Motherwell and Wishaw) (Lab)
 Rennie, Willie (Mid Scotland and Fife) (LD)
 Scanlon, Mary (Highlands and Islands) (Con)
 Smith, Drew (Glasgow) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)

Against

Adam, George (Paisley) (SNP)
 Adamson, Clare (Central Scotland) (SNP)
 Allan, Dr Alasdair (Na h-Eileanan an Iar) (SNP)
 Beattie, Colin (Midlothian North and Musselburgh) (SNP)
 Biagi, Marco (Edinburgh Central) (SNP)
 Brodie, Chic (South Scotland) (SNP)
 Brown, Keith (Clackmannanshire and Dunblane) (SNP)
 Burgess, Margaret (Cunninghame South) (SNP)
 Campbell, Roderick (North East Fife) (SNP)
 Coffey, Willie (Kilmarnock and Irvine Valley) (SNP)
 Constance, Angela (Almond Valley) (SNP)
 Crawford, Bruce (Stirling) (SNP)
 Dey, Graeme (Angus South) (SNP)
 Don, Nigel (Angus North and Mearns) (SNP)
 Doris, Bob (Glasgow) (SNP)
 Eadie, Jim (Edinburgh Southern) (SNP)
 Ewing, Annabelle (Mid Scotland and Fife) (SNP)
 Fabiani, Linda (East Kilbride) (SNP)
 Finnie, John (Highlands and Islands) (Ind)
 FitzPatrick, Joe (Dundee City West) (SNP)
 Gibson, Kenneth (Cunninghame North) (SNP)
 Gibson, Rob (Caithness, Sutherland and Ross) (SNP)
 Grahame, Christine (Midlothian South, Tweeddale and Lauderdale) (SNP)
 Harvie, Patrick (Glasgow) (Green)
 Hepburn, Jamie (Cumbernauld and Kilsyth) (SNP)
 Hyslop, Fiona (Linlithgow) (SNP)
 Ingram, Adam (Carrick, Cumnock and Doon Valley) (SNP)
 Johnstone, Alison (Lothian) (Green)
 Keir, Colin (Edinburgh Western) (SNP)
 Kidd, Bill (Glasgow Anniesland) (SNP)
 Lyle, Richard (Central Scotland) (SNP)
 MacAskill, Kenny (Edinburgh Eastern) (SNP)
 MacDonald, Angus (Falkirk East) (SNP)
 MacDonald, Gordon (Edinburgh Pentlands) (SNP)
 Mackay, Derek (Renfrewshire North and West) (SNP)
 MacKenzie, Mike (Highlands and Islands) (SNP)
 Mason, John (Glasgow Shettleston) (SNP)

Matheson, Michael (Falkirk West) (SNP)
 Maxwell, Stewart (West Scotland) (SNP)
 McAlpine, Joan (South Scotland) (SNP)
 McDonald, Mark (North East Scotland) (SNP)
 McKelvie, Christina (Hamilton, Larkhall and Stonehouse) (SNP)
 McLeod, Aileen (South Scotland) (SNP)
 McLeod, Fiona (Strathkelvin and Bearsden) (SNP)
 McMillan, Stuart (West Scotland) (SNP)
 Paterson, Gil (Clydebank and Milngavie) (SNP)
 Robertson, Dennis (Aberdeenshire West) (SNP)
 Robison, Shona (Dundee City East) (SNP)
 Russell, Michael (Argyll and Bute) (SNP)
 Salmond, Alex (Aberdeenshire East) (SNP)
 Stevenson, Stewart (Banffshire and Buchan Coast) (SNP)
 Stewart, Kevin (Aberdeen Central) (SNP)
 Sturgeon, Nicola (Glasgow Southside) (SNP)
 Swinney, John (Perthshire North) (SNP)
 Thompson, Dave (Skye, Lochaber and Badenoch) (SNP)
 Torrance, David (Kirkcaldy) (SNP)
 Urquhart, Jean (Highlands and Islands) (Ind)
 Walker, Bill (Dunfermline) (Ind)
 Watt, Maureen (Aberdeen South and North Kincardine) (SNP)
 Wheelhouse, Paul (South Scotland) (SNP)
 White, Sandra (Glasgow Kelvin) (SNP)
 Wilson, John (Central Scotland) (SNP)
 Yousaf, Humza (Glasgow) (SNP)

The Deputy Presiding Officer: The result of the division is: For 43, Against 63, Abstentions 0.

Amendment 4 disagreed to.

The Deputy Presiding Officer: That ends consideration of amendments.

High Hedges (Scotland) Bill: Stage 3

The Deputy Presiding Officer (John Scott): The next item of business is a debate on motion S4M-06038, in the name of Mark McDonald, on the High Hedges (Scotland) Bill.

Before I invite Mark McDonald to open the debate, I call the Cabinet Secretary for Finance Employment and Sustainable Growth, John Swinney, to signify Crown consent to the bill.

The Cabinet Secretary for Finance, Employment and Sustainable Growth (John Swinney): For the purposes of rule 9A.13 of the standing orders, I advise Parliament that, having been informed of the purport of the High Hedges (Scotland) Bill, Her Majesty has consented to place her prerogative and interests in so far as they are affected by the bill at the disposal of the Parliament for the purpose of the bill.

The Deputy Presiding Officer: Many thanks. We can now begin the debate. I call Mr McDonald, if he is ready.

15:35

Mark McDonald (North East Scotland) (SNP): I am delighted to open the debate, Presiding Officer.

I am very pleased that Parliament has before it the High Hedges (Scotland) Bill, and I am delighted that we have this opportunity to put this new law in place to benefit people in Scotland.

I am glad that there has been widespread support across the chamber for the bill. That much was apparent from early in the process, even before I introduced the bill, when my final proposal obtained cross-party support. I am grateful for the on-going interest, support and encouragement that I have received from fellow members—as well as for the casework, which has helped to shape the bill. The legislation will meet a clear need and desire expressed by people in Scotland in their engagement with Parliament on the issue.

I have found that taking forward the legislation has been very rewarding, but I am conscious that this is not the first time that Parliament has considered high hedges and that legislation on the matter has a long history. Indeed, proposals for member's bills on the issue were launched on three previous occasions, without those ever proceeding to be considered as bills. I am therefore pleased to be completing a piece of unfinished business.

The then Scottish Executive consulted on the issue in 2000, although the number of responses was relatively small in comparison with the

number received in response to a similar consultation in England and Wales the previous year.

The more recent consultation undertaken by the Scottish Government in 2009 attracted in excess of 600 responses, of which 93 per cent were from private individuals, the majority of whom described themselves as being “in dispute”. Not surprisingly, a significant majority of respondents—77 per cent—favoured a legal solution to the problem, and more than two thirds favoured replication of the English and Welsh legislation. I am grateful to Fergus Ewing, who had already done a substantial amount of work on the issue when he had ministerial responsibility for the area, not least that of leading the work behind the 2009 consultation. That gave me a strong basis on which to build my own proposals.

Both I and the officials working with me have met many people and organisations in the course of preparing for the bill and taking it forward, including the Scottish tree officers group, the Convention of Scottish Local Authorities, the Scottish Court Service, the Scottish Mediation Network and the Woodland Trust. I also visited South Tyneside Council and Hartlepool Borough Council for a first-hand account of how similar legislation works in England, and met with the campaigning organisation Scothedge a number of times. The officials supporting me have met a further range of organisations, including the Scottish Wildlife Trust, RSPB Scotland, Scottish Natural Heritage and the directorate for planning and environmental appeals.

We heard earlier that the Scottish Wildlife Trust and RSPB Scotland have recently written to MSPs to express their concerns about the inclusion of deciduous shrubs and trees in the bill, and I have acknowledged their concerns about the potential impact on wildlife and biodiversity. As I said earlier, I am satisfied that the guidance to be provided by the Government on the bill can address those issues and ensure that those potentially negative impacts do not arise in practice. I am therefore grateful that the minister has agreed that both the Scottish Wildlife Trust and the RSPB will be invited to participate in the drafting of guidance on the bill. I am happy, too, that Scottish Natural Heritage has already indicated a willingness to participate in developing the guidance, as it, too, has invaluable expertise to share. I am also grateful to the minister for ensuring that local authorities have been consulted on the potential impact of widening the bill’s definition of a high hedge. I know that many of the issues raised in response to that were considered at the Government’s meeting with local authorities on Monday to discuss implementation.

