

MEETING OF THE PARLIAMENT

Thursday 2 September 1999

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Scottish Parliament

Thursday 2 September 1999

[THE PRESIDING OFFICER *opened the meeting at 09:30*]

Mental Health (Public Safety and Appeals) (Scotland) Bill

The Presiding Officer (Sir David Steel): The first item of business this morning is a debate on motion S1M-109 in the name of Mr Jim Wallace, which proposes that the Mental Health (Public Safety and Appeals) (Scotland) Bill be treated as an emergency bill. I remind members that this debate will be followed immediately by a decision on the motion. In fact, decisions will follow all items of business that will be taken this morning in accordance with the business programme that was agreed yesterday. I give notice that the debate will last for one hour and 30 minutes and that the decision will be taken at the end of that period. Members will be expected to be in the chamber for the decision. If there is a vote, the voting period will be the usual 30 seconds. To protect time for the important debates today, there will not be the normal 10-minute notice of votes. As no extra time will be allowed, it is important that members are in the chamber when decisions are made today.

The occupants of the chair will allow a wide-ranging debate on motion S1M-109, which is the debate that we are about to have on the need for an emergency bill, but during the second debate, which is on the bill itself, we will strictly apply the rule that the debate will be about the contents of the bill and will not hark back to the events that we are about to discuss. The timings throughout the morning will be four minutes for each speech from the back benches. I call Mr Jim Wallace to speak to and move the motion.

09:32

The Deputy First Minister and Minister for Justice (Mr Jim Wallace): On 2 August, Sheriff Douglas Allan reached a decision in Lanark sheriff court on an appeal under sections 63 and 64 of the Mental Health (Scotland) Act 1984 that led to the absolute discharge of Noel Ruddle.

That decision exposed a serious flaw in the 1984 act. Until 2 August, Mr Ruddle was one of 144 restricted patients who were detained in the state hospital at Carstairs. Patients there suffer from a range of mental disorders, including depression and mental impairment. Some patients have convictions for grave offences, others have lesser convictions and some have no convictions

at all. There is a small group of patients in the state hospital whose release would give rise to serious and enduring concern for public safety. Noel Ruddle was in that category.

The facts of Noel Ruddle's case are now well known. He was convicted in 1992 of culpable homicide and sent to the state hospital on a combined hospital and restriction order. In March this year, he appealed to the sheriff against his continuing detention. Scottish Office ministers instructed officials to oppose the appeal on the basis of medical evidence that Noel Ruddle was appropriately detained. Ministers also had regard to the broad definition of treatability that the House of Lords had set out in a judgment in December 1998 in the case of *Alexander Reid v the Secretary of State for Scotland*.

At hearings in April this year, the sheriff considered reports from forensic psychiatrists. Those reports agreed, by and large, that Ruddle was mentally disordered and that he presented a risk to the public. They disagreed on whether he was being treated in a way that alleviated his condition or stopped it deteriorating.

On 2 August, in a long and considered judgment, the sheriff found that Noel Ruddle was not in receipt of any treatment that was capable of benefiting his mental disorder. The sheriff was not permitted by the law as it stood to have regard to the issue of public protection so, under the law as it relates to people with personality disorders, Ruddle could not be further detained.

Ministers urgently considered whether there were any steps that could be taken to keep Mr Ruddle in the state hospital, but the law provided no help. There was no right of appeal. The sheriff's judgment was combed with a view to judicial review, but the unequivocal legal advice, which ministers accepted, was that such a step offered no prospect of continuing Noel Ruddle's detention.

The stark truth is that once Sheriff Allan had decided that Ruddle was no longer detainable, no other legal restraint could have been applied: not an interim interdict to continue his detention; not a civil power to section him; not a conditional discharge. To suggest otherwise is just wishful thinking, misunderstanding or, conceivably, political posturing.

It would be equally wrong to suggest that leaving the law in such a state was acceptable. The only way to guarantee public safety in future was to change the law.

On 2 August, urgent consideration of emergency legislation was instructed. On 4 August, I announced that we would bring forward emergency legislation to plug the loophole in the Mental Health (Scotland) Act 1984, and that we

offences and are still considered dangerous, could be freed. That is why it is crucial that members support this measure. Parliament must act now to change the law and to close off this serious threat to public safety in Scotland.

I move,

That the Parliament agrees that the Mental Health (Public Safety and Appeals) (Scotland) Bill be treated as an Emergency Bill.

09:42

Roseanna Cunningham (Perth) (SNP): The emergency legislation that is before us today is undoubtedly an example of what can be achieved by this Parliament and of the speed with which we can achieve it in comparison with Westminster. It is also an example, however, of what happens when a Government does not do its job.

It is a tragedy that the first piece of legislation before this Parliament has to be passed under the emergency provisions contained in the standing orders. I understand that the process has uncovered one or two deficiencies in the standing orders as they pertain to emergency legislation—happily, that will be a matter for the Procedures Committee and not for me.

More than the standing orders are deficient, however. The verdict of many people, not just in this chamber but throughout the country, is that the Executive has been found seriously wanting in its handling of the matter.

We should remember that, on Monday 2 August, Noel Ruddle's release from Carstairs did not come as a bolt out of the blue, either to the Minister for Justice or to the First Minister. Apparently, they had a conversation on the Sunday about the forthcoming release. Astonishingly, they did not consider public confidence to be an issue that they had to address; they cannot have done so, otherwise the matter would not have been handled in such a cack-handed way during the days and weeks since then.

During that period, their handling of the situation seems to have got worse and worse. They gave the impression of two lawyers having a cosy chat on the phone—

George Lyon (Argyll and Bute) (LD): On a point of order, Presiding Officer. Will Roseanna Cunningham clarify whether she is speaking in her capacity as the Convener of the Justice and Home Affairs Committee, or as—

The Presiding Officer: That is not a point of order, Mr Lyon.

Roseanna Cunningham: The clear impression was of two lawyers having a cosy chat on the phone about the legal niceties of the case, while

entirely forgetting their responsibilities as politicians and as members of the Executive.

The minister seemed totally unprepared for the storm that broke over his head. Why was that? The question remains unanswered by him. Based on the evidence of that first week following Ruddle's release, the answer is probably that he would not recognise a real political issue if it got up and bit him on the nose.

At the Justice and Home Affairs Committee meeting on Tuesday afternoon, the minister said that he was not told of the problem that was likely to be posed by the Ruddle case until 14 July—almost two months after he took office. That raises questions about the quality of the advice to ministers. Receiving that information on 14 July would, however, still have given him two weeks to get to work on the problem before the outrage hit the fan. What happened between 14 July and 2 August? We should be told.

On the evidence of the publicity at the time, the First Minister seems to have packed his bags to head off on a wee holiday. I do not begrudge him that holiday, although I notice that he is not in the chamber today, which is a pity. I wonder, however, whether the timing of that holiday was entirely apt in the light of the advance warning that had been given.

The Minister for Justice must also have cleared off somewhere, because a junior minister initially handled the furore and was left blinking like a bewildered rabbit in the studio lights, haplessly and hopelessly defending the indefensible until the Minister for Justice rode to the rescue some days later. Meanwhile, Ruddle had been doing some bag packing of his own.

When the minister reappeared, it was to a hastily arranged meeting with me and the leader of the Conservative party. No doubt, he hoped that that meeting would stop the uproar. It is a pity that, when he was pressed on whether there were any cases in the pipeline similar to Ruddle's, he answered with an unequivocal no. Lo and behold, that was not strictly true. The minister now tells us that the facts of one of the cases about which he did not advise us were not intimated to him until some hours after the meeting on 4 August—we must accept his word on that. However, I still do not accept the explanation that was given for withholding information about the other case that was due to come up—the Tonner case.

Mr Jim Wallace: I must answer that point. It has been explained to Roseanna Cunningham that, in the first case in question, the intimation of the appeal was made only on the day of the meeting. Even if the appeal were to succeed in that case, the applicant would be transferred to prison.

The clear advice that I was given, based on

would aim to do so shortly after Parliament's return from the summer recess. We never made any secret of the difficulties and we did not underestimate the challenge, but never did I or the Executive waver from that aim. It was our objective, it remained our objective and today we are delivering.

We have been criticised for failing to plug the Ruddle loophole before it appeared. That argument is fanciful. It is true that the case of Alexander Reid raised the possible argument that someone might be released from detention if they were not treatable, but it must be remembered that the secretary of state won that and a subsequent case. Moreover, the House of Lords, in its ruling on Reid, gave a very wide definition of treatment. In the Ruddle case, the sheriff decided on the basis of the evidence before him that Ruddle's position fell outside even that wide definition. It was only then that the loophole and its precise nature were exposed. Our actions since then have been aimed at closing the loophole as soon as possible and, more important, before any other patients could avail themselves of it. This legislation does that.

The Reid judgment made it clear that the law relating to offenders with personality disorders needed fundamental review. That is why the Government set up the MacLean committee within weeks of the Reid judgment and why we have made a commitment to comprehensive legislation once the MacLean and Millan committees have reported.

Noel Ruddle's abrupt and unconditional release must concern us all. We stand ready to act and seek Parliament's help today, in the interests of public safety, to plug the loophole before personality-disordered patients in a similar position follow him.

The legislation that we seek today has been prepared urgently, but with great care, to tackle the loophole that allowed Noel Ruddle's discharge. The legislation will put public protection at the heart of the decisions that sheriffs take in considering appeals for absolute discharge and will allow ministers to appeal against decisions when, in the ministers' view, public safety concerns have not been adequately dealt with. Other steps are to clarify the importance of public safety in ministers' decisions on restricted patients and to include personality disorders in the statutory definition of mental disorder. We want those powers to be in place for current and future appeals. It is intended that the new test will come into effect for any appeals that are heard after 1 September.

As you are aware, Sir David, bills in the Scottish Parliament must comply with the articles of the European convention on human rights; we have

framed the bill with that in mind. Acting on independent legal advice, you, as Presiding Officer, have sanctioned the introduction of the bill as a competent measure.

This emergency legislation has not been the Executive's only response to the Ruddle judgment. At our request, the Mental Welfare Commission for Scotland is examining aspects of care and treatment in Mr Ruddle's case and in similar cases. The commission is focusing on psychological interventions that might have been considered appropriate, and will report by the end of the year.

As I have said, the MacLean and Millan committees are working to modernise and improve our legal framework, and are consulting widely on the steps we should take.

In the first months of next year, we should have advice on the sentencing of serious offenders with personality disorders. By next summer, that will be followed by comprehensive proposals to modernise Scotland's mental health legislation. I am sure that I speak for the Parliament when I say that I am grateful to Lord MacLean and to Bruce Millan for leading this important work. That is why I have made it clear that I consider today's emergency legislation to be an interim measure. I promise that full and well-conceived legislative proposals will be presented during this parliamentary session.

