OFFICIAL REPORT
AITHISG OIFIGEIL

Constitution, Europe, External Affairs and Culture Committee

Thursday 4 September 2025

Session 6

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CONSTITUTION, EUROPE, EXTERNAL AFFAIRS AND CULTURE COMMITTEE
21st Meeting 2025, Session 6

CONVENER

*Clare Adamson (Motherwell and Wishaw) (SNP)

DEPUTY CONVENER

*Jamie Halcro Johnston (Highlands and Islands) (Con)

COMMITTEE MEMBERS

*George Adam (Paisley) (SNP)
*Neil Bibby (West Scotland) (Lab)
*Keith Brown (Clackmannanshire and Dunblane) (SNP)
*Patrick Harvie (Glasgow) (Green)
*Stephen Kerr (Central Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Meghan Gallacher (Central Scotland) (Con)

CLERK TO THE COMMITTEE

James Johnston

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Constitution, Europe, External Affairs and Culture Committee

Thursday 4 September 2025

[The Convener opened the meeting at 09:00]

Interests

The Convener (Clare Adamson): Good morning. I warmly welcome everyone to the 21st meeting in 2025 of the Constitution, Europe, External Affairs and Culture Committee. Our first agenda item is a declaration of interests. As a result of a membership change, we welcome Jamie Halcro Johnston to the committee. We extend our thanks to Alexander Stewart for his contribution to the committee's work, and we wish him well in his new role. I invite Jamie Halcro Johnston to declare any interests.

Jamie Halcro Johnston (Highlands and Islands) (Con): Thank you, convener. I have no interests that relate to the work of the committee.

The Convener: Thank you.

Deputy Convener

09:00

The Convener: Under our next agenda item, we must choose a deputy convener. The Parliament has agreed that only members of the Scottish Conservative and Unionist Party are eligible for nomination as deputy convener. I understand that Jamie Halcro Johnston is the party's nominee. Does any member disagree with that nomination?

Members: No.

Jamie Halcro Johnston was chosen as deputy convener.

The Convener: I congratulate Jamie Halcro Johnston and welcome him to his new appointment as deputy convener of the Constitution, Europe, External Affairs and Culture Committee.

Desecration of War Memorials (Scotland) Bill: Stage 1

09:01

The Convener: Under our next agenda item, we will take evidence on the Desecration of War Memorials (Scotland) Bill. We are joined in the room by Meghan Gallacher MSP, the proposer and member in charge of the bill, and, from the Scottish Parliament, Neil Stewart, a senior clerk in the non-Government bills unit; Sean Taheny, an assistant clerk in the non-Government bills unit; and Kirsty Lauder, a solicitor from legal services.

Before we move to questions from members, I invite Ms Gallacher to make a short opening statement.

Meghan Gallacher (Central Scotland) (Con): Thank you very much, convener. Good morning, everyone.

A war memorial is a centre point of many a community's life. People gather round it on remembrance Sunday to pay their respects to and remember those who gave their lives in conflict so that our communities may enjoy peace and freedom, and to pay tribute to those who have served in wars. To many individuals and groups, particularly serving armed forces personnel, veterans and bereaved families, war memorials carry special meaning and significance. To some bereaved relatives and friends of people who have lost their lives in war but whose bodies were never recovered or repatriated, a war memorial is symbolic of a grave site.

Many veterans and armed forces groups have taken on the role of custodians of war memorials. They clean the stone, place flower beds and ensure that the surrounding area is kept tidy. I pay tribute to all groups that are involved in maintaining the upkeep of our war memorials.

Any attack on a war memorial, however large or small, is egregious, cruel, offensive and retraumatising for those who have lost loved ones in conflict or who have served or are serving themselves. In some cases, the vandalism or desecration of a war memorial would be categorised as a heritage crime. In practice, the offence is most likely to be charged and prosecuted under the statutory offence of vandalism or the common-law crime of malicious mischief.

Those matters are generally prosecuted in the justice of the peace and sheriff courts, and there are limits to the sentences that can be handed down and the levels of the fines that can be issued. Although those sentencing options are appropriate for most instances of vandalism, they do not allow courts to consider higher penalties, which would deter acts of desecration of war memorials and provide adequate redress for the distress caused to individuals and communities as a result of such acts.

The costs to local authorities of repairing and cleaning a defaced or damaged war memorial amount to thousands of pounds. That is due to the specialised stonemasonry involved in treating the stone and the skills that are required to restore them.

The question that I have for all committee members is this: do they believe that vandalism of a war memorial should be treated in exactly the same way as vandalism of a lamp post or a telephone box? In short, I do not believe that the current criminal law adequately takes account of the impact of the desecration of a war memorial on the people and communities for whom the memorial has significant and symbolic meaning.

That is why I consider that there should be a specific statutory offence of desecration of a war memorial, with options for courts to hand down higher penalties than those that are available at present, thereby creating a stronger deterrent. Ultimately, the sanctions would be for the courts to decide. However, I want to give them a range of options and for the law to more appropriately reflect the seriousness of this particular crime.

As committee members might be aware, the United Kingdom Parliament has already legislated in this area through the Police, Crime, Sentencing and Courts Act 2022. That followed a private member's bill from the then MP Jonathan Gullis that would have created an offence of desecrating a war memorial.

I will turn to the provisions of my bill. It is a short, three-section bill with one substantive section. Section 1 would insert a new section 52A into the Criminal Law (Consolidation) (Scotland) Act 1995. Proposed new section 52A(1) would establish an offence of desecration of a war memorial. That would mean that any person who

"wilfully or recklessly destroys, damages or desecrates a war memorial"

is committing an offence unless they have a reasonable excuse. What constitutes a reasonable excuse will be determined by the courts on a case-by-case basis. However, an example might be someone who is working on a war memorial to clean or maintain it accidentally causing damage to it in the course of their work.