One of those issues is the impact of the bill on woodland or forests, which Stewart Stevenson raised at stage 1. The short answer is that this is a bill about high hedges, so it is not designed to impact on woodland and forests, which as a general rule are not planted as hedges. I confirm that the Forestry Commission has been consulted during the bill’s progress, and I am sure that the issue can be clarified in guidance to practitioners.

I now turn to the bill itself. It has become clear to me—I am sure that many members across the chamber will recognise this—that there are a number of apparently intractable disputes across Scotland that revolve around the presence of a high hedge, with no easy resolution in sight and no apparent willingness on the part of neighbours to resolve those disputes amicably. In my view, the bill is the best way in which to achieve a practical and sustainable resolution to a long-standing problem. I will now take a short time to explain the bill.

The bill enables those who consider themselves to be adversely affected by the height of a high hedge to apply to their local authority for a high hedge notice. It gives those people an opportunity to put their arguments to an independent body and to have their voices heard, which is an opportunity that they do not have at present. It is important to note that an application must specify all the steps that have been taken to resolve the dispute prior to the application, and local authorities will be able to dismiss applications if that has not been done. The local authority will decide whether the hedge is adversely affecting the reasonable enjoyment of the applicant’s property. In doing so, it will take account of the views of the owner of the hedge and all relevant factors, including the amenity of the wider area.

The bill’s definition of a high hedge has been the subject of much discussion. The bill as introduced mirrors the definition that is used elsewhere. It defines a high hedge as a hedge—that word is important in making it clear that the bill will not usually impact on forests or woodland—that

“is formed wholly or mainly by a row of 2 or more evergreen or semi-evergreen trees or shrubs”,

that

“rises to a height of more than 2 metres”

and that

“forms a barrier to light.”

The amendment that the Parliament has agreed to today widens the definition to include deciduous trees and shrubs by removing the restriction.

The bill gives local authorities powers to make and enforce decisions about high hedges. They will be able to assess situations and make independent decisions on whether high hedges

are affecting the reasonable enjoyment of properties. It is fair to point out, however, that the local authority's decision will seek to strike a balance between the competing rights of neighbours, and the representations of both parties will be taken into account by the local authority. It must make a decision having taken all the circumstances into account, including the amenity of the wider neighbourhood, and if it finds that a high hedge is having an adverse effect, it must advise whether any action should be taken.

Where the local authority decides that action should be taken, it will issue a high hedge notice. The notice will set out what initial action is required to be taken to address the adverse effect and what preventative action is required to prevent the adverse effect from recurring. The high hedge notice will also set out the timeframe within which action should be taken.

The bill provides a right of appeal to the Scottish ministers against decisions by local authorities. In practice, appeals will be heard by the directorate for planning and environmental appeals, and it will issue full details of how that process will work in practice in due course.

If an owner of a high hedge does not take the action that is specified in the high hedge notice, the local authority will have the power to enter the property and undertake the work itself. It will then be able to recover the costs of doing so from the hedge owner. In summary, the bill provides a mechanism for resolution.

Recourse to the local authority is, however, to be used as a last resort. Primary responsibility for resolving disputes over high hedges should lie with the individuals concerned in the first instance. As I said, the bill requires that applicants for a high hedge notice must have taken all reasonable steps to resolve the matter before they make an application to the local authority.

The success of that approach is borne out by experience elsewhere. In England and Wales, what started off as a large number of inquiries became a number of formal applications, which quickly became a small number of formal complaints and almost no instances of enforcement action. It is important to emphasise that the application to the local authority should be the last resort, not the first.

The bill also provides for local authorities to charge for high hedge notice applications. In difficult financial times such as these, I consider it important to enable local authorities to recover the costs of making a decision. However, I made it clear at the outset that I do not intend the process to be a revenue raiser for local authorities, and the bill reflects my view. Fees must not exceed an amount that local authorities consider represents

the reasonable costs of deciding on an application. Should a local authority undertake work in relation to a high hedge, it will be able to recover any costs in that regard as well.

As I said, it appears from the figures that we gathered in respect of England and Wales that a large number of initial inquiries became a small number of formal complaints and even fewer cases where action by local authorities was necessary. That experience shows that simply creating a formal mechanism for resolving disputes encourages the resolution of most cases without the need for local authority involvement. At stage 1, Scothedge said that, with the passing of the bill, 92 per cent of the cases of which it is aware will resolve themselves. Local authorities can therefore have some reassurance that the costs associated with the process should not be too high and that the number of cases involved should be manageable.

I was interested to hear all the evidence at stage 1. I took the opportunity to attend all the committee's evidence-taking sessions. There was a lot of useful evidence from a number of organisations including Scothedge, the Woodland Trust Scotland, RSPB Scotland, the Scottish Wildlife Trust and Bell Ingram, and from officials from the Isle of Man, the Scottish tree officers group and Dundee City Council. We heard evidence that indicated that similar legislation is in daily use elsewhere and that there is no reason why the approach could not work in Scotland. The evidence also indicated that the existence of the legislation, rather than necessarily its enforcement, will resolve many of the problems associated with high hedges.

Much of the discussion at stage 2 centred on the meaning and definition of a high hedge. That discussion continued today, and I was pleased to support Anne McTaggart's amendment this afternoon. That amendment will widen the scope of the bill to ensure that it can deal with all hedges that are impacting adversely on the reasonable enjoyment of domestic property.

At stage 2, members were also interested in the fee provisions, which I have described. I emphasise that the bill provides the flexibility for local authorities to set their own fee levels in accordance with local circumstances.

A significant collective effort has got us to this stage, and for those who will implement the bill, the hard work is just beginning. I am aware that the Government held an implementation meeting on Monday in Edinburgh with local authority representatives and others. The meeting considered crucial matters, such as when the bill will be implemented, when local authorities will be ready to work with the provisions, what guidance for members of the public might contain, how

members of the public might meet pre-application requirements, approach neighbours and make complaints and what the process would be thereafter. The meeting also considered what guidance for practitioners might contain, as it might also address the factors that a local authority might consider when making decisions.

The intention is that the guidance will be developed over the next six months or so to enable local authorities to make the necessary financial and organisational changes to implement the new powers in the next financial year. I look forward to the legislation being fully in place and used effectively.

I am therefore pleased—indeed, delighted—to move,

That the Parliament agrees that the High Hedges (Scotland) Bill be passed.

15:46

The Minister for Local Government and Planning (Derek Mackay): I am pleased to be here for the debate. A legislative framework to tackle high hedges was a manifesto commitment of this Government, and I am pleased to see it come to fruition.

Mark McDonald has outlined the parliamentary history of the issue, which I do not intend to rehearse. As he said, legislation on high hedges has been a long time coming, which highlights just how difficult the issue has been to resolve.

I thank Mark McDonald for introducing the bill. It was a significant undertaking that has nevertheless made speedy progress through Parliament. In February 2012, he explained to the Local Government and Regeneration Committee his reasons for not consulting on his proposal to introduce a bill, and here we are, slightly more than a year later, debating the bill at stage 3. Of course, that work could not have progressed so quickly without the work that my colleague Fergus Ewing undertook when the issue came under his portfolio, which was a strong foundation upon which Mark McDonald could build the bill.

I, too, offer my thanks to the Local Government and Regeneration Committee. I gave the Government's views on the bill to the committee during its evidence session on 19 December, and followed the previous evidence sessions with great interest. I also thank the Finance Committee and the Subordinate Legislation Committee. The level of detailed consideration given by all committees of the Parliament ensures that legislation is as good as it can be.

The Government has supported the bill consistently during its progress through Parliament. We recognised that Scotland was the

only part of the United Kingdom without high hedges legislation. Scotland has benefited in learning from other parts of the UK, and I hope that members will agree that we have before us a well-thought-out bill that will address high hedge problems across Scotland.

As well as giving evidence to the committee during its stage 1 consideration of the bill, I was happy to participate at stage 2, during which amendments that sought to widen the scope of the bill were considered. At stage 1, I said:

“The Government has taken quite a relaxed view on that ... we will listen to what Parliament thinks is the appropriate way forward.”—[*Official Report*, 5 February 2013; c 16391]

At stage 2, I advised that I had written to local authorities to seek their views on the potential impacts of widening the definition of a high hedge in the ways proposed. Earlier this afternoon, I outlined the responses that I received from local authorities in respect of an amendment at stage 2. I also advised that my officials, who have been supporting Mark McDonald, will work with local authorities to produce guidance that will address a number of their concerns, and I am satisfied that the flexibility within the bill will enable local authorities to address those and other concerns.