Mrs Margaret Ewing (Moray) (SNP): We all welcomed the establishment of the Millan and MacLean committees. In view of the nature of the legislation, will the minister guarantee that those committees, having been established by Westminster, will report to the Scottish Parliament? Will he also guarantee that all members will have an opportunity to examine their recommendations in detail?

Mr Wallace: I am grateful for that intervention because it allows me to confirm that both those committees will report to this Parliament. Their reports will be the subject of considerable consultation in this Parliament and its committees. Through that process, the Parliament will discharge its responsibility in what is recognised to be a difficult but important sphere of public interest and concern.

We await those proposals and we look forward to the subsequent legislation, but today's legislation is no less vital; in the interests of public safety, we had to find a quicker way of plugging the loophole exposed by the Ruddle case. That is why we are pressing colleagues to agree to treat this bill as emergency legislation.

Following Noel Ruddle's release, there is a risk that, without this bill, a small number of mentally ill patients, some of whom have committed grave

careful consideration of the cases, was that the other case was materially different from Ruddle's. It therefore did not fall into the same category as the handful of cases on which our discussions focused. I did not mislead her.

Roseanna Cunningham: The minister knows that the explanation that was subsequently given on 27 August was not accepted either by me or by Mr McLetchie.

It transpired that the appeal was made on precisely the same point but that, at an early stage, a view was taken of the quality of the evidence. The minister was therefore going to advise us that the cases were not the same. However, to say that a different view was taken of the quality of the evidence is by no means the same as saying that the Tonner case was not similar to the Ruddle case.

It was disingenuous in the extreme for the minister to have taken that position on the Tonner case, and I think that he knows it. The matter has damaged his credibility. His credibility was not helped any further by his saying before the Justice and Home Affairs Committee on Tuesday that he was not there in 1997 and 1998 during the events that led up to the case.

Mr Wallace: It is true that I was not there.

Roseanna Cunningham: The minister may say that it is true that he was not there, but that does not help his case.

The phrase that he used at the committee meeting seemed vaguely familiar to me, and then I remembered why. There are three well-known defences in Scots law. The first I had better not repeat for fear of incurring the Presiding Officer's wrath, but I will let him in on the secret afterwards. The second is that a big boy did it and ran away—that is clear enough, I suppose. The third is, "It wisnae me; I wisnae there," and that is what the minister is saying about his position.

Obviously, the minister remembers that defence well from his years at the Scottish bar—so well that he thought that he would try it out for himself when he got into a corner. As a plea in this case, it is a total non-starter. Whether Mr Wallace likes it or not, he took the job, he took the money and now he has to take the responsibility. That leaves him swinging gently in the breeze—no doubt that is where his coalition partners would like to leave him.

Euan Robson (Roxburgh and Berwickshire) (LD): Will Roseanna Cunningham give way?

Karen Gillon (Clydesdale) (Lab): Will Roseanna Cunningham give way?

Roseanna Cunningham: No, I am taking no more interventions; I have limited time.

We should not ignore the figure skulking in the long grass. It is the First Minister—who is not here—hoping that no one will spot him or his involvement in the whole affair leading up to 1999. I do not think that he should be let off quite so easily. He certainly cannot pretend that he was not well warned of the effect that the release would have on public opinion and confidence. A previous high-profile case—mentioned by the Minister for Justice and similar in its facts—had generated major publicity. The Reid case was covered extensively by the press after the sheriff court decision in 1997 and again in 1998. Indeed, it led to a front page *Daily Record* headline on 23 August 1997: "Madness". Madness indeed.

Let us consider the Reid case, which both ministers have regularly cited in their own defence.

Karen Gillon: Will Roseanna Cunningham give way?

The Presiding Officer: The minister is in her last minute now. [*Laughter.*] I am sorry, I meant to say that the member is in her last minute, so interventions cannot be taken.

Roseanna Cunningham: On Tuesday, the Minister for Justice stated categorically that

"the MacLean committee was set up as our response to the Reid judgment." [*Official Report, Justice and Home Affairs Committee, 31 August 1999; c 31.*]

The MacLean committee was set up after a successful intervention in the House of Lords. Apparently, the success in the sheriff court appeal a year earlier had not set the alarm bells ringing, but the success in the House of Lords had. I would like to know why, in the middle of 1998, given that Ruddle had then come into the queue, the then Secretary of State for Scotland did not hear the alarm bells ringing loudly enough to have done something about it. We have lost a great deal of time in dealing with the issue.

The problems posed by the Mental Health (Scotland) Act 1984 had been growing for some time. There are other issues to do with treatability, which take us back to 1994, but other members will deal with that. The unpalatable truth is that the current Minister for Justice is responsible for the debacle—he is on the hook, but he is not the only one. The previous Secretary of State for Scotland, now the First Minister, must take some share of the blame. The fact that he is not in the Parliament today and is pretending that this matter has nothing to do with him simply will not do.

09:53

David McLetchie (Lothians) (Con): Thank you, Mr Presiding Officer.

The Presiding Officer: I am sorry, but your microphone is not on. Please press the button.

David McLetchie: It is not working.

The Presiding Officer: I am sorry about that. Could we have Mr McLetchie's microphone on, please?

I will grant you injury time. Just shout, David.
[Laughter.]

David McLetchie: Thank you, Mr Presiding Officer.

On behalf of the Scottish Conservative party, I am pleased to confirm our support for the motion calling for the Mental Health (Public Safety and Appeals) (Scotland) Bill to be treated as an emergency bill.

We have been urging the Scottish Executive to treat the matter with the urgency that it deserves since the sheriff's decision in the Ruddle case was first announced on 2 August. Mr Ruddle was released from Carstairs notwithstanding the fact that his state of mental health was such—whether treatable or untreatable—that he represented a danger both to the public and, lest it be forgotten, potentially to himself.

It is a matter of urgency that we close the loophole in the law used by Mr Ruddle to gain his freedom and which others might seek to exploit in pending cases—other cases that might come before our courts before we have the comprehensive review of mental health legislation following the reports of the MacLean and Millan committees and any subsequent legislation that we might enact. However, although we welcome and support the motion, it provides an opportunity for the Parliament, in plenary session, to consider the way in which both the minister and the Scottish Executive have handled the matter. There are lessons to be learned from this affair in terms of the conduct of the Government and the relationship between the Executive and the Parliament.

The first charge that we lay at the door of the minister is one of complacency. Mr Wallace and Mr Dewar failed to pull out all the legal stops to try to keep Mr Ruddle in detention. It was open to them to seek a judicial review in the Court of Session of the decision to grant Mr Ruddle his freedom, coupled with an interim suspension of the discharge order, pending consideration of that application. I fully accept that there was no guarantee that such an application would have been successful and have resulted in the detention of Mr Ruddle, but it should at least have been attempted. In the opinion of experts, such as the former Lord Advocate, Lord Mackay of Drumadoon and the former Solicitor General, Paul Cullen QC, there was a stateable case for a review, based on the failure of the sheriff to explain in his judgment why he discounted the evidence of one of the psychiatrists who believed

that Mr Ruddle's condition was treatable.

I find it very difficult to believe that, given the time that the Executive had to consider the matter and the legal advice at its disposal, the minister could not have instructed the presentation of a stateable case to the court. As Ms Cunningham said in her speech, let us not forget that the Ruddle decision did not come out of the blue on 2 August. The hearing before the sheriff was concluded in May. The minister told the Justice and Home Affairs Committee on Tuesday this week that he was advised of the pending decision on 14 July.

Mr Jim Wallace: That is not true.

David McLetchie: I believe that it is correct. The minister told the committee on Tuesday that he was advised of the background to the case and the pending decision on 14 July. That is in the *Official Report*.

Mr Wallace: I want to clarify that point. I was advised of the circumstances of the case and that there was a decision pending. I was not advised of the nature of the decision. Obviously that was not known until the sheriff's judgment.

David McLetchie: I think that Mr Wallace will accept that he was advised that there was an important pending decision and that an adverse decision might have led to the release of Mr Ruddle. That was a serious possibility, which was brought to his attention on 14 July. Moreover, the minister, as I am sure he will confirm, told the committee that

"allowing for the possibility that Mr Ruddle might have been discharged, efforts were made to put a care package in place before that Monday"—

that is Monday 2 August.

If efforts were being made to prepare for defeat in terms of Mr Ruddle's care on discharge, why were contingency plans not being made at the same time to challenge that decision in a higher court? That was a massive failure of political leadership on the part of the Deputy First Minister. He constantly jumped to conclusions and was far too keen to accept the advice that was given, when he should have been doing everything that he could to ensure public safety.

The second charge relates to the minister's failure fully to disclose the position in relation to other cases in his dealings with Opposition parties—part of which has already been covered in his exchange with Roseanna Cunningham.

I accept that one case that subsequently came to light is not relevant. However, that is not true of the case of Mr Tonner. The minister justified his failure to disclose—he confirmed it this morning—on the ground that it was

"found that the other case had distinguishing features that did not make it appear to be in the same class as the Ruddle case."—[*Official Report, Justice and Home Affairs Committee*, 31 August 1999; c 30, 28.]

That is legal hair-splitting and I have to ask: "found" by whom and "appeared" to whom? It certainly was not the sheriff, who has not even heard the evidence yet.

It was Mr Wallace's advisers who were making a judgment on the evidence and how it would be assessed by the sheriff. The truth is that the minister did not know then, and does not know today, what judgment will be passed on that evidence, because it is not his decision. Given the minister's proclaimed commitment to openness and freedom of information, I find it astonishing that he should take the approach that he has in dealing with Ms Cunningham and myself.

The third charge to be examined is that of foot-dragging in introducing this new legislation. The minister maintains that his response has been rapid, set in train by his statement of 4 August, following our meeting. However, studying his statement, I see not one word in it about emergency legislation. Instead, there is simply a reference to Lord MacLean being asked to accelerate the work of his committee. It was Ms Cunningham and myself who pressed the issue of emergency legislation, whereas—as the notes of the meeting will confirm, and the Deputy Minister for Community Care, Mr Iain Gray, should be able to confirm it as well because he was there—the minister's response was guarded, to say the least, and contained no suggestion that legislation would be brought to this Parliament on anything like the accelerated timetable that we are now being asked to approve.

Mr Wallace: That is not correct.

David McLetchie: No, it is correct. If you look at the notes of the meeting—your advisers were there—you will find the suggestion that legislation would not be in place until at least October. I am sure that Ms Cunningham will confirm that that was the clear impression you gave on those discussions. All we heard about were the difficulties with the legislation; we did not hear about any decisive intent on your part to act at that time. I am quite happy, if you are, for the notes of that meeting to be published in order to—

The Presiding Officer: Mr McLetchie, please leave me out of it. You have been addressing me and not the minister.

David McLetchie: I beg your pardon, Mr Presiding Officer. I inadvertently said "you".

The Deputy Minister for Community Care (Iain Gray): Will Mr McLetchie give way?