Proposed new section 52A(2) sets out what desecrating a war memorial means. It includes, but is not limited to,

"spitting, urinating or defecating upon, or otherwise defacing ... a war memorial",

and it includes both temporary and permanent damage.

Proposed new section 52A(3) sets out the penalties for the new offence. A person, on summary conviction, could face up to 12 months in prison and/or a fine up to the statutory maximum—the maximum fine is £2,500 in a justice of the peace court and £10,000 in a sheriff court. On conviction on indictment, someone could face up to 10 years in prison and/or an unlimited fine.

Proposed new section 52A(4) provides definitions for the terms that are used in the bill. The definition of "war memorial" draws heavily on the definition of "memorial" in section 50 of the Police, Crime, Sentencing and Courts Act 2022. Subsection (4) also makes it clear that

"'land' does not include land over which access rights are not exercisable under section 6 of the Land Reform (Scotland) Act 2003".

My intention is to exclude war memorials in private homes and gardens from the scope of the new offence.

Committee members will be aware that I have written to the committee about that matter. After the bill's introduction, I became aware of a potential unintended consequence of that provision—namely, that it might exclude war memorials in the grounds of places of worship, which would be private land. As I indicated in my letter, should the bill proceed to stage 2, I plan to lodge an amendment to ensure that war memorials in places of worship or their grounds would be protected by the bill's provisions, as well as those in any other places that would appropriately fall within the bill's provisions.

As the bill relates to war memorials rather than memorials more generally, proposed new section 52A(4) makes it clear that

"something has a commemorative purpose in respect of armed conflict if at least one of"

the memorial's

"purposes is to commemorate one or more individuals or animals, or a particular description or category of individuals or animals, who died in armed conflict".

Sections 2 and 3 of the bill set out provisions on the bill's commencement and short title.

I hope that that gives a clear overview of the bill and its underpinning policy development, and that it has been helpful to committee members. I look forward to taking questions and to the committee's stage 1 scrutiny of the bill more generally.

The Convener: Thank you. I will reflect on what you have said. Two previous petitions have urged the Scottish Government to introduce legislation that recognises the desecration or vandalism of war memorials as a specific offence. Most recently, the Scottish Government said:

"there is legislation currently in place to deal with the vandalism and desecration of statues and memorials, including war memorials, and the Scottish Government has no current plans to introduce new legislation for the specific purpose requested in the petition."

Have things changed more recently? Why do you think that now is the time to revisit the issue?

Meghan Gallacher: As I said in my opening statement, destroying, damaging or desecrating war memorials has an impact not only financially on local authorities, which have to look after, maintain and restore war memorials, but on armed forces communities, veterans and the wider communities, who know of and are very fond of war memorials in their areas for obvious reasons, given that we are talking about people who have served and died for the freedoms that we enjoy today.

When I embarked on the bill process, back in 2021, there were six attacks in that year alone. In April 2021, the Carronshore war memorial and the Boer war memorial in Glasgow were attacked; in June 2021, the Spanish civil war memorial in Motherwell was attacked; in September 2021, the Kirkcaldy war memorial was attacked; and, in October 2021, the Cowdenbeath and Prestonpans war memorials were attacked. That shows that, even when I was embarking on this piece of legislation, a pattern of events was happening. I am not saying that it happens every year—it seems to be when there are particular acts of civil unrest or when something else is happening in Scotland—but it shows how many attacks can happen on war memorials in the one place in a short space of time.

I fully believe that, when the friends of Dennistoun war memorial brought their petition to the Scottish Parliament, they had identified a gap in the legislation. With this legislation, I aim to escalate and raise the status of war memorials so that vandalism of them is not akin to vandalism of a lamp post or a telephone box and so that they are of a higher status, given not only their cultural importance but their importance to communities and the emotional impact that people feel whenever a war memorial is desecrated.

I believe that the law should recognise that damaging a war memorial has consequences beyond the littering and vandalism aspects—I hope that we will be able to get into that subject later—and that it causes significant trauma to communities that are impacted when they see a war memorial being desecrated. Going back to the statutory offence that is now in force in England and Wales, in many respects, with this bill I am trying to bring the situation into line with what is happening in other areas of the UK.

The Convener: In the examples that you gave, were the police able to secure any prosecutions associated with those incidents?

Meghan Gallacher: I do not have that information in front of me, but I would be happy to follow that up with the committee. However, the examples give you an insight into how many attacks can happen over a short period. That period was when we were beginning the research for the bill, but, of course, there have been attacks before and after the particular series that I have highlighted to the committee this morning.

The Convener: Thank you. We will move on to questions from the committee.

Jamie Halcro Johnston: Thank you for coming in and speaking to us. I have several fairly short questions.

In the parish where I live, in Orkney, there is a small memorial with a small number of people's names on it, but almost every community that is part of our parish is represented on it. From my inbox, I know how many communities get upset when there is not proper maintenance of their war memorial or there are issues that threaten it in some way. There is that strong emotional tie to it, and it is a place of gathering for a lot of people—once a year for many, but more than that for some.

I recognise the public feeling on the issue. Can you tell us more about some of the correspondence that you have had from public or other bodies, such as veterans charities or other relevant bodies, and what their thoughts are?

Meghan Gallacher: Thank you for your question. You will see that I am not here by myself today; I am joined by people from veterans groups, veterans charities and friends of war memorial groups, who feel very passionately about the issue. They do not want to see any more war memorials in Scotland being desecrated. The aim of my bill is to create a deterrent and to make sure that people are aware that if, under the definition that I have set out in the bill, they desecrate a war memorial, there will be consequences for it.