The first step in that work with local authorities took place earlier this week when representatives from a number of local authorities attended an implementation meeting with officials. I was pleased that representatives from Scottish Natural Heritage and the directorate for planning and environmental appeals also attended to provide their input. It will be helpful for members if I discuss some of the detail of that meeting. It was a positive meeting, at which those who attended engaged openly with my officials on how best to make the bill work as we move forward towards implementation.

Of particular interest was the guidance that will be produced to accompany the bill and what it needs to cover. As Mark McDonald suggested, there will be guidance for members of the public and for practitioners. Guidance for members of the public might contain examples of the pre-application requirements that local authorities might consider, how people might approach a neighbour who owns the high hedge, and what the process would be thereafter, should their approach have been unsuccessful. It would also detail how to make an application or appeal a decision.

There was also a discussion about guidance for practitioners and what that might contain. Issues that might be addressed include the factors that a local authority might consider in making its decision, whom it might consult in certain circumstances and the impact of all those things on fees. I was pleased that the meeting was also

attended by an official from the directorate for planning and environmental appeals, who was able to explain to those present the circumstances in which appeals could be made. The official also covered how appeals might work—for example, what advice might be required by those hearing the appeals and how that would be addressed.

Those at the meeting also discussed the committee's recommendation in its stage 1 report that the Scottish Government

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

Although the initial views of the local authorities my officials met on Monday suggested no great desire for the provision of such a post, they indicated their willingness to give the recommendation further consideration. It was also pointed out that it would be important to seek the views of the councils that were not represented at that meeting.

The committee also 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 am happy to confirm that, as I indicated in my response to the Local Government and Regeneration Committee at stage 1, my officials will ensure that the issue is considered in the review of Scottish planning policy.

SPP sets out ministers' priorities for how we plan for Scotland, while the national planning framework sets out where nationally important developments should take place. The existing SPP was published in 2010. In September 2012, I announced a review of it, highlighting three key drivers: bringing the policy up to date; sharpening the focus on planning's role in supporting sustainable economic growth; and emphasising the importance of place. The review has been informed by a period of pre-draft engagement, in which stakeholders' views have been sought on how the existing SPP works in practice and on any priorities for change.

With regard to place, we do not propose to change the policy, but the intention is to draw in existing policy from “Designing Places” and to set place-making at the heart of planning policy. The draft SPP will stress that, in order to create successful places, we must consider the relationships between buildings, natural resources, travel and other infrastructure. A draft will shortly be published for consultation and we expect the revised SPP to be in place by the end of 2013. It is also worth noting that the existing SPP contains policy on protection of woodland, the very point made by the committee in its consideration of the bill.

I am pleased to continue to offer the Government's support beyond the bill process itself and into the implementation phases; indeed, as members have heard, that work has already begun. The meeting that my officials had on Monday with representatives from local authorities was simply the first step. That on-going and valuable engagement with councils will ensure that the bill is implemented as intended and will provide local authorities with tools to help them. Any such tools need to be practical and workable. Given that Parliament has now agreed that the bill should be broadened, that implementation work and the provision of guidance will be particularly important.

I welcome the bill and encourage members to support it at decision time.

The Deputy Presiding Officer: I call Sarah Boyack. You have a fairly exact five minutes, Ms Boyack.

15:53

Sarah Boyack (Lothian) (Lab): I take the hint, Presiding Officer.

Like other colleagues, I point out that this legislation has been a long time coming and builds on the work of many people; indeed, my former colleague Scott Barrie had two goes at promoting a bill on this issue in the Parliament. For all the reasons that others highlighted in the earlier debate on amendments, it is important that we get the detail of the bill right.

First, I thank Mark McDonald for picking up this issue and steering it to today's concluding debate. I also thank the committee clerks, everyone who submitted evidence to the committee, MSPs more widely in considering the bill and the committee for its work in scrutinising it.

The bill's crucial purpose is to put in place a process to resolve neighbour disputes about high hedges that people believe are interfering with the reasonable enjoyment of their domestic property. The process that will now be in place to enable applications to be made to the relevant local authority and to give it the power to settle disputes between neighbours about high hedges is a step welcomed by the many people who find their lives disrupted by the fact that they cannot get a resolution on a matter that is preventing them from enjoying their property.

The bill does not mean that everybody will be happy at the end of the day, because the process is about dispute resolution. The onus will be on the local authority to take everybody's views into account and consider whether a hedge is having an adverse effect. The bill gives a local authority the opportunity to issue a high hedge notice to

require the hedge owner to remedy the problem and prevent it from recurring. There is also a big stick at the end of the process to enable the authority to do the work itself and recover the costs. I share Mark McDonald's hope that the new framework will concentrate minds to the extent that some of the long-standing disputes will be resolved through negotiation, without having to go through the process set out in the bill. Mark McDonald outlined the fact that the provisions are not free—that will also concentrate many people's minds.

Although there is a relatively small number of disputes, a key part of the bill is that it will offer the prospect of dispute resolution and allow people to move on. Anyone who has taken representations or evidence from a constituent who is involved in such a dispute will be aware that it dominates their lives and prevents them from moving on. I hope that the bill will be of use to many of those people.

The fact that there is a right of appeal to the Scottish ministers against the decision of an authority on any high hedge notice makes sense and provides an effective check and balance to the system.

Labour signed up to the principles of the bill when it was introduced but, at the stage 1 debate, we argued for a close look at the detail of the bill, especially the definition. We were concerned that some of the most difficult disputes would not be addressed by the bill and that it would be years before the Parliament was likely to return to the issue. Our discussion on the amendments showed that there is no appetite among the majority of members in the chamber to come back to the bill early doors. I am therefore particularly glad that Mark McDonald and the minister were prepared to consider Anne McTaggart's amendment and to work with her to agree wording that they could support during today's stage 3 consideration.

The campaign group Scothedge conducted a survey in 2009 that concluded that almost one fifth of respondents suffered from the impact of deciduous hedges, such as beech or rows of deciduous trees, so I am very glad that we have been able to strengthen the bill. The worry that there would be a huge number of high hedge complaints and cases following the introduction of the legislation in England has not transpired. Although the bill must be monitored, adding the tree preservation order to the new process gives us a robust system all round.

The representations from the SWT and RSPB Scotland provide a timely reminder that the local Government staff who are responsible for implementing the dispute resolution procedure will need clear guidance from the Scottish Government on survey work and clear policy

criteria so that a view can be reached on the issues that they will have to act on locally.

I very much welcome the Minister for Local Government and Planning's January letter, which he followed up with useful information about the meeting that was held on Monday. I am glad that the SWT and RSPB Scotland will be involved in the process, because getting all the stakeholders round the table will be crucial to the success of the bill.

We look forward to voting in favour of the bill.

15:58

Margaret Mitchell (Central Scotland) (Con):

Once again, I congratulate Mark McDonald on bringing the bill to the Parliament. I also pay tribute to members past and present who have kept the issue alive in the Parliament over the years. I thank the Local Government and Regeneration Committee clerks for their support at all stages of the committee's consideration of the bill. In particular, I thank the various witnesses whose evidence has aided the committee and helped it to shape the bill.

High hedges are an emotive issue that has over the past decade been debated frequently in the Parliament—not least, as the Local Government and Regeneration Committee heard in its evidence, because of the negative impact that such hedges can have on the health and wellbeing of both parties involved in any disputes.

The bill offers a solution to the issue, once all other reasonable avenues for settling a dispute have been explored. As a result of today's stage 3 consideration and Anne McTaggart's amendment, the bill will allow a high hedge notice to be issued against the owner of a property when a hedge is formed wholly or mainly by a row of two or more trees or shrubs, rises to a height of more than 2m above the ground and forms a barrier to light. If the property owner does not subsequently take any measures to reduce the height of the hedge, the bill makes provision for the local authority to take action to reduce its height.

It is arguable that the biggest topic of debate during the bill's consideration has been whether to include single deciduous trees. Although deciduous trees are not specifically referred to in the bill, they are now covered. Cognisance has been taken of the compelling evidence from Scothedge that suggested that one in five cases in which quality of life and enjoyment of property were affected involved a deciduous tree and that, therefore, the definition in the bill should be amended to include deciduous trees in their own right.