David McLetchie: If I may have an extension, I

will let Mr Gray clarify things.

Iain Gray: I want to clarify the points that Mr McLetchie made. Does he not agree that—at the meeting to which he referred—we discussed clearly with him and Ms Cunningham the possibility of laying emergency legislation before the Parliament immediately on its return after the recess, which is what we are doing? There followed a discussion on how long that process would take. We now know that it will take a week, but that was not clear at the time of the meeting. We said that we would bring the legislation to the Parliament when it returned. Ms Cunningham's response, as I recall, was that the Scottish National party had never asked for Parliament to be recalled. Is not that Mr McLetchie's recollection of the meeting?

David McLetchie: My recollection is that the whole subject of emergency legislation was initiated in that discussion by Ms Cunningham and myself, and that most of the initial discussion—led by Mr Gray and the Deputy First Minister—related to a review of the Ruddle case and why certain actions had or had not been taken. The complexity of any new legislation in relation to human rights was also discussed.

I accept that the ministers said that legislation might be introduced, but what we are talking about now is the timetable and the speed of response. The indications that were given at that meeting—and Ms Cunningham and the notes will confirm this—were that we were unlikely to have legislation on the statute book until at least October. As he said in his statement of 4 August, Mr Wallace was going to make a prior referral of the matter to the MacLean committee. That is in his statement.

The Deputy Minister for Parliament (Iain Smith) rose—

David McLetchie: No thank you—I have just answered that one fully.

We now have an accelerated timetable because of the public outcry and the political pressure that has been brought to bear. When it was put to its first test, the Scottish Executive flunked the examination. The report card for this lot will read: leadership, failed; openness, failed; responsiveness, failed. However, of all those failures, it is the failure of political leadership and the failure to pull out all the stops to protect the safety of the public that are by far the most damning. Instead of a minister being in charge of his department and offering decisive leadership in the public interest, we have a minister being run by his department, meekly accepting the advice proffered and being unable to see the big picture. The Ruddle affair is a nightmarish Scottish version of "Yes Minister", with one crucial difference—in

our case it is exit Jim Hacker, enter Jim Wallace.

The failure of the Executive has brought us to this pass. As an Opposition party, we would compound that failure if we did not hold it to account in this Parliament. However, we have a wider responsibility in the circumstances that have arisen: to support the necessary corrective legislation in principle, and to scrutinise its effectiveness to do the job for which it is intended. That is a responsibility that we willingly shoulder, and that is why we will support the minister's motion.

10:05

Euan Robson (Roxburgh and Berwickshire) (LD): I welcome the introduction of the bill. Mr Ruddle's release exposed a loophole in the law and it is important that that loophole be closed. It is also important to emphasise that, within a month of the loophole being exposed, Parliament is to consider emergency legislation, which has been drafted quickly despite having to take into account the complexities of the European convention on human rights. I suggest to Parliament that we should not underestimate those complexities.

In contrast to David McLetchie, I believe that the Executive has demonstrated its commitment to public safety. Otherwise, we would not be here this morning. With your permission, Sir David, I would like to put on record the sympathy of the Parliament to the relatives of Mr Ruddle's victim. It must be difficult for them to have to live with this nightmare, which they will have seen repeated several times in the press.

As we heard in the Justice and Home Affairs Committee, the bill will be an interim measure, pending the reviews that are in train. The Executive has confirmed that there will be further legislation if necessary, after Lord MacLean and the Mental Welfare Commission for Scotland have considered aspects of the Ruddle case. Those aspects were immediately referred to them on 3 August.

It is difficult for laymen to tread in this complex legal area; perhaps it difficult also for recently retired solicitors. However, the problems with the legislation that was introduced in the second term of Mrs Thatcher's Government have been apparent for some time. During the meeting of the Scottish Grand Committee on 16 July 1996, while discussing this very problem, Lord James Douglas-Hamilton—who is with us today, of course—said:

"We need to be absolutely certain that existing criteria give sufficient prominence to the protection of the public. To that end, I have instructed an examination of the criteria with a view to taking whatever measures are necessary."—*[Official Report, House of Commons, Scottish Grand Committee, 16 July 1996; c 3.]*

I entirely agree that it was important that that review should take place, but after nine months nothing had happened, and no loophole such as has been exposed by Mr Ruddle's case came to light. It is perfectly clear that there have been difficulties with the legislation for a while and that this interim measure is important. However, the general review that will take place after the MacLean committee has reported is equally significant.

The Government was right to rely upon successive successful appeals in the Reid case. It was important that it did so. What else should it have done? As soon as the Reid case was finished, the MacLean committee was set up within about six weeks, over the Christmas period.

Mr Kenny MacAskill (Lothians) (SNP): Mr Reid's case was first dealt with in the Scottish sheriff courts in around 1994. It then went through appeals before finally reaching the House of Lords in 1998. The MacLean committee was instructed shortly afterwards. Therefore, there were four years during which the case was considered. It took four years for the previous Administration, and now this Administration, to get their act together and instruct Lord MacLean.

Euan Robson: But is Mr MacAskill suggesting that the Government should initiate a committee of inquiry during the course of legal proceedings? That would probably be unprecedented during a series of appeals.

David McLetchie rose—

The Presiding Officer: Just a minute, Mr McLetchie. Your microphone is not working.

David McLetchie: I think that I am live now.

I want to point out that the legislation that we are being invited to enact will affect cases that have already been lodged and are still to be heard. Mr Robson asks whether the Government can initiate a committee of inquiry while the case is pending, but this legislation will change the law while the case is pending, which is far more fundamental.

Euan Robson: I take Mr McLetchie's point. That is a clear legal issue which should be addressed; presumably it has been addressed in relation to the European convention on human rights. It is important that the interim legislation stands the test to which it will be subjected in further appeals.

How would Mr McLetchie have reacted had the Minister for Justice ignored the law officers' advice? I suggest that he would have been one of the first to criticise the minister for doing so. Mr Wallace has suffered some unfair and hostile criticism recently and I commend him for his courage and fortitude during this difficult period. I also commend him for bringing the legislation before the Parliament today—we should proceed

with the bill.

10:11

Mr Duncan Hamilton (Highlands and Islands) (SNP): I also feel very strongly for Mr Wallace, because he has taken a terrible pounding over this issue. Perhaps there was a subclause in the partnership agreement that said, "In the event of a political hospital pass, a Liberal Democrat minister will take the lead on this and other issues." The entire Executive has to take some responsibility for an issue that involves the justice department and the health department. Although I support the need for emergency legislation, I will focus on two key areas that might have stopped us getting into this mess; I would appreciate it if the minister would address the position in which we find ourselves when he sums up.

My first point concerns the treatability test. As Mr Wallace rightly pointed out, the sheriff was put in the position of handing down an absolute discharge, because Mr Ruddle was not receiving the appropriate treatment to alleviate his condition. However, why was not Mr Ruddle receiving such help? Why was that treatment not available? We need to ask questions about the provision of mental health care in our establishments, and those answers must come, not just from Mr Wallace, but from the health department, so that we find out exactly what went wrong in this case. It is not that the treatment does not exist; it simply did not exist in this instance and we have to ask why.

At the Justice and Home Affairs Committee, Mr Wallace said that the matter would be referred to the Mental Welfare Commission for investigation. However, the question is not that difficult: the treatment either did or did not exist. We do not need another inquiry punted into the long grass before we can find out whether adequate provision was made. There is a crucial difference between a condition that is not treatable and the unavailability of treatment—that point will be raised time and again in the debate.

We also need to find out why the sheriff could not have considered the wider context. Is it possible to have a legal system that says that treatment is available and which tries to find a way of getting it, instead of a system that takes the narrow definition which means that, in the specific case in Carstairs, Mr Ruddle goes free because treatment is not available? That suggests a lack of clear thinking and we need to discover how to prevent such a situation in future. I look forward to that point being addressed in the summing-up.

The rights of the patient also have to be taken into consideration. To secure the rights of the patient, there has to be some emphasis on basic

provision, instead of simply locking up the patient and throwing away the key.

My second point moves the focus away from the unfortunate Mr Wallace to the rest of the Executive and particularly to the Secretary of State for Scotland, as he was, and the First Minister, as he now is, as the time frame takes in several Administrations. We need to find out the position of the responsible medical officer. The responsible medical officer is obliged to provide regular reports to the First Minister—the then secretary of state—on the treatment that is received by patients in such a position. The secretary of state is also obliged to make sure that the patient is receiving adequate care on the recommendation of the responsible medical officer.

Were such regular medical reports received; and, if so, were they read and understood? Did those reports recommend additional treatment and highlight the lack of provision of adequate mental health care? If so, we are faced with two options. Either the Executive or the then Government decided that it would not do anything about the situation, which makes the entire Government culpable; or there was a problem with the reporting mechanism from the RMO upwards. We must resolve such a problem, because the RMO's reports provide the major check in the system to ensure the provision of proper medical care. If that system breaks down, we will have serious problems.

Iain Gray rose—

The Presiding Officer: I am sorry; the member is in his last minute.

Mr Hamilton: I would appreciate specific answers to my points about treatability and about the position of the responsible medical officer. My questions are not just for Mr Wallace but for the whole Government; it is about time that his coalition partners tried to buttress his unfortunate position.

10:16

Dennis Canavan (Falkirk West): I am concerned about certain aspects of the emergency legislation. Much has been said and written recently about our Parliament getting off to a bad start; I remember that, back in May when we first convened after the election, I expressed regret and thought it rather ironic that our first vote was held by means of a secret ballot. It is also ironic that, if we agree to the motion, our first bill is to be passed by emergency procedure.

I understand the Executive's desire to get the legislation on the statute book as soon as possible, but I am concerned about the lack of opportunity for adequate scrutiny of the bill. On

Tuesday at half-past 1, I went along to the document supply centre and then to the chamber office to get a copy of the bill, only to be told that it was not available. I did not manage to get a copy until yesterday—I suspect that most MSPs were in the same boat.

The new Scottish Parliament was supposed to herald a new era of open democracy, including more opportunities for pre-legislative scrutiny, which we hoped would lead to better-quality legislation. Yesterday, the business manager, Mr McCabe, told us that the bill had been produced after intensive discussion and preparation, but he failed to tell us with whom that discussion had taken place. As it is part of the business manager's job to ensure that the Parliament has adequate time to scrutinise legislation, it is ironic that Mr McCabe—who has been issuing press statements all week telling us how we should be doing our job—seems to be failing in that aspect of his job. I do not think that the time available to scrutinise the legislation is by any means adequate.

The Minister for Parliament (Mr Tom McCabe): I do not know whether Mr Canavan is purposely forgetful, but he will be aware that the Parliament's provisions for emergency legislation allow for such legislation to be taken in one day. The business motion that the Parliament agreed to yesterday spread consideration of the legislation over two weeks, to allow maximum scrutiny of the bill while getting the legislation on the statute book and answering public safety considerations as soon as possible.