Looking at the community impact of desecration of a war memorial, I think that it is interesting that every area that members of the committee represent—whether it is a region or a constituency—has had a war memorial in it desecrated. That shows that the desecration of war memorials is not limited to an isolated area but is widespread throughout the country.

As I refer to in paragraph 15 of the policy memorandum, the research that I carried out in the process of putting the bill together showed that

"there had been 66 'attacks' on war memorials"

reported since 1996 and that

"70% of these had occurred since 2014."

That shows that there has been a spike in the past 10 years. I thought that 10 years was an appropriate timeframe to look at in relation to where we are and where there could be further desecration of war memorials in the future.

Regarding the community impact, there is an average of about four or five attacks each year. That might not seem like a lot, but the impact that an attack has on the community is stark. In 2019, pro-fascist graffiti was daubed on the Duchess of Hamilton park war memorial in Motherwell, which is in my region, and in 2018 the war memorial at Alexandra park was petrol bombed even before it was meant to be unveiled. It was a relatively new war memorial, but it still suffered desecration at the hands of vandals.

09:15

I refer back to the desecration of the Duchess of Hamilton park war memorial, which committee members and I were rightly forthright in condemning. What was written on that war memorial? I cannot put into words how disgusting it was. The word "rats" was etched into the stone, "scum of the earth" was written in a permanent marker and "cowards" was written above the names of armed forces personnel who died serving our country. That will have had such an impact not only on the families whose ancestors' names are etched on to those stones, but on the armed forces personnel who regularly gather at such memorials throughout the year for different events.

That particular incident was rightly called out by the veterans community. Rose Gentle, who I am sure needs no introduction, given the campaigning work that she has done for her son, Gordon Gentle, through her justice 4 Gordon Gentle campaign, said at the time:

"No matter what you are or what you believe in, there is no need for this."

Cammy MacLeod of the veterans charity Who Dares Cares said:

"For someone to go out and do this days after the D-Day commemorations is an utter disgrace."

The question that I am putting to committee members is this: do you believe that desecration of a war memorial deserves a potentially higher sentence? Do you believe that it deserves a higher status, so that there are further protections? I know in my heart, given what has happened to communities and how they have felt on the back of war memorials in their areas being desecrated, that the answer is yes.

Jamie Halcro Johnston: Thank you very much. I have some technical questions. On the increased threat, war memorials will be targeted but not necessarily damaged on some occasions. For example, a group might choose to protest at a war memorial or use it as part of an inflammatory protest in some other way. Is there anything in your bill that would cover that? Would you consider that point?

Meghan Gallacher: I would consider that. Proposed new section 52A(2) of the 1995 act provides that desecration

"includes but is not limited to spitting, urinating or defecating upon, or otherwise defacing (whether temporarily or permanently) a war memorial."

Urinating will not permanently damage a war memorial, but what matters is the intent behind it—the reason why someone feels the need to go and do it and the emotional impact that it will have on communities thereafter.

I believe—we all believe—in the right to protest. However, a protest that involves deliberately defacing or damaging a war memorial that is of significant importance not only to our armed forces community veterans but to the wider community is not acceptable. Therefore, it would be for the courts to decide, through the sentencing process, what the correct penalties would be. I am giving the courts additional levers, so that, if they believe that the desecration has enough severity, they will have the mechanisms in place to pass tougher sentences than they can at present.

Jamie Halcro Johnston: You are looking to lodge stage 2 amendments to reduce the number of exclusions and to include other organisations. Would that mean including places such as schools or sports clubs that have war memorials or memorials to former pupils or former members who have fallen?

Meghan Gallacher: You raise an important point. I have tried to make the bill's scope as direct as possible, not only because of the time limitations that the Scottish Parliament has for a member's bill, but to ensure that the bill is easily understood and has a direct aim and objective.

I am willing to discuss that issue at stage 2, because we have identified that places of worship are not included in the bill's scope. Such issues could be ironed out at stage 2, and I am happy to have discussions with members about schools or sports clubs, because war memorials could be a part of such premises as well.

Jamie Halcro Johnston: You talked about the spread of such actions. I represent the Highlands and Islands, where there are already great pressures on policing and on our courts system. Do you have any concerns that rurality may be a problem? Might such cases not be prosecuted in rural areas even if the legislation is in place?

Meghan Gallacher: You raise a fair point about rurality being an issue. I hope to create a deterrent with the bill; I do not want to cause a backlog in our courts system. My bill is strong enough to create the deterrent that we need in Scotland to ensure that we do not see the number of desecrations of war memorials that we have seen in recent years. That is my primary objective, and I hope that members can see that that is what I hope to achieve with my bill.

I understand that, depending on how severe the desecration of a war memorial is, one or two cases would end in a higher sentence. However, my financial memorandum estimates the cost of the bill to be low, which shows that I do not envisage there being a huge impact on our courts system. I hope that that gives some comfort to the committee.

The Convener: Before we continue, I feel that I need to declare an interest, given that you have mentioned Duchess of Hamilton park. My great-uncle's name was on the war memorial that was desecrated, and I was a supporter of the "Nae Pasaran!" fundraising and the trade unionists who established that memorial, which is in my constituency.

I now bring in Mr Kerr.

Stephen Kerr (Central Scotland) (Con): In a way, convener, your comments underpin something that Meghan Gallacher is presenting to us about the significance of these places. My question is very simple—it is almost redundant now, I fear. Before I ask it, I want to pay tribute to the friends of Dennistoun war memorial, who have constantly striven to raise this issue and to seek a special level of protection for war memorials in Scotland.