That will be a disappointment to the Scottish Wildlife Trust, which argued against the inclusion of deciduous trees because of the detrimental impact that it thought that that would have on urban wildlife and biodiversity, the potential for trees in wildlife reserves adjacent to housing to be affected and the economic cost. I hope that it will be possible to prove that those concerns have not been realised.

Mark McDonald: I seek clarification, because I think that I heard the member suggest that single deciduous trees would be captured by the change of definition. That is not what will happen as a result of the change of definition.

The Deputy Presiding Officer: I can give you back the time for taking an intervention, Ms Mitchell.

Margaret Mitchell: I actually said that although there had been a lot of discussion about single deciduous trees, deciduous trees—but not single deciduous trees—were now included. I concede that I might not have been as clear as I could have been.

Earlier, I moved amendment 2, which would have reduced the review period from five years to two years, and amendment 3, which would have reduced the period in which a report must be produced from 18 months to 12 months. Those amendments would have meant that it would have taken three years rather than a possible six and a half years before the issue was revisited. I still believe that requiring an assessment to be carried out no later than three years after the bill's introduction would have been preferable, given the anxiety that high hedges can cause.

Crucially, my amendment 4 would have included in the bill provision to ensure an assessment of whether deciduous trees should be referred to specifically in the bill, rather than being covered by default, as is presently the case. In addition—and perhaps more important—it would have covered any issues that arose from the meaning of “high hedge”, as the bill is currently drafted. Sadly, my amendments were not agreed to, so it could take up to six and a half years for an assessment to be undertaken of how the bill is working in practice.

In my winding-up speech, I will highlight some of the other aspects of the bill in more detail. For now, suffice it to say that I am very pleased to see the bill completing the final stage of the legislative process.

16:03

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): As I am sure that other members will do, I congratulate Mark McDonald on bringing home this important bill. To that, I add my

congratulations to Scothedge. We are employed to legislate, but the volunteers in Scothedge who have campaigned on high hedges over a long period exemplify the strength and depth that there is in Scotland, beyond the small number of people who are in the Parliament, to engage in the political process in a way that ultimately delivers for the public good. I commend the members of Scothedge, whose campaign is an excellent example of a voluntary campaign and who have persisted over a long period to see their objective delivered.

I say that as someone who, as a north-east MSP, has never been approached on the subject of high hedges during my time in the Parliament. For climatic reasons and because of the relatively large areas of land on which houses are built in a rural area, high hedges have not—to my knowledge—been as much of an issue in my area as they have been in other parts of Scotland. However, through the work of Scothedge and others, we have heard compelling evidence about the utter misery that is caused to many people across Scotland by the issue that we are discussing.

I was delighted to hear Mark McDonald say that a consultation response from the Forestry Commission Scotland has identified one of the things that I previously raised in relation to urban woodland as an issue that can be addressed.

As a member of the committee that dealt with this issue, I should remind members of some of the things that that committee said. Paragraph 67 of our stage 1 report remains as true now, in relation to the amended bill, as it was when we wrote it. It says:

“The Committee believes it is desirable that the application of the Bill seeks to resolve as many disputes as possible, but considers it unrealistic to expect any single piece of legislation in this area to resolve 100% of cases. This Bill is the simplest way of addressing the majority of cases relating to disputes over high hedges.”

Of course, following the extension of the definition, we might say that it will address the overwhelming majority of cases. Apart from that, I think that that comment stands the test of time.

One or two things have emerged during the passage of the bill that I think are useful. We have clarified that it is perfectly possible for action to be taken against a local authority, even though local authorities are responsible for guarding the principles and practices that are encompassed in the bill. We included national parks—I am delighted that Mark McDonald saw fit to lodge amendments on that. Further, we learned many things of which we were previously ignorant. I congratulate Christine Grahame on the horticultural explanations that the committee received. I have now heard of Russian vine and

clematis montana rubens. I remain relatively ignorant about what any of that means, but I am sure that members of the committee who are more engaged in these matters might be better informed.

I have flicked through the stage 1 report while sitting in the chamber this afternoon, and I believe that almost every recommendation that the committee made appears to have been addressed, which is unusual—I assume that Kevin Stewart will touch on that when he speaks. It is a model of good parliamentary process, and I commend the bill to all my colleagues.

16:07

Anne McTaggart (Glasgow) (Lab): As a member of the Local Government and Regeneration Committee, I welcome the opportunity to scrutinise once again the proposals of the High Hedges (Scotland) Bill. I fully support efforts to address the problem of neighbour disputes that result from overgrown vegetation and agree that local authorities should have the authority to intervene in those cases.

My amendment, which was supported by Christine Grahame, has sought to ensure that the bill applies as widely as is reasonable, and that no individual is excluded from achieving a resolution to a problem arising from intrusive hedging as a result of a subtle technicality that is contained within the provisions.

It is our responsibility, as parliamentarians, to ensure that the measures that are contained within the bill are fit for purpose, and to fully address the concerns that communities might have about local wildlife populations and biodiversity.

The current provisions in the bill allow local authorities to exercise discretion in their consideration of applications and to take into account the wider effects of a removal order on the environment. I do not believe that the expansion of the definition of a high hedge will compromise the ability of local government to protect areas of local and regional significance. Further, I anticipate that the addition of deciduous species to the definition of a high hedge will be of minimal impact in practice.

Garden trees represent around only 1 per cent of Scotland's woodland assets and single trees will not be covered by the provisions of the bill. Overall, I believe that that represents a pragmatic approach to dealing with a wide range of local concerns while delivering a remedy to those families who have suffered disputes with neighbouring properties for too long.

We must acknowledge that high hedges not only act as a barrier to light, but lower property

values, obstruct boiler flues and block television cables. Overgrown vegetation can cause a variety of problems that make life difficult for the adjacent properties and encourage community breakdown.

I support the aims of the bill and believe that it is right that families that, for too long, have been involved in unsuccessful negotiations will be provided with a resolution to achieve an end to their neighbour disputes.

I thank my colleagues for their cross-party support. I also thank Mark McDonald, the member in charge of the bill, and Derek Mackay, the Minister for Local Government and Planning, for their support. I also thank the clerks of the Local Government and Regeneration Committee for enabling the bill to be agreed to—I hope—at 5 pm tonight.

The Deputy Presiding Officer (Elaine Smith): I advise members that there is a little bit of time in hand at the moment—not much, but a bit—for interventions.

16:11

Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP): I am usually told that there is no time in hand. This is a first.

All credit to Mark McDonald, because it is not as easy as it looks to pilot a member's bill. I have done it myself. Colleagues on the committee can be quite tough on you. He has had enough jokes about a privet member's bill and cutting it down to size, so he will be glad to know that there are no horrible puns coming in my speech.

Stewart Stevenson: Apart from those.

Christine Grahame: Apart from those that I have trailed.

I also pay credit to others who have gone before. Scott Barrie worked for a long time on the issue, as did Fergus Ewing as Minister for Community Safety when, if I recall rightly, he tried to pursue it under nuisance legislation. It was difficult to find a way to frame the legislation.

It was very important to keep the definition to two or more shrubs or trees. As I said at stage 1—I will repeat it—we know an elephant when we see one and we know a hedge when we see one, but just try to define an elephant. It took a long time to agree how to define a hedge.

It was tempting to move into the arena of single trees, but that would have been a big mistake. It would have opened up—if I may use a metaphor that does not really fit—a whole can of worms, although I appreciate that single trees can raise issues and, indeed, cause many disputes in our neighbourhoods.

At stage 2 I said that the problem has been exacerbated by higher-density housing, together with our expectations about the use of our gardens. My home, which is 100 years old, once had only clothes poles in the garden for drying lots of clothes every day, pre-washing machines and tumble dryers. By the way, this is not the story of my life; the clothes poles predate me. The only deviation at one point was chickens during the second world war. I hasten to add that that was also before my time. What do we do now? We have conservatories, patios, decking and barbecues. We go to B&Q or Dobbies Garden Centres and some people buy and plant leylandii. The garden is called our outdoor living space. And why not?

Of course, the genesis of the bill was the growth—quite literally—of the leylandii, which some people do not appreciate when they plant it. Undoubtedly, it is a bit of a monster if it is allowed to grow unfettered. Members who missed or, worse still, heard my perorations on plants, shrubs and trees at stage 2 in the Local Government and Regeneration Committee—Stewart Stevenson referred to them—will be pleased to know that I do not intend to reprise them. However, if they are really interested, they will find them in the Local Government and Regeneration Committee *Official Report* of 6 March 2013. It is quite the “Beechgrove Garden”.