Dennis Canavan: Nevertheless, if members read the timetabling motion, they will learn that there is by no means enough time for adequate scrutiny of the bill. The Executive says that there are over two weeks for scrutiny. For heaven's sake, we have today and one day next week for consideration of this emergency bill. That is not adequate by any means.

Later there will be an opportunity—albeit limited—to discuss the content of the bill. I am concerned about certain aspects. There is, understandably, great concern about public safety, but there is also concern about the implications for human rights of the legislation and about the reference to personality disorder and its definition.

What exactly is a personality disorder? If everybody with a personality disorder were a potential candidate for being locked up, that would be one way of reducing the membership of this Parliament. There would be more than a few objections—especially if the First Minister had the key.

Whether or not that is a real possibility, it is important that we are given the full opportunity to

study and consider the implications of the legislation. My fear is that if Mr McCabe's emergency bill procedures motion is passed, it will be an early example of the Executive trying to use this Parliament as a rubber stamp.

The people of Scotland have waited nearly 300 years for this Parliament and I fear that historians might record that our first piece of legislation was passed with undue haste and inadequate scrutiny. That does not augur well for the new Parliament or for the quality of our legislation on mental health or anything else.

10:23

Mrs Margaret Ewing (Moray) (SNP): I am one of the Ewings who is not qualified in the legal profession; I suspect that many members are in a similar position. Some of the arguments in the course of this debate address legal niceties. I speak as a layperson who is concerned about the legislation. I hope that we can address the issues in the way that many constituents would wish.

Throughout my parliamentary life, my experience of emergency legislation has been that it is always an extremely difficult source of legislation. We often repent at leisure after we rush through legislation. I recall many bills—I do not want to list them—which required hundreds of amendments at a later stage to ensure that the legislation was effective. A little word of caution to all of us is to ensure, when we consider emergency legislation and the provisions to introduce such legislation, that we make our best efforts to prevent the legislation coming back to haunt us.

Mr Jim Wallace *indicated agreement.*

Mrs Ewing: I see the minister nodding in agreement. I sincerely hope that in rushing through this legislation we are not creating another loophole, which we will have to close at some future stage.

It is interesting that I follow Dennis Canavan, with whom I worked as a teacher for many years. He was the boss of the mathematics department, to which I was attached because of my interest in people with special needs. I was surprised that Dennis did not ask the question that I am about to put to the minister. How many drafts of the bill were written before the final version? It is important that we know that.

Mr Wallace: If Mrs Ewing looks at the photograph in *The Herald* yesterday, she will see, on the bill that I eventually signed, that I crossed out the words "draft 12".

Mrs Ewing: There were rumours that there were more than just a dozen—I do not know whether it was a baker's dozen—and, certainly, not all of us

look at every picture in *The Herald*. It is important that we realise that the people who are responsible for helping us to draft legislation must go through a complex procedure to reach this stage.

In his response, I would like the minister or his deputy to advise us which organisations were consulted while the legislation was drafted, which was clearly a long process. I know, because of my interest in people with special needs, that many organisations have made strong recommendations and expressed strong concerns about the motion.

I echo the point about defining personality disorders. I am sure that people in the press gallery look down and say, "Those 129 people must have personality disorders or they would not be there." According to some of the articles that I read in the tabloid press, we are all here for some very strange reasons.

What is a personality disorder? It is a difficult definition. From my training in special needs, I know that every case is an individual case. I do not think that blanket legislation can define a personality disorder, and that is where I have a huge problem with the overall direction of the bill. Unless we look at the definition in terms of individual cases and of our ability to treat those cases, we will have to revisit the issue.

I would like a clear commitment that when the Millan and MacLean reports come before this assembly, they will be considered by the various committees of the Parliament because the reports touch on public safety, criminal law, health, education and a variety of other things. They should not be referred to a specific committee because it is essential that the boundaries are crossed.

The Presiding Officer: Thank you. There are problems with the electronic equipment this morning; the names of some members who wish to speak have not registered on my screen. Can I see a show of hands by those who thought that they had registered their wish to speak?

That is what I suspected. I am sorry, but none of you have been registered. There is a moral here. I was told that during the recess members who escorted children through the building allowed them to play with the equipment, which caused great concern. The equipment is temperamental and I am becoming temperamental trying to operate it. I am sorry that many members who should have been called have not been because their names were not on my screen. I will now do my best to rectify that.

Hugh Henry (Paisley South) (Lab): On a point of order, Mr Presiding Officer.

The Presiding Officer: Yes, Mr Henry. Can we

have Mr Henry's microphone on?

Hugh Henry: Is it that only machines in a certain part of the chamber are not working? There has been an imbalance of party in the speakers who were called this morning and yesterday.

The Presiding Officer: No. To give you a straight answer, there were no Labour names on my list. I kept on querying that, which is how we discovered that the equipment was not working. I do not think that the equipment is displaying political bias; it has simply not worked. I will do my best to rectify that in the last few minutes of debate, but it has caused a major problem.

10:29

Karen Gillon (Clydesdale) (Lab): I will keep my comments brief. I am the constituency MSP for the state hospital in Carstairs and welcome the opportunity to participate in this debate. I thank the ministers for keeping me informed of developments.

As is obvious, people who work and live in and around the state hospital have considerable concerns about this case and the implications for future cases. Some of the reactionary, inaccurate comments made by Opposition members in the press during the summer did nothing to help those people or to progress the debate.

My concern now is that the legislation that this Parliament introduces should not only be in the best interests of the public, but give patients in the state hospital the care that they need and deserve; that balance is very important.

In the immediate aftermath of Mr Ruddle's release, I went to the state hospital with my colleague, Jimmy Hood MP, to meet the staff and patients. Morale among the staff was very low and people felt that they were being blamed. We need to examine that situation. The staff work hard in very difficult circumstances and, if anything comes out of this debate, it should be our support for staff who work in places such as the state hospital and how we can help them in their jobs.

I was concerned by press speculation that up to 15 other people were about to be released immediately into the vicinity of Carstairs or into the wider Scottish community. I had asked ministers about that and they had assured me that no cases were pending at that time, which was on the Monday or Tuesday of that week. During my visit, I asked the staff about other releases. They gave me a categorical assurance that the nature of the pending appeal was not the same as that of Mr Ruddle's and that different psychiatric help was needed by the patient in question. They said that the case was not the same and that it would be

almost impossible for the individual concerned to exploit the loophole. Mr McLetchie is shaking his head, but I spoke to those members of staff and they are the experts.

David McLetchie *rose—*

Karen Gillon: I will not take any interventions. We have waited a long time to speak in this debate and I have only a short time.

Those members of staff are treating the patients in Carstairs. I asked them specific questions and they gave me the same information that ministers gave me. I welcome that. I believe that my information, which I was able to pass on to my constituents, was correct. We need to progress this debate and to stop being reactionary and trying to score political points. We must act in the best interests of the Scottish people and of the patients at Carstairs and introduce a new law that meets those requirements.

Phil Gallie (South of Scotland) (Con): On a point of order, Presiding Officer. For clarification, the previous speaker commented that interventions are a waste of time. Are not interventions for the good of everyone? They are part of, and can add to, a normal debate.

The Presiding Officer: You are quite right Mr Gallie, but in view of the problems that we have had, Ms Gillon was justified in pressing on. For the same reason, I call Cathy Jamieson next to try to rebalance the debate.

10:33

Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab): The public's expectations for this Parliament are high. What we have read in the press during the past few weeks has been very unhelpful. It is particularly unhelpful that today's debate has been, to some extent, a ritual slagging-off, with people determined to have a go at individuals rather than attempting to focus on what needs to be done in terms of closing the loophole in the law. I hope that that ritual slanging match is now out of the way and that we can begin to focus on the issues.

I have for many years worked with people who have particular mental illnesses, who have been described as having personality disorders and who have other special needs. I am acutely aware of the human rights implications of this issue and of the implications for resources and the provision of treatment and support for those people.

I have a few points to make about why we need to deal with this issue as an emergency and about what we need to discuss in the rest of the debate. The real issue exposed by this loophole is public safety. Earlier, the Presiding Officer mentioned children; we should be aware of the fact that we

have legislation that allows a public safety test to be applied when deciding whether to keep children in secure accommodation. I do not see why adults should be treated any differently. That is the point at issue this morning.

Common sense says that the loophole should be closed and that the First Minister should have a method of appealing against the decision of a sheriff where that decision is clearly not in the public interest. Common sense says that we need a definition of mental illness, but not so that we can sweep people with personality disorders—including some of us here—off the streets and lock them up. It is not proposed that the bill should do that—I would certainly not be in favour of it if it did. What is proposed is that we should deal with the current situation of a number of people and a loophole in a particular piece of the law.

The nature of an emergency is that we have to act quickly. I share some of Dennis's views about time for scrutiny, but if we are not seen to be taking some action we could be open to further criticism. Common sense says that we should get on with debating the principles of the bill and ensuring that it gets on to the statute book as quickly as possible. There will be checks and balances to consider and we have committees and other people who will deal with them. The bill will solve a particular problem on a particular issue. Let us get on with that and give the public some assurance that we are putting their safety first.

10:36

Donald Gorrie (Central Scotland) (LD): I speak as a fully paid-up member of the critics' trade union, but some recent remarks in the press have brought criticism into bad repute. There has been an extraordinary amount of hype and personalisation of the argument. That is bad in two ways: if the argument is hyped up, serious criticism on other issues is devalued and the chance of a serious examination of the subject is removed. The same applies to personalisation. If we go in for attacks on a minister, we reduce the amount of serious discussion of the issue. Duncan Hamilton made some good points on that issue.

There are important points, such as those that the previous two speakers made, that need careful consideration, but extraordinary criticisms do not help. Roseanna Cunningham has expounded a new doctrine that would terrify any football manager. Her doctrine is that if one is a team's recently appointed football manager, one is responsible for all the defeats suffered by that team before one took office. That is ludicrous.

Jim Wallace is being accused of accepting legal advice and trying to uphold the rule of law. The arguments against him are that he should have

devised various sneaky tactics to get round the rule of law. Most of us would not want to live in a society that allowed such behaviour. The law is sometimes inconvenient or stupid and sometimes bad decisions are made, but we have to put that right in the correct way. That is what Jim Wallace is trying to do.

I appeal to people not to go over the top and personalise their criticisms, because that harms us all in the long run and reduces our chances of getting things right. Those who live by the sword shall die by the sword; those who live by hype shall die by derision.

10:38

Miss Annabel Goldie (West of Scotland) (Con): If this unhappy episode has demonstrated anything, it is that whether the Executive likes it or not, this has been the political issue of the Parliament since its inception. That may not be palatable to the Executive, but it is the reality, not only to the Opposition parties but to the public.