In relation to the damage that was done at Carronshore, which is in the Central Scotland region that I know well, I am pretty sure that no one was convicted. Part of my concern about the whole issue is that I am not sure that anyone even gets prosecuted.

However, setting that aside, Ms Gallacher, can you tell us clearly why you feel that a stand-alone offence is merited? You mentioned Jonathan Gullis's private member's bill, which the UK Government took over in 2022 and inserted into a bill that was going through the House of Commons and the House of Lords, so there is not a stand-alone act in England. Why do you think that there should be one in Scotland?

Meghan Gallacher: I think that because of the work that I have undertaken alongside the friends of Dennistoun war memorial group. We should all

applaud the work that it has undertaken and the efforts that it has made to make this a stand-alone offence. It has taken a long time to get to this point. It is only through working with the group that I have truly understood the impact that the issue has on people in our communities, our veterans and our armed forces.

We should look at the issue in the round. Jonathan Gullis's private member's bill was absorbed into the Police, Crime, Sentencing and Courts Act 2022. I was hoping to do the same here with a piece of legislation in this parliamentary session, but, unfortunately, I have not found any vehicles or mechanisms to enable me to do that, given the bills that have been introduced. If there had been an opportunity, I absolutely would have done that by lodging amendments, but such an opportunity has not been afforded to me, given the bills that have been introduced this session.

I will reflect more broadly on section 50 of the Police, Crime, Sentencing and Courts Act 2022. It is important that I use the definitions in that act in my bill. Again, had there been an opportunity for me to lodge amendments to other legislation, I absolutely would have done that, but I have had to embark on the member's bill process to create a stand-alone offence.

I believe that war memorials deserve this level of protection. The research that I have undertaken and presented shows that there has been a pattern of desecration—of varying severity—of war memorials.

The bill could also provide an opportunity to highlight the significance of our war memorials, particularly as we head towards remembrance Sunday, although there are, of course, all the other important memorial events relating to our armed forces and veterans community that take place throughout the year. Most important, we should remember what the people whose names are on those war memorials fought and died for.

Stephen Kerr: The Police, Crime, Sentencing and Courts Act 2022, which you mentioned, does not specifically mention war memorials; it is more broad and encompasses all memorials. What is the reason for your bill being very narrow?

Meghan Gallacher: I want to ensure that we look at the issue at hand, which is the desecration of war memorials. That is the issue that has been presented to me by the friends of Dennistoun war memorial and others who are very concerned about the number of war memorials that are being desecrated. I want to ensure that my bill is as direct as possible and that there is no room for other interpretations of it. I want to ensure that the bill is fixed on meeting my aims and objectives, which are to give courts more levers and to provide a deterrent so that people do not continue to deface and desecrate our war memorials.

Stephen Kerr: The additional levers include sentences of up to 10 years in prison and fines of up to £10,000. Those seem onerous. You might be about to make an argument about deterrence—I understand that—but is there a particular reason for the extent of the potential sanctions and punishments?

Meghan Gallacher: You have hit the nail on the head: I am trying to provide a deterrent. I believe that war memorials, given their significant importance, deserve a higher status of protection and that that can be provided through what I am trying to achieve.

I should put on the record that I do not believe that someone would necessarily be handed a 10-year prison sentence for desecrating a war memorial. Of course, that would be not for me but for the courts to decide, but I cannot see that being the punishment in every case. The punishment would depend on the severity of the case and how the war memorial was vandalised, damaged or desecrated.

Neil Bibby (West Scotland) (Lab): I completely agree with your opening comment that any attack on a war memorial is cruel, offensive and deeply disrespectful. We do not want such attacks to take place in any part of Scotland.

You have talked a lot about creating a deterrent, but to what extent do we also need education? I would be interested to know the extent to which the attacks on war memorials have been organised and politically motivated, as opposed to people who should know better having done something really stupid. What is the balance between those two groups? Do we need education, as well as a deterrent, to prevent such attacks from happening?

Meghan Gallacher: That is a really interesting point. I considered including education in the bill when I was piecing it together, but we decided not to go down that route because it would have been a bit complex for the bill that I was trying to introduce. However, in many instances, particularly if it is younger people who have desecrated a war memorial, education is fundamental. It would not necessarily need a custodial sentence or a sentence given through the courts; other mechanisms could be put in place that would help to educate the individual that desecrating a war memorial is wrong and, of course, educate them on the impact on the wider community, too. Therefore, I do not believe that it is a case of one or the other; it could be blended.

09:30

Again, I hope that the bill that I have introduced raises awareness of the importance of our war memorials. Some educational work could be done around that not only to raise awareness and to highlight war memorials in general, but to make people interested in their own heritage and the history of their local areas. I think that that is hugely important.

I agree with exactly what you have said. It depends on how the crime was committed and what was done. However, I think that we also need to look at other ways in which we can educate people. Of course, community payback orders could play a role in helping to ensure that the war memorial was restored and repaired.

Neil Bibby: I repeat that any attacks on war memorials are deeply disrespectful. Such attacks are a scourge and we should do everything that we can to eradicate them.

When it comes to the balance between deterrence and education, your mention of community payback orders was, I thought, really interesting. Some might point out that we have war memorials to remember the sacrifice made by so many generations of our countrymen and women, who did their duty to this country in protecting our freedom. However, your bill on the desecration of war memorials could take away people's freedoms for up to 10 years. Some might feel uncomfortable about that, when we think of those who fought for our freedom, and perhaps we should be focusing more on community payback orders. At the end of the day, our veterans and the people who have fought for this country have done it a huge service, and such orders would be a more appropriate sentence for the most severe attacks on war memorials than a custodial sentence of up to 10 years.