My serious point was to emphasise the fact that deciduous trees and shrubs do not always drop their leaves. I was delighted to second Anne McTaggart’s amendment 5, as per my earlier remarks.

The bill is heavy-handed in places with notices and threats. Perhaps it will be enough to send the high hedges police van with big labelling on the outside of it to get the neighbour to do something. However, I hope that the passage of the bill will be a deterrent or, even better, an education to people. I hope that it will get them to think about their neighbours and get the balance right in the enjoyment of their own and their neighbours’ gardens in as much as they both seek a modicum of privacy.

I congratulate Mark McDonald and Scott Barrie. Most of all, I congratulate the campaigners from Scothedge. I say to campaigners outside the Parliament that it may take time to get there but, sometimes, we do get there and we do it in a collegiate and cross-party fashion.

16:14

Stuart McMillan (West Scotland) (SNP): I welcome the fact that the bill has got to this stage, and add my congratulations to Mark McDonald

MSP and to the Scottish Government on assisting him in bringing it to the Parliament.

Agreeing to the bill at 5 pm will be the start of the process. It will help many of our constituents across the country. From correspondence that I have received over nearly six years and from what constituents I have met have said, I know that high hedges blight the lives of many people. As a consequence, they also hamper relationships between neighbours. Christine Grahame touched on that. I am fully aware that the bill will not fix every situation—we were very much aware of that on the committee—but I am sure that the extension of the definition of a high hedge that has been agreed today will help many more households and constituents across the country.

Those of us who are members of the Local Government and Regeneration Committee are fully aware that the main issue relating to the bill was the definition of a high hedge. We have heard today about the process that the Scottish Government undertook after stage 2 to further consult the local authorities. That highlights again the fully consultative approach and process that there have been thus far, going back to when Scott Barrie initially tried to introduce a bill to where we are now. I welcome the fact that my colleagues on the committee did not press some of their amendments at stage 2 to allow the Scottish Government to undertake that piece of work.

Stewart Stevenson: Does the member agree that the stage 2 process through which we put our bills can often provide a very useful way of testing the resolve of the promoter of a bill; of exploring issues; and of giving the Government and the member in charge of a bill the opportunity to consider what amendments might make sense at a later date and to re-engage with people who may be adversely or beneficially affected by the bill? Does he agree that that is an attribute of the Parliament that we should all very much welcome?

The Deputy Presiding Officer: Stuart McMillan can have the time for that intervention back.

Stuart McMillan: Thank you.

I absolutely and whole-heartedly agree with Stewart Stevenson’s comments on the parliamentary process. I am sure that there is a debate to be had on that process and that the convener of the relevant committee will want to consider Stewart Stevenson’s comments. The stage 2 process in which we considered the High Hedges (Scotland) Bill was extremely helpful and useful.

Another issue that has been raised is the review. I thank Mark McDonald for accepting my amendment to have a review within five years of the act coming into force. I also thank colleagues

on the committee for accepting my amendment at stage 2. That amendment represented a measured approach to ensure that the legislation will be scrutinised in the future and does not fall off the political radar. Doing that within five years rather than sooner—we discussed that earlier today—allows for a reasonable period of time to let the act be introduced, to settle and to be fully utilised. I am therefore delighted that the shorter timeframe that was suggested in the amendments that were discussed earlier will not be pursued. Local authorities need to have the time to ensure that the act is working.

As all the members of the Local Government and Regeneration Committee know, we heard evidence that there will be a large increase in the demand that is placed on local authorities in the first couple of years of the legislation being passed. That happened elsewhere in these islands, but things then settled down. It was not wise to press the idea of having a review in the midst of potentially high demand on local authorities. I am therefore glad that members disagreed to amendments 2, 3 and 4.

To conclude, the bill is welcome. It will aid many of our constituents across the country. As a result, I certainly look forward to voting for it at 5 o'clock.

16:19

Jackie Baillie (Dumbarton) (Lab): I very much welcome the opportunity to contribute at stage 3 of the bill. Like many in the Parliament, I have been supportive of the bill's intentions for much longer than I care to remember.

I acknowledge the effort that goes into taking a member's bill through the Parliament. I have done it before, so I know the enormity of the task. It is not like being a minister, surrounded by an army of civil servants drafting and redrafting the bill, answering every question about whether the word should be "and", "if" or "but" and providing copious explanatory notes and financial memoranda, with briefing notes coming out of your ears—and indeed the general hand holding that ministers sometimes need.

I know that Mark McDonald had assistance from the Scottish Government, which would have made life significantly easier, but that does not diminish the amount of work that he will have had to put in as the member in charge. On that, I congratulate him. The essence of any successful member's bill is to hit on the right idea, which invites consensus across the chamber. Mark McDonald has done that, and he deserves our thanks for it.

I confess that it gave me unalloyed delight to listen to Christine Grahame's gardening tips. I shall rush to the *Official Report* of the stage 2 discussions so that I can understand the level of

interest and expertise that we have on this Parliament's benches. I invite Christine Grahame to come and visit my garden and help me at some point in the future.

Christine Grahame: I shall attend only in an advisory capacity. Jackie Baillie will be the lady with the pruning shears.

Jackie Baillie: Oh, and I was getting excited for a moment. Clearly, I am to be disappointed.

This journey started a number of years ago with our former colleague Scott Barrie MSP, who has been mentioned by other members. Fergus Ewing, too, put in considerable work. I am sure that they will both be delighted when the bill is passed, as it hopefully will be this evening. I also acknowledge the work of Colin Watson, Derek Park, Pamala McDougall and all the members of Scothedge who have encouraged and cajoled us—frankly, they have told us to get on with it—and they will be equally delighted, not least because of the acceptance of an amendment today that will undoubtedly improve the bill, with the inclusion of deciduous trees and hedges.

I must confess that I never thought that I would get excited by trees, but constituent after constituent came to seek my assistance, and I began to understand just what difficulties trees and high hedges can cause. In fairness, it is not the trees and high hedges that are the difficulty; of course, it is to do with their owners and the neighbour disputes that arise when we do not think about the impact of our actions, or lack of action, on other people.

Let me share some stories. Mrs A from Shandon was concerned that her neighbour's trees were overgrown and encroaching not just into her garden but into another neighbouring garden. Her neighbour refused even to discuss the matter with her. He even refused to discuss it with the local authority when it tried to help. That was back in 2007, and they have still not had a remedy. Mrs B from Helensburgh had a similar problem in 2008. She is surrounded on three sides by huge conifers and has been living virtually without daylight, with a neighbour who would not address the problem.

Another lady from Kilcreggan had a similar problem in 2008. She was told that she could prune back the branches and the roots that cross the boundary, but her neighbour threatened litigation if she even dared to enter his property. In the case of Mrs D from Arrochar, a 60ft pine tree was a potential hazard, swaying dangerously in any high wind—and we can acknowledge that there are lots of high winds in Scotland. The owner refused to do anything about it, and the local authority was unable to help.

Stewart Stevenson: Would the member agree that, in the kind of disputes that we get around high hedges, and indeed elsewhere, the parties tend to take an entrenched position that is psychologically difficult to get out of? By providing the intervention of another party to focus the minds of those in dispute, the High Hedges (Scotland) Bill is probably a model of how we should deal with many such interpersonal disputes, which can often be entrenched for decades, far less a few weeks.

Jackie Baillie: I am grateful for that intervention, and I could not agree with the member more. Some of those constituents approached me as early as 2003 or 2004, and somebody contacted me about a case just two weeks ago. The matters remain unresolved. I have probably had about 30 cases over the intervening period, which is a significant number.

The majority of people either resolve their disputes or suffer in silence. In all cases, the people concerned have come to my surgery because of inconsiderate neighbours. No remedy was available to any of them until now. I know that they will be delighted when the bill is passed tonight, because it will make a practical difference to their lives. A dispute resolution process will be in place, which will drive the majority to co-operate without involving the local authority, while providing an important safety net to deal with neighbours who are determined to be intransigent.

Stuart McMillan is right to say that passing the bill is only the start. Implementation is key and I look forward to the Government taking that forward.