In response to Mr Gorrie, I must say that during the whole debate, from early August until now, I did not detect any attempt to personalise attacks. All that we—and the Scottish nationalist party—were saying was that it is not for us, or for ministers or advisers, to become judge and jury. If we wish to test a law, we must ask a court to undertake that task. That dramatically illustrates the relevance and significance of the role of Opposition. It is not for the Opposition to go around kowtowing, apologising and promising not to be unpleasant or nasty. It is for the Opposition rightly to consider any given situation, particularly one of the gravity of the Ruddle case, and to determine whether the Executive has fully, responsibly and openly discharged every obligation upon it and explored every avenue available to it.

In that respect, there is one question to which I, personally, have not received an answer. I listened with interest to Mr Wallace's remarks. In his preliminary observations, he said that there was "no appeal, no interim interdict". Did Mr Wallace receive advice that, within a judicial review application, it is competent to include a conclusion for interim suspension of a sheriff's interlocutor?

We in the Conservative party have made it clear that we support in principle this welcome attempt to plug the loophole, and we certainly support the motion that it should be treated as emergency legislation. We shall co-operate in so far as we can in the enactment of this bill.

To be helpful to Mr Wallace, there are one or two areas where we genuinely offer contributions. I notice that the bill proposes the adoption of the framework of the 1984 act, which means a

continuance of the application to the sheriff court. However, we ask Lord Hardie whether it is possible to consider an application to the minister. We realise that that may fall foul of the European convention on human rights, but we suggest that, given the immediacy of a grave situation such as that created by the Ruddle case, control might be more immediately achieved if there were the possibility of the procedure consisting of a straight application to the minister, with the ultimate safeguard of appeal to the court in the event of the applicant being dissatisfied.

Quite rightly, reference has been made to the bill's attempts to include personality disorder as part of the definition. That is a further issue that requires careful consideration.

It is not clear from the bill whether the burden of proof proceeds on the balance of probability or on proving a case beyond reasonable doubt. That needs to be clarified and is a fundamental issue that must be determined.

The Conservative party supports the emergency legislation. We deeply regret that we have to consider it in such a rush. None the less, we shall do our best to assist in facilitating its enactment.

10:42

Mr Kenny MacAskill (Lothians) (SNP): I wish to make it quite clear to Cathy Jamieson that the debate on the law is the next debate—the Presiding Officer made that clear. This debate examines how we got into this mess, and why we need emergency legislation. It is perfectly legitimate for members to run through the Ruddle case in particular, and to analyse what happened and who is at fault.

Listening to this debate, everyone is wrang but our Jim. Who has been put in the frame, as the lawyers would say—Noel Ruddle, smart-arse lawyers and legal loopholes? Let us examine the situation.

It is quite clear that Noel Ruddle was an evil man, but he is entitled to look after his own best interests. Others were elected to look after the best interests of the public, and they failed. Smart-arse lawyers just used the law to win Mr Ruddle's case. You, Mr Wallace, were represented and you have lawyers—two are sitting next to you. Ruddle's lawyers won, your lawyers lost and the public in Scotland and elsewhere paid the price. A legal loophole? This matter has been discussed and debated for 40 years, and it was debated in 1984 when the Mental Health (Scotland) Act was debated. It is not a legal loophole—it is a huge abyss that has been staring us in the face, in terms of jurisprudential and psychiatric discussion.

Euan Robson rose—

Mr MacAskill: I will not take any interventions. This is a winding-up speech, and Mr Robson will have to remain wound up, if that is how he is feeling.

How did we get into this mess? Let us run through some of the facts. As Lord Hardie will wind up for the Executive, I produce what I will call Opposition production No 1—the sheriff's decision from Lanark. The report clarifies that Mr Ruddle was of above-average intelligence and had no previous history of mental illness. I think that the Tories should take some cognisance of that.

In 1991 and in 1992, Mr Ruddle was allowed to be sent to the state hospital, as opposed to being prosecuted, and no stops were pulled out. That was despite the fact that, at one stage while he was on remand in Barlinnie awaiting possible trial and consideration, he was seen by a psychiatrist and presumed to have no mental illness. Indeed, all the medical evidence is that he did not have a history of mental illness—he had a history of psychopathic disorder.

As well as Conservative members saying that Labour should have tried harder in 1998 and 1999, their law officers—Mackay, Cullen or whoever their predecessors were—should have tried harder in 1991 and 1992. Perhaps it is coincidental that this evil man's parents were both psychiatric nurses. Did that not flag up a problem for the Conservative Administration? Should not the Conservatives' medical or legal teams have monitored that?

I will continue to run through what went on. The fact is that the sheriff made it clear that this man should have been monitored, yet he was not. He seems to have made an improvement while in Carstairs. He makes such an improvement that he gets himself a girlfriend and has a party during his incarceration. The psychiatrists examine him and it becomes clear that he fits the criteria for release.

Lord Hardie, I refer you to paragraph 7.16 page 10 of the sheriff's judgment.

"On 9 April 1998, the applicant was examined,"

and—narrates the people—

"the applicant was suffering from personality disorder".

The judgment goes on to describe what that personality disorder was. It then states that the

"medical treatment in hospital was not likely to alleviate or prevent a deterioration of his condition".

A recommendation was made to discharge Ruddle. The final sentence reads:

"The applicant"—

Mr Ruddle, on 9 April 1998—

"was told of the Committee's view that he should be discharged."

In April 1998, Ruddle knew that the authorities were saying that he should get out.

The judgment also makes it clear that the respondent was also told of the committee's view.

The respondent is your department, Lord Hardie. You were told that Ruddle was being recommended for release. Ruddle knew in April 1998 that the psychiatric view was that he was to be released, and you did nothing. You did not call for the Mental Welfare Commission for Scotland—Mr Robson is not here to comment on that. The MacLean committee was not initiated in April or May 1998. You sat on your hands and did very little. Lo and behold—what happens? When does the situation move on? The case did not start in August 1999, as Ruddle's appeal was lodged in the Lanark sheriff court in February 1999. What action was taken between April 1998 and February 1999? You did nothing.

Lord Hardie, from February 1999 onwards, you seem to have dealt with the situation through your legal team and to have done nothing. It was clear that Mr Ruddle met the criteria for discharge, and that is why it was granted. You gave no consideration to an attempt to alleviate the problem by offering a conditional discharge, which, I understand, would have been acceptable to Mr Ruddle and his advisers. We could, at least, have seen some restrictions placed on him. What happened? In August of this year, he was released at two minutes past 10, and you did not even have a bed available for him. He was able to go walkabout.

This situation is categorised and classified by total mismanagement, starting in 1991 and 1992, in terms of how Ruddle was prosecuted and dealt with at that time, continuing through the Labour Administration in post-election 1997, to April 1998. Lord Hardie, you were aware that he was being recommended for discharge and your predecessors did nothing. In February of this year, you were notified that Ruddle was going for his appeal and that he would appear to meet the criteria, as the psychiatrists had told you in April 1998—and you did nothing.

This has been a shameful situation. Lord Hardie, if you will not take the blame and resign yourself, you should sack your legal team because they have made a mess of it.

The Presiding Officer: I remind members that, in this chamber, "you" refers to the occupant of the chair. I am not responsible for any of the things of which I have just been accused.

10:49

The Lord Advocate (Lord Hardie): Sir David, I do not accept the criticism that has just been

levelled against my office and my department by Mr MacAskill. That criticism proceeds upon a complete misunderstanding of the factual position and, had Mr MacAskill bothered to concentrate on the judgment and to attend to the facts—as opposed to the hype and the hyperbole in which he has indulged today—we might have got further along the road.

The fact is that it was not the responsible medical officer who, in April 1998, recommended Ruddle's discharge—it was a medical sub-committee. The RMO at that time was of the view that he was treatable, and remained of that view—[MEMBERS: "He changed his mind."] Will members please let me finish. The RMO remained of that view until March 1999, after the appeal had been lodged.

I do not want to exchange factual details with Mr MacAskill. There are more important matters to be discussed. There are few areas of law more complex than the interaction of Scotland's criminal and mental health laws. That complexity stems from the legislation.

Christine Grahame (South of Scotland) (SNP)
rose—

The Lord Advocate: I will not give way at the moment. I have a limited time—let me see how I get on. There are important principles at stake. On the one hand there is the public's wish for protection; on the other there are the rights to help and treatment of people who are ill, and their aspirations to return to the community. Those rights and the interests of the different parts of society have been referred to by members, including Cathy Jamieson and Karen Gillon.

Mental illness is a common condition that affects a large minority of Scots, who suffer its afflictions without, in most cases, being a danger to anyone else. I had hoped that, today, we would avoid the frenzy of recent weeks and concentrate on the small group of detained patients for whom we have a collective responsibility to act. Unfortunately, having heard some speeches—particularly that of Roseanna Cunningham—it is clear that that has not proved to be the case.

Christine Grahame *rose—*

The Lord Advocate: In my closing remarks I want to revisit three areas: the history of events, the Parliament's key role in the overhaul of Scotland's mental health legislation, and the urgency to enact legislation necessitating the treatment of this bill as an emergency bill.

We have heard suggestions today from Conservative and Scottish National party members that we could or should have acted differently, and that by doing so we would have secured the continued detention of Mr Ruddle.

There have also been suggestions in the past few weeks—they were repeated today—that the Executive showed no concern for the situation until it was spurred into action by the media, or perhaps by members of Opposition parties, after the issue of the judgment on Monday 2 August. Indeed, Mr McLetchie even accuses us of complacency. Nothing could be further from the truth.

Before I deal with what we did to protect the public, I would ask this Parliament what the Conservatives did in that regard. Despite the promises Lord James Douglas-Hamilton made to the Scottish Grand Committee in July 1996—which were referred to earlier—to ensure that the arrangements for discharge of patients from psychiatric hospitals took due account of public safety, nothing was done. Nor is there any evidence of demands by the Conservatives for urgent action prior to, or even after, the House of Lords decision in the Reid case—not even from the previous law officers. Where were they then?

Roseanna Cunningham: On a point of order, Mr Presiding Officer. I would like to point out that the Lord Advocate—presumably an independent law officer—appears to be making a highly politically partisan speech. [*Applause.*] I appreciate the difficult position that the Lord Advocate is in, but is it entirely correct for someone who is a law officer, and therefore presumably independent, to make such a speech?

The Presiding Officer: That is a point of argument; it is not a point of order for me.

Lord James Douglas-Hamilton (Lothians) (Con): Does the Lord Advocate accept that in the 10 years during which I was involved with home affairs there was not a single case in which a prisoner—a patient—was released in the same way that Ruddle has been?

The Lord Advocate: I accept that, but Lord James did nothing, despite his promises to the Scottish Grand Committee in 1996. In contrast to the lack of activity on the Conservatives' part, the Labour Government—

Tricia Marwick (Mid Scotland and Fife) (SNP): On a point of order, Mr Presiding Officer. The Lord Advocate is clearly making a political speech. He is here as an independent—

The Presiding Officer: Order. I have already dealt with that point.