Meghan Gallacher: It comes back to the deterrence argument that I have been making this morning. I cannot see many circumstances in which someone would receive such a lengthy sentence on the back of desecrating a war memorial; however, we cannot rule that out, given what we have seen in recent times. It all goes back to the scale of the damage and how the crime was committed, and would, of course, be for the courts to determine.

I am trying to bring the penalties that are now in force in England and Wales up to Scotland, so that we are basically mirroring what is happening right across the rest of the UK. I get what you are saying; in many circumstances, community payback orders would be given, as the attacks might include, as I have mentioned, defecation, urination and other such elements. Again, that is not for me to determine—that would happen through the sentencing process in the courts. There would be due process to allow the courts to determine the outcome.

On the education point, I whole-heartedly agree with you. That discussion could be had as we move into stage 2, should the bill be agreed to at and progress from stage 1.

Neil Bibby: Thank you.

The Convener: I want to pick up on what I think Neil Bibby was alluding to in his final question. We might be talking about a young person who was just misbehaving and who did not really realise the severity of what was happening. I note that your equality impact assessment suggests "a neutral impact" in terms of age. I was just wondering what your thinking was with regard to younger people in such a scenario.

Meghan Gallacher: What I do not want to do is put anyone into a box. It would be very unfair to automatically say that, if a war memorial is desecrated, a younger person or someone in a certain age bracket will have done it. I think that that would be wholly unfair because, as we have seen in many different examples, we are talking about people of all ages and all backgrounds. Therefore, as I have said, I do not want to put people into a box.

Having looked at certain instances in my research, I think that it is clear that there are certain reasons why people decide to desecrate a war memorial. You have to look at these things in isolation and on a case-by-case basis; this is not something where you can say, in a blanket way, "You have desecrated that war memorial, so you are a terrible person." It could come down to a lack of education, as we have just been discussing, or there could be mental health issues. There could be lots of reasons encompassing someone's desecration of a war memorial.

Therefore, you have to look at this as a whole, which is why I talked about there being a neutral impact. These things usually happen in a silo, but, as I have said, they also seem to happen at heightened points in our society. We have seen that in recent times—in 2019, there was the beginning of the pandemic and, in 2021, we were still in that space. War memorials seem to be desecrated more frequently at certain times.

I am trying to raise the status of war memorials and make sure that we have a robust court process, should we believe that the level of the crime is sufficient for that.

Patrick Harvie (Glasgow) (Green): Good morning to the witnesses. I will touch briefly on the sentencing issue that others have mentioned, but most of my questions will be about the scope of the bill.

I welcome the fact that, in your answers so far, you have placed some emphasis on lower-level penalties, such as community payback orders, which might often be appropriate. However, I am concerned about the upper limit of 10 years' imprisonment that you have suggested. There are people who have been convicted of multiple offences of trafficking class A drugs and who have received shorter sentences than that. You might generally have a view that sentences should be longer—I do not know, but maybe you do. Is that a fair comparison? Is there not some concern that your upper limit is too high?

Meghan Gallacher: No, I do not have concerns there. Again, it would depend on the severity of the crime. I do not believe that the crimes that we have discussed this morning in relation to use of a permanent marker and urinating and defecating would amount to something that needed a 10-year sentence. However, if a war memorial was completely destroyed, it would be for the courts to determine the level of sentencing. I am not going to say that, if the bill passes, there might never be a case for a 10-year sentence, but that is not for me to determine at this point.

I take your point in relation to concerns, but, given what we have witnessed in recent times, I believe that we have to create a strong deterrent. The 70 per cent increase in such instances since 2014 tells us a story, which is that people are willingly going out and desecrating war memorials. I am trying to put a stop to that as far as possible. The aim is to protect the community, which is impacted not just emotionally but by the symbolic significance of the desecration of a war memorial.

Patrick Harvie: Thank you for that answer, which perhaps relies on the idea that high sentences are an effective deterrent to crime in general. I would question whether there is robust evidence to support that across the criminal justice system, but that is perhaps something that we can explore as the bill proceeds.

I will ask about scope and what the offences in the bill would apply to. First, you have very clearly articulated—you used the word "trauma"—the emotional impact and the social, cultural and emotional significance of the memorials that you are talking about. I hope that it goes without saying that the whole committee and, I suspect, the whole Parliament, take that very seriously and very much respect that.

It seems to me that the same argument applies to a wider range of memorials, structures or entities—call them what you will—than the ones that you have covered in the bill. The bill says:

"something has a commemorative purpose in respect of armed conflict if at least one of its purposes is to commemorate one or more individuals or animals, or a particular description or category of individuals or animals, who died in armed conflict".

The second world war was clearly an armed conflict. The Holocaust, specifically, was one of the greatest atrocities in modern human history—it was an act of genocide—but, in isolation, would it be seen as an armed conflict? Would a Holocaust memorial be covered in the legislation or not?

Meghan Gallacher: That is an interesting point. If I may, I will touch on proposed new section 52A(4)(d) of the 1995 act, which provides that

"something has a commemorative purpose in respect of armed conflict if at least one of its purposes is to commemorate one or more individuals or animals".

In the bill, I use the definitions that are used by the War Memorials Trust and the Imperial war museum, and they replicate the definition that was used in the private member's bill that was introduced by Jonathan Gullis. As we have discussed, that bill led to the introduction of section 50 of the Police, Crime, Sentencing and Courts Act 2022.