16:25

Kenneth Gibson (Cunninghame North) (SNP): I thank Mark McDonald for introducing the bill and for the dedication and hard work he put into ensuring that the bill was coherent and could be delivered effectively. I am sure that the vast majority of members have dealt with high hedge cases. I am happy that the Government is backing this bill, which will provide a solution to a problem that has a serious impact on many Scots' quality of life.

In my constituency, which has large scenic areas with beautiful views, high hedge disputes are an all-too-common occurrence. It is no coincidence that Jackie Baillie and I have had a number of those cases, while Stewart Stevenson has not. That reflects the beauty of the areas in the Firth of Clyde that Jackie and I represent, compared with Stewart's area—I hope that Stewart will not remember that when I speak at his Burns night next February.

The Deputy Presiding Officer: Full names, please.

Kenneth Gibson: The effect of high hedge disputes cannot be downplayed. Friends and neighbours can become bitter opponents and home owners' ability to enjoy their surroundings can be severely limited. Property prices can be affected and darkness and reduced natural light in the home are issues of concern.

I have dealt with about 50 disputes since 2007. I visited a number of constituents, who invited me to see the situation for myself. A number of times, I was genuinely shocked by the size of the hedge that was the subject of the dispute. When I visited a constituent in West Kilbride, I found that the hedge towered above windows and completely blocked out the light from one side of the house. A house that should have had beautiful views of Arran and the Firth of Clyde was completely shrouded in darkness, even in midsummer.

Many neighbours come to amicable agreements about the height of hedges and boundaries, but there is no doubt that resentment and bad feeling can arise when a situation gets out of hand. It was clear that some form of third-party enforcement was required.

I attended a number of meetings on the issue in this parliamentary session and the previous one, and I met Derek Park, Colin Watson and Pamala McDougall, from Scothedge, to talk about the matter and hear how it could best be addressed. It was clear from the information that Scothedge supplied, often passionately, that only a legislative approach would be effective. That view is shared by many; more than 90 per cent of respondents to the consultation backed the position.

I am pleased that the Local Government and Regeneration Committee thought that the bill as introduced would cover 92 per cent of current cases, which shows how robust the bill is. There is evidence to suggest that an understanding that the matter can be enforced should assist in smoothing out disputes without the need to apply the law.

I am pleased that deciduous hedges have been included in the scope of the bill, which will help many of my constituents. I pay tribute to Anne McTaggart and Christine Grahame for their work in that regard. Stuart McMillan's amendment to the bill at stage 2 has ensured that the bill will be reviewed within five years, to ensure that it is as effective as we want it to be, which is encouraging. I am sure that that will put at ease the minds of many people who fear either that the bill will be ineffective or that it is too drastic.

I am optimistic that the bill will effectively tackle most, if not all, high hedge disputes, which impact on many of my constituents. I am delighted that the Scottish Government will support the bill. Such

legislation has been talked about in the Parliament since 1999, when Scott Barrie raised the issue. I will certainly support the bill at decision time.

I realise that one or two members were keen that single trees be included in the bill, but I note the committee's recommendation that that should not happen, given the importance of heritage trees, the need for proper assessment of biodiversity and other issues. The bill might not cover every aspect that people wanted it to cover, but as far as most members are concerned, it is as robust a bill as we could have produced in the circumstances. It is a tribute to the Parliament that at last we have legislation that is deliverable and can be effectively enforced.

16:30

Kevin Stewart (Aberdeen Central) (SNP): Like colleagues, I take my hat off to Mark McDonald for his work during the passage of the bill. However, in all fairness, even he would recognise that his staff have played a great part, too, and they deserve recognition. I thank all the witnesses who gave evidence to the Local Government and Regeneration Committee, of whom there were many, including campaigners, organisations that are involved in biodiversity and many others. I also thank my clerking colleagues for their efforts during the passage of the bill.

To begin with, I was a little hesitant about adding deciduous hedges to the bill's scope. However, the minister's clear statement that sceptics such as RSPB Scotland and the Scottish Wildlife Trust will contribute to the guidance on the bill is helpful. For those who are slightly reticent, we also have the review period. That has been put in place to look at perhaps extending the bill later, but it might result in restricting the bill, if that is required. I hope that the guidance will help in dealing with all such matters.

We have heard today many of the jokes that have been made in the discussion of Mr McDonald's proposals. We have heard about the trifid bill and Christine Grahame's privet member's bill—there have been puns galore. A laugh has been had to a degree in some of the fora in which the subject has been discussed. However, as we have heard from the cases that have come from across the country, this is no laughing matter for the huge number of people who have been affected for many a year.

The problem is worse in some parts of the country than in others, because of the climate. As Mr Stevenson said, he has had no cases. I must be honest and say that, as an urban, city centre MSP, I have had no cases either. However, as a councillor in the past, I saw many cases in which high hedges caused huge difficulties, and such

problems were exacerbated into even greater problems. Anything that can be done to resolve the disputes is worth while.

We have heard that dispute resolution has already occurred in some places because the bill was introduced. If introducing the bill has such an effect, members can just think what will happen once it is passed and the guidelines are in place. Many local authorities will not have to take the required action, because common sense will, we hope, prevail and folk will take the action that should have been taken some time ago.

The committee heard evidence about new developments, where conflicts arise not between neighbours but between owners of woodland and new neighbours. The minister's statement that he will look at Scottish planning policy is a good idea. The committee heard from Dr Maggie Keegan about problems that the Scottish Wildlife Trust had in Cumbernauld, and committee members saw that area for themselves. That shows how easy it could be for such conflicts to arise.

People must recognise where a property that they are buying is and what might happen if it is on the periphery of woodland, some of which might not be very old and might grow substantially. Any help that Scottish planning policy can provide on that would be useful.

This has been a long journey, particularly for some of the campaigners, and 5 o'clock will bring great relief for many folk here. However, as Stuart McMillan says, this is only the beginning. I hope that some people out there will take cognisance of this and will take action now without more severe action needing to be taken.

The Deputy Presiding Officer: We come to closing speeches. I ask members who have participated in the debate to be in the chamber for those speeches. I call Margaret Mitchell for a slightly generous four minutes.

16:35

Margaret Mitchell: In my opening speech, I covered in detail the complex and vexing issue of deciduous trees. As well as reducing the time for review, my amendments—had they been passed—would have specified two topics, aside from how the definition of "high hedge" was working, to be included in any report: how local authorities had exercised their functions under the bill and what implementing the bill's provisions had cost local authorities. Those matters should, naturally, be considered by any review, but the amendments would have ensured their inclusion. I am disappointed that the amendments were not passed, given the vital role that local authorities will have in ensuring the effectiveness of the bill.

Derek Mackay: I know that the member is deeply disappointed that those amendments were not supported. Does she accept, though, that the flexibility still exists for the committee to determine its own agenda and timescale for reviewing the provisions of the bill?

Margaret Mitchell: Yes, I certainly accept that. However, it could take six and a half years for that review to be carried out. That is especially concerning when post-legislative scrutiny is not given the priority that it should be given in parliamentary business. If we are serious about wanting the measures to be used and to work well, the shorter timeframe would have been welcome.

Although the Scottish Conservatives supported the general principles of the bill at stage 1, we sought to improve it by lodging a number of amendments at stage 2, which met with varying success. Those included an amendment that sought to ensure that ministers would no longer have an unfettered power under section 34 to alter what constitutes a high hedge for the purposes of the bill. That amendment was also recommended by both the Subordinate Legislation Committee and the Local Government and Regeneration Committee, and it is to his credit that the member in charge of the bill accepted it.

Other amendments in my name were also accepted, which I confess was something of a novelty. Those included an amendment that places a statutory duty on ministers and local authorities to consult stakeholders before issuing guidance on the operation of the bill. Any such guidance that is issued will have an impact on the way in which property owners, local authorities, solicitors, advisers on high hedge disputes and persons appointed to hear appeals will interpret the legislation. I am heartened that the importance that any such guidance will have was recognised. It is imperative that it is consulted on widely prior to publication to ensure that stakeholders can comment on what is proposed.

The bill as introduced left it to a local authority's absolute discretion whether to issue an application fee refund to an applicant under section 4. In the interests of certainty and to ensure that funds are awarded or not awarded consistently, I lodged amendments requiring councils to publish guidance stating the circumstances in which they may normally consider it appropriate to issue refunds. Again, the amendment was accepted by the member in charge of the bill, which is to be welcomed. Councils will continue to retain discretion when considering whether to issue a refund, but guidance will ensure that applicants will know when they can or should receive a refund of their application fee.