The Lord Advocate: The Labour Government, and thereafter the Scottish Executive, acted promptly at every stage. In 1997, I instructed the appeal to the House of Lords in Reid—an indication that I am prepared to act to protect the public where it is possible to do so within the law. Of course I did not criticise the previous

Government or its law officers for failing to introduce legislation prior to their losing the case in the inner house. Doing so would have been as absurd as the position adopted by critics of the Scottish Executive in the past few weeks. In December 1998, following Reid, the Millan committee was established, and the MacLean committee was established in February 1999.

Christine Grahame *rose*—

The Lord Advocate: Prior to Ruddle lodging his appeal, another similar appeal had been defended by the secretary of state and was ultimately refused. Ruddle was defended on the basis of evidence similar to other cases, which had been successfully defended. All of them involved conflicting evidence that the sheriff was required to assess. Until the decision was issued there was no basis for anyone to conclude that Ruddle would succeed.

What about events after the Ruddle decision became known? It is not customary to reveal the extent of the law officers' involvement in particular legal questions, but we have made an exception in this case. I hope to address the point raised by Miss Goldie in this regard. An embargoed copy of the sheriffs judgment was issued to the Scottish Executive and to Mr Ruddle's solicitors on Friday 30 July, in accordance with normal practice. The solicitor to the Scottish Executive immediately sent a copy of the judgment to my legal secretary, and to the counsel who had conducted the appeal on behalf of the secretary of state—obviously to consider its implications.

I take great exception to the suggestion that we did not realise that this was a public confidence issue. Of course we realised the significance of the decision. On the Friday, my legal secretary and a principal solicitor in the Scottish Executive experienced in such cases and I each independently considered the judgment—independently from each other. Our primary concern, and my instruction to the other solicitors involved, was to look at it from the point of view of the protection of the public. We sought any lawful means by which Mr Ruddle could be detained after 2 August. We each concluded that there was none and, moreover, we separately concluded that there was no basis on which we could successfully seek a judicial review. To answer the specific point, ministers were advised that it would be possible, in the context of a judicial review, to seek an interim order.

David McLetchie: I accept that the advice you gave the minister in good faith was that an application for judicial review might not have been successful. Was it your advice that there was no stateable basis for a review? Was that your advice—that there was no stateable basis, no remotest possibility that the Crown would win?

The Lord Advocate: The advice was that there was no prospect of a success in the appeal.

David McLetchie: As you perfectly well know, that was not the question. That is an assessment of the prospects of success.

The Lord Advocate: The advice given was quite clear. There was no prospect of any success and no merit in going ahead with a judicial review. As a result of that—as a precaution—the police were alerted by the Crown Office on Friday to enable them to take special precautions to secure the protection of the public after Monday. I was not content to leave matters there, and the Solicitor General was asked to consider the judgment on his return home on the Saturday. A meeting was arranged on the Saturday, with the Solicitor General, me and the legal secretary, and the same conclusion was reached.

I note that Mr McLetchie referred to the fact that his advice is that there could be no guarantee that this would be successful. Our position—and the position of all lawyers involved in the case until the Monday—was that there were no prospects of a successful judicial review and that there was no lawful basis for securing the detention of Ruddle after the Monday.

Our view was confirmed on the Monday in a note of preliminary views of counsel. Five people independently reached the same conclusion. Members should bear in mind the fact that we were seeking legitimate means of continually detaining Ruddle.

The First Minister was advised on Sunday 1 August. Since then, there has been prompt action. I am not prepared to act without a sound basis in law. Nothing that could have been done would have secured Ruddle's detention, even if one were to put in a bogus judicial review petition.

On the role of Parliament, we must get the mental health legislation right. I look forward to the reports of the two committees that will instruct that.

It is necessary to act today, as an emergency. I welcome the support of Mr McLetchie and Ms Cunningham in that regard. Within 48 hours of the release we committed ourselves to fast-track legislation and we are here today to consider it.

David McLetchie: Will the Lord Advocate give way?

The Presiding Officer: No, the Lord Advocate is winding up.

The Lord Advocate: In view of the urgency of the matter, I invite members to vote for the motion.

The Presiding Officer: I allowed the Lord Advocate a little injury time because of the points of order.

The question is, that motion S1M-109, in the name of Mr Jim Wallace, be agreed to.

Motion agreed to.

The bill is referred to the Parliament.

The next item of business is Parliamentary Bureau motion S1M-110, in the name of Mr Tom McCabe, on the timetabling of the Mental Health (Public Safety and Appeals) (Scotland) Bill. This motion will be taken without debate.

Motion moved,

That the Parliament agrees that (a), all Stages of the Mental Health (Public Safety and Appeals) (Scotland) Bill shall not be taken in one day, and (b) that the time available for the Stages and debates at each of the Stages should be as follows:

Stage 1 – debate on Thursday 2 September 1999 to last 1 hour 30 minutes;

Stages 2 and 3 – debates on Wednesday 8 September to last 3 hours 20 minutes—[*Mr McCabe.*]

The Presiding Officer: The question is, that motion S1M-110, in the name of Tom McCabe, be agreed to.

Are we all agreed?

Members: No.

The Presiding Officer: There will be a division. Voting starts now.

Members: There are no lights on the consoles.

The Presiding Officer: Hold it for a moment. Can we get the voting system up?

I will wait a minute to see if we can get the machinery working; if not, we will have to have a roll-call vote.

I will take this chance to say that members reacted with some hilarity when I mentioned the question of visitors during the recess, but it is a serious matter. The machinery is temperamental and I ask members to take that point seriously and not to allow visitors to fiddle with the machines.

Members: We cannot hear you.

The Presiding Officer: I will put it in tomorrow's business bulletin.

Mr David Davidson (North-East Scotland) (Con): On a point of order. Is it possible that we could get on with the vote on a show of hands?

The Presiding Officer: I could take a show-of-hands vote: that means that members' votes will not be recorded in the *Official Report*, but if members are happy with that, I am quite content.

Members voted by show of hands.

Motion agreed to.

The Presiding Officer: There is a point of

order.

Tricia Marwick: It is not a point of order, Presiding Officer. I am seeking your guidance. I raised what I thought was a genuine point of order about the fact that the Lord Advocate had strayed way beyond his role. Can you advise me, Presiding Officer: if that is not a matter for you, who is it a matter for?

The Presiding Officer: It is not actually a point of order, but let me explain. The Lord Advocate was speaking on behalf of the Executive in winding up that debate—he was speaking in that capacity.

The Deputy Minister for Enterprise and Lifelong Learning (Nicol Stephen): On a point of order. I wonder whether it is possible to record that only Dennis Canavan and Tommy Sheridan voted on the show of hands against the timetabling motion. That would show, on behalf of all other members, the manner in which the vote was taken.

The Presiding Officer: It will certainly be recorded now that you have mentioned it; it will appear in the *Official Report*.

Can I appeal for members' help. In view of the difficulty that we are having with the machinery, I can tell members before I start the second debate that so far, other than the openers and closers of the debate, I have two Labour names, one Liberal Democrat, three SNP and no Conservatives on my list. If that is correct, that is fine, but if members are in doubt, they should speak to their business managers, who will in turn speak to the clerks, in order that I do not leave people out, as unfortunately happened in the previous debate.

We now move to the debate on stage 1 of the Mental Health (Public Safety and Appeals) (Scotland) Bill. The debate will last for an hour and a half. If I am correct about the number of speakers, speeches can be five minutes in length, but my deputy and I will review that in the light of the number of members who wish to speak.

11:08

Mr Jim Wallace: I listened to the remarks of Mr Canavan in the previous debate. I am sure that he said what many of us were thinking: that when we set out to establish the Scottish Parliament and were looking forward to a legislative programme, none of us envisaged that the first piece of legislation would be this Mental Health (Public Safety and Appeals) (Scotland) Bill, and that it would be one for which we would be using emergency powers. Because of the concerns expressed in the debate that has just taken place, it is important that we now proceed with this bill and with considering its principles.

This is an opportunity for us, as a Parliament, to debate in principle the purpose and provisions of this four-section bill. Although we are proceeding on an emergency basis by agreement, this stage 1 debate is no different from that for other bills that will come before Parliament.

I would like to start by setting out clearly the intention and principles behind this bill. Experience has shown that when the courts come to interpret legislation, it is enormously helpful to them to understand clearly what was in Parliament's mind when passing it.

The main aim of the bill is to close a loophole that may allow a restricted patient who is detained in hospital to appeal successfully against his detention on the grounds that, although he continues to have a serious mental disorder and may be considered a serious risk to the public, he is not, in a legal sense, treatable.

In the most recent interpretation of the relevant sections of the Mental Health (Scotland) Act 1984, the House of Lords judgment in the case of Alexander Reid, about which we have already heard a number of comments this morning, the treatments which may define treatability were defined to be broad. However, treatability was established as the first test which a sheriff has to consider in an appeal from a patient suffering from a mental disorder. Public protection may be considered, but only once this first test is met. If, as in the Ruddle case, the sheriff finds that the patient is not treatable, the law, as it stands, does not allow the sheriff to proceed to consider issues of public safety. The purpose of this bill is to reverse that and to put public safety first.

The main principle of this bill is that public safety will become the first and paramount test when mentally disordered patients who are subject to restriction orders appeal to the courts for discharge. That will be achieved through having a clear direction to sheriffs on the face of the bill. There are also flanking provisions with the same broad aim. Ministers will apply the same public safety test that they have used for many years. Ministers of the Scottish Executive and restricted patients will have a new power of appeal against the sheriff's decision, and there will be a new power to detain patients in hospital for 14 days pending consideration of whether there will be an appeal. If there is an appeal, they may be detained thereafter until the appeal is concluded.

That is the broad picture of the bill. I shall now examine the sections one by one.

Section 1 provides that, where a restricted patient appeals against his detention, the sheriff must first consider whether the patient suffers from a mental disorder that makes it necessary to continue detention to protect the public from

serious harm. If the answer is yes, the sheriff must continue the patient's detention. The burden of proof will rest on Scottish ministers. Section 1 applies a similarly worded requirement of Scottish ministers when they consider the discharge of a restricted patient. The amendments are applied to existing appeals, when the hearing takes place on or after 1 September 1999, as well as to future appeals.

Section 2 creates a new right of appeal, against the decision of the sheriff, to the Court of Session and the House of Lords. The appeal, which may be on a point of fact or of law, may be made by Scottish ministers or by the detained patient. The Court of Session will be able to order the continuing detention of the patient until the appeal is decided.

Section 3 clarifies that the definition of mental disorder in the Mental Health (Scotland) Act 1984 includes personality disorder. Section 4 contains the short title and the commencement of provisions. The main part of the act will come into effect immediately upon royal assent, but the new right of appeal will be brought into force by a separate commencement order, to allow time for the procedures to be agreed. We anticipate that that will be done promptly.