I would need to reflect on what you said about a Holocaust memorial but I am happy to have discussions, and I could write to the committee on that point. I take your point exactly and I would like to reflect on it and come back to the committee.

Patrick Harvie: Your answer, in which you described where you got the definition from, reinforces my worry that, perhaps, you decided at the beginning to focus specifically on war memorials, and you have not explained why that is specifically the definition. For example, we have seen antisemitic attacks on Jewish graves. If the individuals did not die in an armed conflict, their graves would not be covered by the definition, although I think that most people would recognise that the very same trauma and emotional impact are involved, and the cultural and social significance of those memorials is the same.

I will ask a few comparison questions. I am aware that there is a danger that this is going to sound as though I am trying to create a hierarchy of importance, but I am actually trying to suggest that there should not be a hierarchy and that all these things matter. There is a campaign to raise funds to create a memorial for LGBT veterans—people who served in the armed forces. Many of them died in armed conflict, but some of them would have been persecuted and even tortured by or expelled from the British Army, and some of them are still serving. If it were created, an LGBT veterans memorial would not be covered by the bill, although, if the memorial was to a specific individual from that community who had died in armed conflict, it would be covered.

There is also a campaign for a memorial to those who fought against apartheid. Clearly, that

was an armed conflict. Although, at the time, not everyone in this country would have agreed, most people today would recognise that the African National Congress were freedom fighters who were taking up arms against a profoundly evil white supremacist regime. If a memorial was built specifically to Nelson Mandela in Scotland, it would not be covered because he did not die in armed conflict, but if a memorial was built to Steve Biko, who was tortured to death in a South African prison, it would be covered.

Do you understand the point that focusing specifically on war memorials seems to create a lot of anomalies and to cover only some monuments? For example, you mentioned the Boer war. Some would point to the atrocities—the war crimes—that were committed by the British Army in that war. Therefore, the bill would cover monuments and memorials to individuals or groups of individuals who most people today would not say require the same degree of respect as those in living memory or those who fought against fascism. However, it would not cover some monuments or memorials—either those that already exist or those that people are seeking to create—that most people would recognise relate to the very same trauma and have the same social and emotional impact. There seem to be a lot of anomalies.

Meghan Gallacher: I am not sure that I would accept those comments as a whole. At the start of the bill process, I looked to see how wide the definition should be and I decided to keep the definition very succinct in relation to war memorials, given that that was the issue that I was looking at and had researched but also the issue that had been brought to me by constituents, veterans groups and the friends of Dennistoun war memorial. Therefore, you will understand how I arrived at the definition. That said, if the committee believes that we need to broaden the definition, I am happy to consider that carefully and to have conversations with members as we approach stage 2.

Patrick Harvie: Is it your view that a memorial to the battle of George Square, which was surely an armed conflict between striking workers and the British state, would be covered?

Meghan Gallacher: I am talking about war memorials and about people who fought and died for our country in wars. Of course—

Patrick Harvie: I am sorry, but I have to challenge that. You have mentioned the Spanish civil war memorial in Motherwell, which has been desecrated with fascist graffiti, and I think that the Glasgow one has also been attacked in the past. Those were not people who fought for our country or for any country; they were recruited by the Communist International to fight fascism. It was not about one country or another. Your definition is about those who died in armed conflict.

09:45

Meghan Gallacher: The definition that I have used drew heavily from the War Memorials Trust, the Imperial war museum and the private member's bill that was introduced through another mechanism in England and Wales. It is based on my research and what has been brought to my attention by people who are very worried and concerned about war memorials being desecrated in this country. I know that we can agree on that point.

I am not disagreeing with you about broadening definitions. I would like to have that discussion as we move forward, and the committee might want to expand the discussion, should it take further evidence on the bill. It is important that we have such discussions. I am sitting with the bill in front of me. If a memorial was desecrated, the courts would have to consider the definition of a war memorial on a case-by-case basis.

We have to look at all these things in turn. I am not against considering broadening the definition. I welcome the discussion that we are having, particularly in relation to all the different memorials that we have in this country for various reasons. However, I have introduced the bill given the issues that have been brought to my attention, which are serious and deserve our attention.

Patrick Harvie: I am aware that I have taken up a lot of time, but I have a final question, which is about a potential alternative approach. The policy memorandum talks about non-legislative approaches as alternatives, but it does not consider an alternative legislative approach that seems fairly obvious to me, rather than broadening the bill.

In relation to hate crimes against individuals, we have the concept of aggravated offences. If it is shown in the court that the offence that has been committed was motivated by prejudice on the grounds of race, sexuality, transgender identity, disability or another protected characteristic, the court treats it as an aggravated offence and is required to take that into account in sentencing. It seems to me that, if we want the courts to take into account the real trauma that is experienced by those for whom war memorials or other memorials have a special emotional significance—those memorials might have a special cultural and social significance to the whole country—requiring aggravated offences to be considered in relation to vandalism, desecration or whatever damage was done would be a much more flexible approach. The courts would be required to consider all the circumstances in relation to the meaning and

importance of a memorial and the motivation of the offender. Did you consider that alternative approach? If not, would you?

Meghan Gallacher: The approach that I have taken is primarily one of deterrence. I have referenced that a lot today, because I believe that that is what the bill could achieve—people would think twice about desecrating war memorials, given their significant importance to our communities.

You have raised an interesting concept. I am not entirely sure that that would be the right fit for war memorials, but such discussions could be broadened if the bill reaches stage 2. That could make the offence similar to those that are dealt with in the High Court. Right now, the offence fits under the sheriff court level, and I do not want to change that, because it is important that we use the right levers of our court system to ensure that, if a sentence is necessary and fits the crime, it is handed out proportionately.