I believe that those amendments have improved the bill. I sincerely hope that it will help to alleviate

the problems and vexations that high hedges can cause, which each of us in the chamber knows all too well. The Scottish Conservatives look forward to supporting the bill at decision time this evening.

The Deputy Presiding Officer: Thank you. I call Sarah Boyack, again with a slightly generous four minutes.

16:40

Sarah Boyack: Thank you, Presiding Officer—that might be quite dangerous.

We will get a good result with the bill which, as everyone has said, has been a long time coming. We were able to carry out a good, thorough scrutiny of the bill as it was introduced to Parliament, which has been beneficial. At the end of the day, the bill as it is passed will be a lot stronger; it will relate to many more people who are involved in damaging, prolonged disputes. It will be of help to many constituents—that will not necessarily be in every constituency in Scotland but, where there are problems, it will be useful.

I welcome the fact that Mark McDonald, the member in charge of the bill, was prepared to take a fresh look at amendments from across the chamber, regardless of who they came from. He was prepared to think about the merits of the amendments and the long-term impact of the bill. It is good that we will all be broadly able to support the bill when the vote comes.

Along with Christine Grahame, I think that we were right not to go with single trees. It was right to extend the definition, but the process of tree preservation orders already exists and the bill will complement that process. Anne McTaggart made a comment about the detailed impact of the bill that was absolutely right: sometimes people not being prepared to maintain hedges—or to take responsibility for doing so—is part of the problem. It is about ensuring that people feel some sense of accountability and responsibility. Jackie Baillie's list of problems that constituents have brought to her and other members' comments highlight that for many people, these are real problems that are currently incapable of resolution. The bill will help with that.

We now need to focus on the implementation of the bill. There is much that we can learn from and build on in the experience of similar legislation in other parts of the UK, in particular how best-practice guidance works and how people might be encouraged to resolve a dispute before using the procedures that we are approving.

I am keen that the biodiversity issues that have been flagged up are factored in along with the other criteria that will be examined.

Expertise needs to be developed across our local authorities if the bill is to be implemented successfully, particularly bearing in mind that many of the people who will be responsible for that already have relatively heavy workloads. For that reason, I welcome the fact that the minister is discussing the idea of Scottish Government support to provide a core of expertise to local authorities. I do not see that support as involving somebody being in place for all time; it is about the early stages of implementing the bill. That is the key point when workshops or seminars or support about what is in the guidance will be critical and when people need to build their expertise. That is the point at which it will be most useful. I suspect that not all local authorities will draw on that expertise, but people should have that opportunity so that the bill is implemented successfully.

At stage 1, we had a lengthy debate that came out of exchanges across the chamber about the impact of suburban housing development, poor-quality design by developers and the lack of long-term consideration given to structural tree planting or landscaping, with nobody sitting down and thinking, "In 20 or 30 years, what will this community be like? What will be the impact of the landscape that we are putting in place now?"

I hope that the new Scottish planning policy that will address the place-making issues that the minister referred to will be of practical use to local authorities in scrutinising applications and also to developers in ensuring that we get strong, good-quality proposals that use natural heritage, tree planting and hedges in a constructive, practical way. I hope that they will think about the future practicalities for the people who live in those developments, to ensure that they remain high-quality and attractive developments to live in.

It has been a good debate. I hope that, although it is not a silver bullet, the bill will improve people's lives. At the end of the day, that is why we are all here. For those reasons, I am delighted to support the bill.

16:45

Derek Mackay: As has been said before, the bill will act as a deterrent and will help to resolve cases across the country. What evidence do we have that the bill can bring people together in a harmonious way? Well, this afternoon's debate has shown that. If the bill can bring together the politicians of Scotland to reach what appears to be a unanimous conclusion on high hedges, I am sure that it will be able to resolve cases across the country.

Perhaps the bill also provides us with lessons on how Parliament conducts itself, given the consensual and constructive amendments that

were lodged by several members and which were accepted by the member in charge, and given the way in which the Government took forward suggestions from different places. That approach has left us with a robust bill. As Stewart Stevenson and Kenny Gibson mentioned, the bill will not solve every case in Scotland, but it gives us a great framework and foundation from which we will be able to resolve the great majority of cases by presenting the avenue that will now exist.

The bill deals with a very human issue. Legislation, regulation and guidance may be required, but there is a very human issue involved in looking at how we can solve some of the concerns that people have. I was struck by some of the evidence that was presented to the committee on issues that the bill will provide a mechanism to resolve. One witness said:

"Our problems with high hedges have caused embarrassment, fear, stress and costly fees to solicitors. None of this would have been necessary if there had been a High Hedges Bill in place and a way of achieving resolution to the problem of a mutual hedge dispute."

Christine Grahame: As members know, passing the bill tonight, which I am sure will happen, will not actually bring its provisions into force. At royal assent, only the definitions will come into force, but the bringing into force of the other sections will be in the hands of ministers. Can the minister give us a broad timescale within which the provisions in the bill might become enforceable law? Can he comment on whether people are already being told about the direction in which things are going, regardless of whether its provisions are in force?

Derek Mackay: The ever-helpful back bencher, Christine Grahame, has asked a pertinent question. As soon as the bill receives royal assent, we will work immediately—work will have already begun—on the guidance, and we will make progress towards implementation as quickly as we possibly can. We will look at the guidance, take on board considerations and, following royal assent, lead on to commencement.

On Christine Grahame's earlier speech, I recall that the Conservatives moved an amendment at stage 2 asking whether one single person could bring together legal expertise, planning expertise, horticultural expertise and casework expertise. Only one such person exists in this country, and that is Christine Grahame.

Christine Grahame: Thank you.

Derek Mackay: In progressing the bill, we have been able to rely on a range of professional and practitioner intelligence in order to provide a definition with which people are happy. I know that there has been among local authorities some concern about the bill's implementation, which is

why we are working with them to address their concerns in the way that I described earlier.

Jackie Baillie pointed out the level of ministerial support that the member in charge enjoyed in taking the bill through Parliament. I asked officials to support Mark McDonald in progressing the bill, but Jackie Baillie's description of how well a minister is supported now leaves me with deep and searching questions about what my civil servants have been doing over past months, given that Mark McDonald seems to be so well briefed. I am not sure that my horticultural expertise was up to the mark beforehand, but it certainly is now, in understanding the bill. However, I jest, because I know that the bill has achieved consensus among members. It will now provide a mechanism that can resolve issues in a very constructive fashion.

It is important that we will have the opportunity to review the bill's provisions in the light of practical experience. I reiterate that the committee can review the bill's implementation at any time—subject to the maximum time limit that was agreed earlier—and in any area.

The bill is a proportionate and appropriate response. It was right to go through the local government route as opposed to a judicial or criminal route to resolve matters; it was the right method to deploy in terms of a parliamentary response to the issues. It is no mean feat for Mark McDonald to have taken the bill through Parliament in such a timely and effective fashion, thereby succeeding where others—well intentioned though they were—were unable to progress a bill to this stage.

I am delighted that the Government has been able to support the bill. I know that the member in charge of the bill now wants to say more on the bill's final stage before it is passed—I hope—this evening, with all members' support. Again, the Government supports the bill and will ensure that its implementation assists people through guidance and its relationship to Scottish planning policy and TPOs. I thank all members for their engagement in the process.

The Deputy Presiding Officer: I call Mark McDonald to wind up the debate. You have until five o'clock, Mr McDonald.

Mark McDonald: I need to offer thanks to a number of people. First, I thank the members of the Local Government and Regeneration Committee, which was the lead committee on the bill and which provided robust and thorough questioning and scrutiny as the bill progressed through stages 1 and 2. I thank, too, the Finance Committee, which robustly questioned me on the bill's financial aspects, mostly through questions from the convener, Mr Gibson. I also offer thanks to the Subordinate Legislation Committee, which

diligently examined and considered the subordinate powers in the bill, which led to amendments that have been agreed to.

I thank all those who gave evidence to the committees—those who attended in person and those who took the time and trouble to write to the committees, often highlighting their own experiences. There are many people outside the chamber who perhaps did not submit evidence to the committees but who nonetheless showed a keen interest in the bill.

I thank my assistant, Aissa Watson—who was highlighted by Kevin Stewart—who has, since I announced my intention to introduce the bill, been regularly fielding inquiries and suggestions from many members of the public and, indeed, many members of the Scottish Parliament. At the start of the process, the queries that Aissa dealt with were about what would be in the bill and what it would cover. The queries that she deals with now are about when the bill will come into effect. It is clear from the case load that she has developed over time that there is a huge amount of interest in the bill.