As Parliament knows, this bill has been prepared at speed, but we have crafted it carefully by applying three key tests. The first test is whether the bill is essential. We believe that it is. If appeals for absolute discharge by mentally disordered patients whose release could be dangerous to the public are to be effectively opposed, we need this bill. The debate earlier today made the parliamentary will on that plain.

The second test is whether this bill will be effective. We believe that it will, as it is precisely targeted on the reasons why the sheriff allowed, and we could not prevent, Mr Ruddle's release a month ago. The third test is whether this bill complies with the European convention on human rights. I assure Parliament that we have taken every step to ensure that that is so. Our judgment is that the bill goes as far as we can in securing public safety powers.

I stress again that we will revisit Scotland's mental health legislation during this Parliament. Armed with the MacLean and Millan recommendations—and taking the point that was made by Mrs Ewing previously—we will ensure a full opportunity for the committees of this Parliament to consider these proposals. We plan a substantial revision of this complex area of law. I assure members that, if we find that the measures in this bill will bear improvement in the longer term, there will be an opportunity for change.

The following debate will be one of three stages

for consideration of the bill. Although this is emergency legislation, we have allowed nearly a week between stage 1 and the other two stages so that there is time for reflection, and in case members want to lodge amendments. When those amendments are considered, it is important that we should remind ourselves of the need to maintain the assurances that we have given on compliance with the European convention on human rights.

Speed of preparation has ruled out formal consultation, but I was able to brief the principal Opposition spokesmen late last week on the provisions of the bill. I record my appreciation of their willingness to help us to deal with this legislation on a fast track. In accepting the general principles of the bill, they reserve the right to examine it in detail and to provide the kind of parliamentary scrutiny that we expect from responsible Opposition parties.

As well as informing Lord MacLean and Mr Bruce Millan of our proposals, we have been able to brief key expert bodies: the Law Society of Scotland, the Mental Welfare Commission for Scotland, the Scottish Association for Mental Health, and the Scottish division of the Royal College of Psychiatrists. We have assured them that, although we are determined to close the Ruddle loophole, this bill will not encroach further into territory where the MacLean and Millan committees are already at work. That assurance has been strongly welcomed.

That outlines the principles of the bill that we invite Parliament to endorse today. I look forward to hearing the contributions of members, and to considering the bill in greater detail next week. I commend the bill to Parliament for support.

I move,

That the Parliament agrees to the general principles of the Mental Health (Public Safety and Appeals) (Scotland) Bill.

11:17

Roseanna Cunningham: I have already stated my concern that we are in the highly unsatisfactory position of having to legislate in an emergency manner for an area of law that has serious implications for human rights. The SNP is supporting this bill, as public safety must be at the heart of all justice legislation. However, as we are legislating in an area that involves the liberty, or otherwise, of individuals, despite the emergency procedures it is the duty of everyone in this chamber to be vigilant.

I want to go back a little way in this saga, to 1994, and to references, which are contained in the sheriff's judgment on the Ruddle case, to the treatment that was available or unavailable to Mr

Ruddle in Carstairs. Pages 6 and 7 of that judgment make it clear that Mr Ruddle and his doctors were seeking treatment for what they considered to be his problems. In their view, treatment was out there somewhere; the problem was that it was not available in Carstairs. That issue was raised over a period of years by the medical officer who was responsible for Mr Ruddle. At one point, the possibility was raised of a transfer to Broadmoor, where it was considered that there was an appropriate unit for Mr Ruddle's treatment. That again emphasises the fact that treatment was available, and that the problem was one of access for Mr Ruddle.

Carstairs hospital did not have the means to treat Mr Ruddle. Nevertheless, he could have been treated even if that treatment had to be elsewhere or bought in. It was the lack of available treatment that led to Mr Ruddle's release, not the fact that he was untreatable. It is from that perspective, bearing in mind the need for compliance with the European convention on human rights, that I view the legislation before us.

Section 1 proposes to amend the powers that are available to sheriffs and ministers under section 64 of the Mental Health (Scotland) Act 1984. It includes a new test of public safety that must be satisfied when deliberating on the release or continued detention of restricted patients.

The SNP has no problem with that and I am sure that there is widespread agreement and relief across the chamber that the bill addresses that point. My concerns, however, are whether the bill actually tackles the key issue of availability of treatment, because it seems to be absent, and whether therefore it is compliant with the European convention on human rights. There is no mention in the bill of any measures that would ensure that patients have access or the right to access treatment where that treatment exists. Indeed, there is no real health input into the bill, which is curious, since in the Ruddle case it seems that it was a failure in the provision of mental health services rather than the actual law that led to the appeal and, subsequently, to today's legislation.

The responsible medical officer assigned to Ruddle had sought for five years to arrange suitable treatment and only failed to do so because of a lack of resources. The bill is silent on what mental health resources, if any, will be made available to patients detained under the new legislation. Will the minister now give an absolute assurance that where medical treatment is requested and is available, the mental health authorities will accede to that request?

Section 1 also raises serious human rights questions. Article 7 of the European convention on human rights specifically guards against

retrospective criminal legislation. Yet the bill is changing the goalposts for those who were convicted before 1 September this year. The rules governing appeals and discharge will be much tighter following the new legislation than they would have been at the time of such a person's conviction. I seek the reassurance of the minister that that aspect of section 1 does not amount to a breach of article 7.

Section 1 may further open the bill to challenge in that it effectively authorises preventive detention. Let us say that a person suffering from a mental disorder commits an offence and is dealt with by way of a hospital order; he is then cured of that disorder and would normally expect to be discharged. The bill means that if the same person suffers from a second but different mental disorder, he can be detained if it is deemed that he presents a danger to the public, even though he had not committed a second offence. The key phrase is "presenting a danger to the public". That may be considered to be an appropriate way to proceed when someone has already shown a propensity for violence. We would probably all agree on that. Again, I seek an assurance from the minister and an explanation of the advice given on whether that situation, where someone is detained even though he has effectively served his time and committed no new offence, is in contravention of article 5 of the ECHR, which states that everyone has the right to liberty and security of person.

Section 2 amends the Mental Health (Scotland) Act 1984 by introducing a new right of appeal to the Court of Session against the decision of a sheriff. I question why that part of the legislation is to be enacted at some point in the future at the discretion of the minister and not at the same time as the other sections of the bill. Perhaps a further explanation could be given.

I am also concerned that section 3, in extending the definition of mental disorder to include personality disorder, makes it too wide. As has been said, a lot of personality disorders do not exhibit themselves in aggressive or violent behaviour. Would it not be appropriate to qualify personality disorder with that kind of phrase in order to ensure that we do not end up in a situation where people suffering from any personality disorder feel threatened or vulnerable? We would not want to cause fear and alarm when it was unnecessary.

I welcome the eagerness of the Executive to tackle the loophole in the law in order to provide protection for public safety. I regret, however, that the first bill is emergency legislation. I hope that the extensive advice on the human rights implications has been taken and I trust that the minister will be able to provide the specific reassurances that I have asked for.

11:24

Phil Gallie (South of Scotland) (Con): My party will certainly support the bill and ease its way as far as possible. That does not mean that we have no reservations. I give notice that we will almost certainly lodge several amendments that could be taken, in Westminster terms, as probing amendments. However, our main aim will be to clarify and give backing to the bill as it goes through.

Why do we need the bill? Our belief is that the law is about the protection of the public first and foremost. People must have confidence in the law. There have been far too many incidents where public confidence has been lost and where we could say that people have taken the law into their own hands: for example, the situation last week with an Aberdeen farmer, or in Kilmarnock a year or two ago when a man was jailed effectively for protecting his property, and very sadly a situation in Norfolk where someone has died.

Such incidents all have an effect on the public perception of the law, and we as politicians are charged with dealing with that. We look at the technicalities of the law, but there is a role for lay opinion. Today, many people have spoken who are practised in administering the legal system. I make no apologies for not being as well equipped as Lord Hardie or others who have spoken on the detail of the law. The way of the great legal minds is to interpret, we are told, the intentions of the politicians. I feel that sometimes the findings in our courts are in contrast to that.

There is no doubt that great anxieties were caused by the release of Mr Ruddle. Although I frequently criticise them, I would commend the media for that. They may not have got it all right and they may have been over the top in some of the criticism, but I think that, with the help of Opposition politicians, they built up a head of steam that added urgency to how ministers dealt with the situation.

Despite all the comments about a fast track and it always having been the intention of the Executive to bring in something at the beginning of this parliamentary session, in an article of 26 August the Lord Advocate said that there was no guarantee that a fast track would be used. That backs up some of the points made by David McLetchie when he suggested that there was some confusion between 4 August and today on the approach to be taken. That was the issue that was addressed in earlier debate and I will try to focus—as you would expect me to, Mr Reid—on the bill.

The Deputy Presiding Officer (Mr George Reid): That would be helpful.

Phil Gallie: Beat you to it, Mr Reid. We do

accept that the bill is in part a stopgap measure to address an urgent need. I welcome the fact that the members of the Parliament have given it full backing. We must remember, however, that the MacLean and Millan committees are currently meeting, and I believe that it is important that the Parliament lays down the criterion that protection of the public comes first, as the Minister for Justice has said, and that the committees take that on board in their findings. When they report, perhaps there will be a need to get rid of this bill and provide another; perhaps we can build upon it from what we learn from MacLean and Millan. I say to them to take regard of the message coming from Parliament.

The Parliament has greater difficulties than Westminster would have in putting through a bill such as this, because the European Court of Human Rights is far more restrictive in regard to legislation than at Westminster. There, legislation can be progressed and ultimately be compared against the implications of the European Court of Human Rights' findings.

Regarding the bill itself, I have concerns over some points. Proposed subsection (A1), in section 1 of the bill, states that an appeal shall be refused:

"in order to protect the public from serious harm".

What is serious harm? Can it be defined? Will this in future create another confusion in the mind of a sheriff? I would like clarification on that, if not today, in the debates that follow next week.

The burden of proof lies with the Scottish ministers. Who will they rely upon to provide the evidence for that burden of proof? I suspect that they will rely upon those with medical knowledge, and perhaps those employed at Carstairs, if a situation like the Ruddle case develops again. However, there may be some need for an independent medical mind to be brought to bear on this matter, so next week we will be seeking further clarification on whom the ministers will obtain information from.

A possible fundamental measure could be a return to a situation that existed before the 1984 act was enacted, when secretaries of state took decisions on the release of individuals like Mr Ruddle from Carstairs and other institutions without reference to the courts. There may be some merit in re-examining that situation. It may contravene the European convention on human rights, but I feel that, given that the public wrath in the Ruddle case was turned against ministers and not against the sheriff, there is some merit in recognising that if ministers are to be the fall guys, they should take responsibility. Perhaps they are in a position to judge who should come out of institutions like Carstairs. I know that that would be a major change, and that it cuts across what my

party's Government did in the 1984 act, but let us face it: time moves on, we examine situations as they develop and we act accordingly.