We have to look at all the issues—I am not saying that those discussions should not be had. Indeed, if the committee wished to, it could explore that idea. However, I believe that what I am setting out in the bill is the best course of action not just to raise the importance and significance of war memorials, but to highlight the impact of the crimes on communities, on veterans and on our armed forces.

Patrick Harvie: Thank you.

Keith Brown (Clackmannanshire and Dunblane) (SNP): The member has probably had a flavour of the fact that committee members are keen to pursue what might seem fairly niche issues. However, if this proposal is to become law, it is important that we get the facts right.

On the nature of war memorials in Scotland, a study that was done by the University of Stirling about five or six years ago showed that there is no standard war memorial in Scotland. After the first world war, every community made its own decisions; some had Celtic crosses, some listed people by rank—although I should say that I have never favoured putting senior officers first. In any case, there is no standard way of constructing a war memorial in Scotland—there are different types.

Next week, I will attend a ceremony involving my old unit, in which a name is to be added to a war memorial of a guy who died in training. His name will probably go alongside four other guys from our troop who were killed in the Falklands; in other words, they were killed in an armed conflict, but he was not. Again, my point is that war memorials are all different—there is not a standard form. However, that particular war memorial is on my old base. I understand that the amendment that you will be lodging will not have any impact on that, because the public cannot get access to it, so that will be excluded from the bill. Is that right?

Meghan Gallacher: That is correct, as it stands. The issue could be looked at further; I have tried to ensure that the bill is as clear and succinct as possible, and that is why I wrote to the committee about places of worship, for example. I am keen to hear from members if they have examples of the kind that you have rightly pointed out of other instances that we could look at in the scope of the bill.

Keith Brown: It seems to me that any locations that are not accessible to the public, which military bases generally are not, will be excluded.

On the point about deterrence, you said—and I agree with you—that it seems very unlikely that any court would give somebody 10 years in prison for defacing, in whichever way, a war memorial. I think that, as Patrick Harvie pointed out, the idea that this act would get such a sentence while some of the most egregious examples of rape or child abuse would attract a lesser one is unlikely to be supported by a court. If you believe that, as I do, some potential transgressors will also know that it is very unlikely that the court will hand down a 10-year sentence. Does that not, in itself, undermine the idea that this will be a deterrent, given that it seems extremely unlikely?

Also, if you think about it, 10 years in jail will cost the taxpayer about half a million pounds, whereas if the individuals in question were forced—as Neil Bibby was suggesting—to rectify, by their own hand, what they did or if there were some other form of community payback, would that not be more effective than charging the taxpayer such a sum of money?

Meghan Gallacher: In the financial memorandum to the bill, I do not estimate a large number of cases being prosecuted in the courts; my estimate is, I think, a maximum of 10 new cases per year. It is difficult to predict numbers, but if we are talking about numbers and hypotheticals, I would highlight evidence of comparable offences in England and Wales, which suggests that prosecutions would be rare. I hope that that provides you with a little bit of comfort.

The deterrent element in what I am setting out in the bill is strong, but what I am trying to do is to bring in what is already happening in England and Wales. This is not something brand new. Again, I am seeking to elevate the status of war memorials, which I know that we all agree are of significant importance to our communities, while also ensuring that the issue of emotional harm is also encompassed in the crime. Right now, it is a purely financial matter; when the courts go through this process, the outcome is usually about the cost

of the damage to the war memorial. What I am trying to do in the bill is to ensure that the emotional impact is also covered in the court process and any potential prosecution.

However, I stress again that, from the information that I have about what is happening in England and Wales, the suggestion is that the prosecutions in themselves would be rare. This is all about showing people that desecration of a war memorial is wrong, that we do not accept it in society and that your actions could have severe consequences if you do decide to desecrate a war memorial.

Keith Brown: I will move on to my last point. As you said, there seems to be almost unanimity on the matter—certainly, members of the armed forces and veterans would find it appalling that people would want to deface a war memorial. However, it is also true that a lot of veterans who I know find it very patronising when they are lumped together and said to have the same point of view. We know that that is not the case, either for members of the armed forces or for veterans.

I have spoken to a number of veterans—I am referring to their views now—who say that, really, the bill is performative virtue signalling, because there is existing legislation that allows for the prosecution of people who deface memorials. Those veterans think that many other issues of concern for members of the armed forces and veterans, such as training, housing and other issues, are more worthy of time being given to them by Parliaments and Governments. What would you say to the veterans who have that view?

Meghan Gallacher: I agree that we should look at veterans' housing and other needs of veterans. That is of course a job for the Scottish Government, and I hope that, by raising the issue of war memorials, the Government will do more for our veterans. The issue should not be a political football. We should all be able to get behind and support our veterans without involving the politics.

I do not see the bill as performative. The idea was brought to me by a group who were devastated—and I mean devastated—that their war memorial was desecrated in the way that it was. That is not politicking. That is me taking on the concerns of a group of people who want the Parliament to do more for them.

That is why I am here today. I am not here for the politics. I am here to try to do some good for our communities and for the people who are genuinely impacted when war memorials are desecrated. There is no way that we can politicise that whatsoever.

I have tried to secure cross-party engagement on the bill and I have not tried to make it a party-political issue. I have met two cabinet secretaries to discuss the bill and whether there is any lever that we could use to find a way round the issues that we are experiencing.

The Dennistoun war memorial group, which lodged the petition on the issue, is desperate to see changes to the law, and that is what I am trying to achieve through that group's hard work. Yes, my name might be on the bill, but this is not a bill for me. It is a bill for people who have contacted me and who want the Parliament to do something about the issue.