I want to take this opportunity to thank to David McLetchie, who took an interest in the issue and was extremely supportive of my efforts at the outset, and who proved to be of great assistance in the early stages of consulting on the bill. It is appropriate that I put my thanks to him on the record. [*Applause.*]

The debate today has been constructive and consensual. Sarah Boyack made the point in her opening remarks that not everybody will be happy as a result of the legislation's coming into force. However, the point that she made—and which I have made repeatedly during the bill's process—is that the bill is not intended to be anti-hedge legislation; it is pro-dispute resolution. In the resolution of any dispute, or any high hedge dispute, the outcome will be that one party will be viewed as the winner and the other will be viewed as having lost. However, the point of the bill is to find a way to resolve disputes, and we hope that local authority action will lead to that.

I envisage that it is likely that the provisions will come into force—after local authorities' guidance and implementation work has been undertaken—some time in early 2014. In essence, we are serving notice to those who are in dispute that there is, from now, a year for them to resolve their disputes amicably before the legislative remedy comes into force. I hope that that call will be heeded and that we will see many current disputes being resolved amicably.

I felt that it was important to intervene on Margaret Mitchell earlier just to make it clear that single deciduous trees are not included in the

revised definition, although the review section allows a future committee to examine the definition, should it so wish.

I am grateful to Anne McTaggart for her constructive engagement during the bill's passage and for being willing to discuss the best way in which to frame the amendment, which she later lodged, to ensure that it had the most impact. I welcome the fact that we have been able to agree the amendment that she lodged.

Christine Grahame's speech was as colourful as her speeches always are. In fact, we have been thinking about marketing her submission at stage 2 as a gardening book. We think that it could be a nice little sideline, given the expertise in horticulture that she demonstrated. However, she pointed out that I had a difficulty at the initial stages in weighing up which route to go down with the bill. Should I go down the route of the court-based solution that was mentioned during the debate, or should I go down the route of a local authority based solution? I felt that the latter would provide the best means of resolving disputes without their becoming snared up in legal process.

Christine Grahame also made the point that people often purchase leylandii as a focal point without necessarily understanding the impact that they can have. When I launched the bill at the Mill Garden Centre in Armadale, Joe McIndoe, its owner, made it clear to me that he wants people to be given sensible advice about the impact that such plants can have when they come to purchase them. I hope that one thing that might happen as a result of the bill is that people will consider what they plant in their gardens and the impact that it might have on their neighbours.

Stuart McMillan spoke about the review provision that he introduced. That was a sensible addition to the bill because it means that the efficacy of the legislation will be looked at, and that can include what has not been included but might be included in the future. As well as the issue of single deciduous trees, there are issues around the possibility of future fee-transfer mechanisms, which I know Margaret Mitchell wanted to talk about at various stages. It might be that we could learn from the example that exists in Northern Ireland. It will also be possible to look at what is in the legislation, how effectively it has worked in practice and whether changes or modifications are needed.

Jackie Baillie made an important point. There has been some cynicism out there—believe it or not—about the worthiness of our debating the bill. Both Jackie Baillie and Kenneth Gibson brought to the chamber stories of individual cases that highlight to us the impact that situations can have on individuals. Some people out there might suggest that the bill is not worthy legislation for us

to debate, but I would say that before they seek to be cynical about it, they should talk to people such as the constituents who contacted me during the progress of the bill, listen to their concerns and hear how happy they are made by the passing of the bill.

I say to Kenneth Gibson that I was a bit worried when he started his speech that he might be heading towards a rather interesting editorial in the *Buchan Observer*, but I think that he managed to resolve the situation in that regard. [*Interruption.*] Stewart Stevenson is suggesting that he has already drafted a press release, so who knows? We might have some interesting discussions to follow.

It has been clear throughout the process that a lot of people have campaigned on the subject for a very long time. I thank those who engaged with me during the process, particularly the members of Scothedge; I see some of them up in the gallery today. Not everybody whom I engaged with has been able to make it to Parliament today, but a number are here. It has taken a deal of resolve for the campaigners to pursue the matter because, as we have heard, there have been a number of disappointments for them along the way. There were a number of moments during the campaign when they thought that they were not going to see legislation coming into force; there were a number of false starts.

The campaigners diligently kept pressing and kept coming back to try to ensure that Parliament not only took cognisance of their concerns but continued to pursue and advocate on their behalf, given the very real issues that they face. It is a great credit to Dr Colin Watson, who I see in the gallery today, and the members of Scothedge that they have continued to pursue the matter over a long time. I hope that they will be satisfied not just that the decision is being reached today, but by the way in which Parliament has conducted itself in coming to the decision, given the consensual nature of the process and the debate.

Sarah Boyack highlighted that consensual nature, and it has been reflected in amendments having been accepted. Because of how the numbers stand, I could have simply rejected amendments from Opposition parties, but I thought that the most important thing to do was to listen carefully to the arguments that lay behind those amendments. That is why I was able to accept some of Margaret Mitchell's amendments at stage 2, and I was pleased to be able to accept Anne McTaggart's amendment and Stuart McMillan's amendment at stage 3. Amendments have been accepted from across the chamber.

The legislation has been a long time coming. Scothedge has always said that what it wanted to see in Scotland was better legislation than exists

elsewhere. I hope that, today, we have done them justice.

Point of Order

17:00

Jamie Hepburn (Cumbernauld and Kilsyth) (SNP): I wish to raise a point of order under standing order 8.1.7, Presiding Officer.

Yesterday I raised a point of order and asked what steps members could take under standing order 7.3.1 to correct what they had said when they had misled the chamber. You advised that there are opportunities to do that in such cases.

Yesterday I pointed out that an email had been sent to the Convention of Scottish Local Authorities' head of media and communications to ask whether COSLA had called for Scottish Government legislation to prevent bedroom tax evictions, or for the Scottish Government to meet the rental-income deficit, given claims that were made earlier in the day that it had done so. The reply to both questions was no. Jackie Baillie then told Parliament that she had not misled the chamber, stating, "I shall say—

The Presiding Officer (Tricia Marwick): Mr Hepburn, we heard what Ms Baillie said yesterday. Can you get to your point of order?

Jamie Hepburn: Just to remind members, Jackie Baillie said that COSLA had passed a motion.

Earlier today, COSLA was asked to confirm that such a motion exists. It has provided no such confirmation. At most, evidence can be found of a discussion of housing legislation, in relation to what is or is not a bedroom. So far, nothing has been found in relation to evictions. [*Interruption.*]

The Presiding Officer: Order.

Jamie Hepburn: To mislead the chamber once might be considered unfortunate; to do so twice might be considered more than a little careless. If Ms Baillie cannot provide us with the motion, can you advise what action is available to you, to Parliament collectively or to Ms Baillie herself to ensure that what she said is corrected?

The Presiding Officer: As I told Jamie Hepburn yesterday, this is not a matter for me. The Presiding Officers are not responsible for what members say in the chamber and it is up to individual members to reflect on what they say.

Jackie Baillie (Dumbarton) (Lab): On a related point of order, at the end of February COSLA considered a motion seeking changes to the Housing (Scotland) Act 2001. I suggest to Jamie Hepburn that instead of using parliamentary time in this way, he might want to use it to introduce measures to protect the 100,000 vulnerable Scots who will face the bedroom tax on Monday.

The Cabinet Secretary for Finance, Employment and Sustainable Growth (John Swinney): Where is it?

The Presiding Officer: As I said yesterday, Ms Baillie, that is a debating point.

John Swinney: Where is the motion?

The Presiding Officer: Order!

Decision Time

17:02

The Presiding Officer (Tricia Marwick): There is one question to be put as a result of today's business. The question is, that motion S4M-06038, in the name of Mark McDonald, on the High Hedges (Scotland) Bill, be agreed to.

Motion agreed,

That the Parliament agrees that the High Hedges (Scotland) Bill be passed.

The Presiding Officer: I congratulate Mark McDonald on what is, of course, the first member's bill to be passed in this session. I have great pleasure in declaring that the High Hedges (Scotland) Bill has been agreed to unanimously by Parliament. [*Applause.*]

On that very consensual note, I wish everybody a very happy and peaceful recess. I look forward to your coming back.

Meeting closed at 17:03.

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