Keith Brown: Just to clarify, the veterans who I referred to never mentioned anything about politics or anybody doing anything politically. The issue that they raised was about the prioritisation of issues affecting veterans and members of the armed forces. It was not about politics.

That was all, convener. Thank you.

The Convener: I want to follow up on the issue that is at the heart of my concern at the moment, which is about the definition of a war memorial. In Wishaw, we have a covenanters memorial. Obviously, there are no names associated with that, but would that be considered a war memorial? Because of its position in a country park, it is quite frequently defaced.

Meghan Gallacher: I understand exactly where you are coming from. To go back to the definition that I have set out, it relates to armed conflict—I have specified that in the bill. I have tried to make the bill as concise and clear as possible. I have tried not to expand on definitions too broadly, because we could get into a debate on that. I have tried to make the bill as targeted as possible, given the issues that have been brought to me by community groups and veterans who have spoken to me and who are deeply concerned about the number of war memorials being desecrated.

Should the principle of the bill be agreed to at stage 1, we can certainly have discussions on that issue at stage 2. It is important to reflect on the evidence today, which I certainly will do—I will take that away. However, I go back to the definitions that I set out in my opening statement and what I have said to members this morning.

The Convener: The bill opens up many questions. In Belhaven park, which is a memorial park, the trees were planted by Lord Belhaven at the time of the Napoleonic wars and so were a war memorial in themselves, although not necessarily of the equivalent description.

My area is post-industrial, and I mentioned that I have family members who lost their lives in the first world war. However, my grandfather did not go to war, because he was a steel worker, and we now have a steel workers memorial in my

constituency. The miners' war efforts were the same, and a statue paying tribute to the mining disaster was stolen from Auchengeich. Although I understand that it is a slightly different situation for veterans and their families, would those who contributed to the war effort also be protected by the bill?

10:00

Meghan Gallacher: The stark increase in, specifically, the desecration of war memorials, which I have researched, is what led to the bill's creation, which is why I have stuck with war memorials. Again, I am not saying that one issue is more important than another, but the level of desecration that has taken place around those particular memorials is the reason why I am in front of you today. It is an issue that deserves more scrutiny from the Parliament and requires there to be stronger protections, not only for the memorials but also for everybody who is impacted directly by the desecration of war memorials.

George Adam (Paisley) (SNP): Good morning. I understand where you are coming from, because I know how much the cenotaph in Paisley means to the community. Equally, we have a religious covenanters memorial and a memorial to the 1820 insurrection martyrs. I will not ask you another question about that issue, because you have answered and said that you are willing to look at the issue at stage 2 if people bring in suggestions along those lines.

I want to turn to the deterrence aspect. There might be some who are minded to desecrate a memorial for a political or personal reason in order to get a point across. If they believe that they will not get a 10-year sentence or end up in the jail, they might not be deterred, and the bill might give them a bigger platform. How do you feel about that?

Meghan Gallacher: It is not for me to hand out the sentences; that would be for the courts. Given the level of crime, it could be a nasty shock for someone if that is what the result of the court process ended up being. The bill is about lifting and protecting the status of war memorials through deterrence but also giving courts the levers, if they wish to use them, to provide tougher sentences if the crime fits. It is about looking at it all in the round.

This morning, we have spoken about education, which is a hugely important part of addressing the issue. Even having the opportunity to come before the committee to talk about the issue raises the profile of what has happened in recent years. All of that is a start, but we need tougher and stronger sentences. Should the desecration be severe, the sentencing should be proportionate, because at present it might not be, in some instances.

George Adam: I am not being cynical—well, I am cynical—but the point is that someone who has made the decision to do something will see sheriff courts as better for them than a smaller court, because they will get a bigger platform, more newspaper coverage and more people listening to what they have to say and do. If they do not fear the sentence at the other side, that is a bit of an issue. I will not labour the point, but we can discuss it as the bill progresses.

My other point is this: will those who are here today supporting your bill not be disappointed by the suggestion that, although the bill says that there is a potential 10-year sentence, such a sentence is unlikely to be given out?

Meghan Gallacher: Such a sentence is not outwith the realms of possibility. Again, it is not for me or for any of us, as MSPs and politicians, to determine what an appropriate sentence would be. That is for the court that is processing the case. It is important that that is separated.

George Adam: No, but you get what I mean. I am saying that people in certain communities will be sitting there saying, "That is a disgrace. They should get the full whack here." They will understand what the full whack would be. However, if the sentences are unrealistic, people's impression of the act, if it becomes one, will be one of disappointment.

Meghan Gallacher: I do not believe that that would be the case, because such a sentence could still be handed down. It depends on the situation, how the crime happened and the severity involved. I could not come to an overall conclusion on that today or at any point, because it is not for me or any of us to determine.

George Adam: I get that.

Meghan Gallacher: The fact that the 10 years provision is in the bill means that it is a possibility, and it is not outwith the realms of possibility. If it is the case that lesser penalties are imposed, they would still be greater than what we are presently seeing in relation to convictions for desecrating war memorials.

We have to look at the issue in the round. It is not only about looking at the worst-case scenario or the most severe penalty; it is about looking at the issue in the justice system and ensuring that people who have committed such egregious crimes that cause our communities trauma actually get sentences that are equal to the harm that they have caused. That is my bill's purpose: to ensure that penalties are there to reflect the crimes that have been committed and to ensure

that that deterrence is there, because if one or two people are convicted, others would think again.

George Adam: Okay.

The Convener: That concludes our questions this morning. Thank you for coming to the committee, Ms Gallacher, and thank you to the officials who attended. We will now move into private session.

10:06

Meeting continued in private until 11:26.

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