Dennis Canavan: I would welcome some clarification. Is Mr Gallie seriously suggesting that this Parliament should pass legislation that is contrary to the ECHR? Is he also suggesting that a politician is better equipped than a judge to decide whether someone should be locked up?

Phil Gallie: I am not suggesting that we cut across the ECHR, because that would cut across the premise upon which this Parliament is built. I said that it would be totally dependent upon the link to the ECHR. In this case, I am suggesting that the courts have already made a judgment in determining where an individual should go, and to what extent a crime has been committed, and on that point there may be a case for a minister taking a decision on the ultimate in public protection. However, I repeat the point that this measure is one for debate. We will make the proposal, and it will be up to others in this Parliament to demonstrate the reasons why it would not be wise.

I think I am receiving an indication from the Deputy Presiding Officer that my time is up. I will conclude by saying that we have some concerns with the retrospective aspects of this bill. We hope that the bill will stand firm and we will support it. I am sure that my friend Mrs Lyndsay McIntosh will give a Conservative view on the issue of personality disorder.

11:34

Lewis Macdonald (Aberdeen Central) (Lab): I welcome the Executive's prompt action in bringing this bill before Parliament and addressing the widespread concerns raised, not only by the Ruddle case, but by a number of other cases over the years.

Like Margaret Ewing when she spoke in the earlier debate, I speak not as a lawyer, nor as a psychiatrist, although I recognise the importance of the perspectives that those professions will bring to bear when we discuss amendments next week. The legal and medical professions have a vital interest in this area of law, and we should draw on their expertise in getting the balance of this bill right. I am sure that we will do that, but in considering the principle of this bill, it is important to recognise that the issues of definition, which will exercise legal and medical minds, are not issues that always have as much meaning for the public.

The professional perspective of criminal justice social workers, who work on a daily basis with offenders and potential offenders, including those at large in the community, should also be considered. I suspect that every social work department in the country has at least one or two

individuals on their books whose behaviour is disruptive and chaotic, and who may have been in mental hospitals, but who are not currently diagnosed as mentally ill. Of those people who have some kind of anti-social personality disorder, only a small minority may be considered seriously violent or dangerous individuals, but when those few walking potential catastrophes are at large, they pose a constant threat to the lives, liberty and rights of others, and they demand constant resources and surveillance from social workers and the police. They divert resources from other needs.

Two years ago in my constituency in Aberdeen, a young child was abducted and murdered by a man who had been through the criminal justice system. He had attacked children before, been to jail and been let out again, and had not been identified and detained as someone who would pose a threat to others in future, as many of my constituents believe he should have been. After the death of that child the community was desperate for reassurance on the safety of its children. It welcomed the measures that were introduced in the Crime and Punishment (Scotland) Act 1997 and in the Sex Offenders Act 1997 to restrict the liberty of sex offenders. I believe that it will also welcome the principle of this bill, in making public safety adequate grounds for continuing detention, in order to reduce the risk of other dangerous men being released into the community when they should not be.

11:37

Robert Brown (Glasgow) (LD): I, too, support the principle of the bill. Having listened to the debate on Mr Wallace's motion, I cannot help but feel that there is an element of split personality among those Opposition members who were baying for blood in the earlier debate, but who have now swung round to the other side and are, rightly, examining the human rights issues. The tenor of this debate has been much more satisfactory than that of the previous debate.

In what I thought was one of the more distinguished speeches of the earlier debate, Margaret Ewing made some valid points. Like a number of members, she pointed out that in meeting the need for urgent legislation we should not create further loopholes. We must be aware of that in our examination of this bill. The other point, which others also touched on, was that there were worries on the other side of the fence. She mentioned special-needs individuals and people working in that sector who were concerned by the speed with which the legislation was going through.

It is important that we study the principles of this matter in a balanced way. Phil Gallie said that the

first duty of the law was to protect the public. That is true as far as it goes, and it is a major duty, but the first duty of this Parliament is to protect the liberty and the safety of the public. We should have particular concern for liberty. There has been some suggestion that the European convention on human rights is some sort of inconvenient addition to the hoops through which we have to go in this matter. I welcome the fact that the European convention is now effectively incorporated into Scots law; it is an intrinsic part of our domestic law and this Parliament has to have regard to that. We should be looking to deal with the spirit and the letter of the convention.

When Mr Wallace referred to the bodies that he had consulted, I did not hear whether he had consulted anyone in the human rights field outside the Executive—the Scottish Human Rights Forum and Professor Alan Miller, for example, who are experts in this matter. I seek an assurance that people outside the Government who have expertise and who may take a critical view will be consulted, if they have not been already. It is important that the Executive sets a standard in this matter that will be followed in future.

The point has been made that most people with mental illness are not a danger to anyone. That is an important, because, in dealing with people at the extreme end of the spectrum, we do not want to create human rights problems for others who may or may not be a nuisance to the public.

I want to consider how personality disorder is defined. There is no definition of it in this amending bill and I am not certain that there is one in the original Mental Health Act (Scotland) 1984. We should consider closely what the phrase covers and exactly what we intend to deal with.

Roseanna Cunningham mentioned treatment. The availability of treatment is one side of the coin, but another question is whether treatment is compulsory. In professional practice, I came across the disturbing results of people being treated with psychotic drugs. As an unpleasant side effect of those drugs, they ended up suffering from a problem called tardive dyskinesia, which is a sort of spasticity. It is important that we consider the fact that people who are detained under mental health legislation to some extent have their rights taken away. We must ensure that we strike the right balance in determining how they are dealt with under those semi-custodial arrangements.

Those are all major issues and we must get the balance right. Some good points have been made in the debate and I hope that, as we discuss the bill in detail, we will continue to dwell on those issues and produce legislation that will stand the test of time until the full review. We do not want to produce hasty, loophole legislation that does not do the trick and raises more questions than it

answers.

11:42

Michael Matheson (Central Scotland) (SNP):

A number of members have highlighted the importance of public safety. That is reflected by the fact that the minister has chosen to include public safety in the title of the bill. However, we must ensure that we achieve a balance between public safety and the human rights of the individual.

The bill is a major departure from the thinking that was current when the Mental Health (Scotland) Act 1984 was introduced. If we create additional legal measures to detain people in hospital, it is essential that we provide those people with treatment while they are in hospital. I recognise that there is considerable tension between ensuring public safety and protecting the rights of the individual. There is also considerable tension between assessing risk and maintaining public confidence. Those may be difficult issues, but it is important that they are addressed during the bill's passage through Parliament.

A number of important issues have been raised, both in the earlier debate and by several speakers in this one. One issue was that Mr Noel Ruddle had for some time been recommended for a specific form of treatment, yet did not receive that treatment during the years in which he was in hospital. There would be a public outcry if that happened to someone who was waiting for a hip replacement in the Edinburgh royal infirmary. Too often services provided to those who have a mental illness are seen as second class and of a lower priority. I hope that the Minister for Health and Community Care will address that when she sums up.

The role of the responsible medical officer is essential in the process of ensuring the protection of someone's right to treatment while they are detained in hospital. In the Noel Ruddle case, the responsible medical officer seems to have recommended for some time that Mr Ruddle should be provided with a particular form of treatment. Is the process whereby the responsible medical officer has to inform formerly the secretary of state and now the First Minister being adhered to? Is notice being taken of what the medical officer is stating? I want an assurance from the minister that the specific form of treatment recommended by the responsible medical officer will be provided during a person's detention.

I want to ensure that the provision of appropriate therapeutic intervention for individuals in a hospital is not necessarily given with the view that the treatment must be provided within that hospital setting. The individual should have the opportunity

to go to another establishment for the required treatment. As it has been decided to allow the Mental Welfare Commission to examine treatment within Carstairs, I ask the minister to confirm that appropriate resources will be provided to implement any recommendations that the commission makes.

A number of members have raised concerns about the definition of personality disorder. The definition is extremely general in the bill. Does the minister intend the bill to cover all individuals who have a personality disorder? As has been highlighted, many people who have a personality disorder pose no risk to society or to themselves. It is essential that individuals who suffer from a personality disorder do not find themselves on the wrong side of the law as a result of the powers in this bill.

11:47

Dr Richard Simpson (Ochil) (Lab): This is a sensitive and difficult issue of great complexity. This Parliament has a number of duties, which it has to meet. We have the clear duty to have in place legislation that protects the public from those whose mental disorder—whether it is mental illness, personality disorder or mental handicap—is manifest in seriously violent and aggressive behaviour. We also have a duty to ensure that those who have such a mental disorder should be treated humanely—I will come back to Mr Matheson's point about treatment, which was well made. We have a duty to ensure that the civil liberties and human rights of our citizens are protected.

The law has been amended since 1984 with the introduction of hospital directions, which should deal with the substantial majority of the problematic cases. As I understand it, the bill is intended to deal with a small and dangerous minority of mentally disordered patients who are currently detained in the state hospital and whose release would pose a danger to public safety.

Those patients have hitherto been regarded as being treated within the state hospital. Their right to appeal under the Mental Health (Scotland) Act 1984 has existed since the act was passed—the act gives them a right to an annual appeal. Appeals up to and including the Reid appeal were turned down on the grounds that the patients were receiving treatment and that their conditions were regarded as treatable.

Since 1984, psychiatry's view of personality disorder has shifted, but the law has not. Psychiatrists take the view that personality disorder should generally be regarded as untreatable but still as a mental disorder. The question of treatability lies at the heart of the

problem. The existence of a regime within the state hospital is no longer a sufficient ground to constitute treatment, unless that regime can be shown to be beneficial to the patient and not simply to the protection of public safety.

I have no difficulty with the definition of personality disorder as a mental disorder, but psychiatrists have great difficulty with it being placed in the category of mental illness, as is proposed in the bill. However, there is no alternative at this time. Any other course of action would pre-empt the outcome of the MacLean and Millan committees, which would be inappropriate. Although I welcome the bill, I am reassured by the Minister for Justice's assurance that it is an interim measure and will not preclude the full review by MacLean and Millan.

The definition of what constitutes a mental disorder is changing, and will continue to change as society's culture changes. We are dealing not with absolutes, but with things that are culturally based. I will give members an example. When I was a medical student, the laws on homosexuality were changing, but the medical profession—and psychiatry—still regarded it as a treatable medical condition, to which it applied various pretty horrific therapies. Society has moved on, thank God, and recognised that homosexuality is not an illness.

Let us hypothesise that somebody discovers that personality disorders that are manifested in a dangerous, violent and aggressive form have a genetic basis, and that at some point in the future gene therapy is able to treat them. At that point, society will need to amend its laws again to take into account the fact that personality disorder has become a treatable condition. I am trying to say that we must make laws for now, and recognise that those laws may need to change.

I welcome the bill. It is the appropriate measure to ensure the protection of the public, which is what this chamber is trying to achieve. However, the Millan and MacLean committees may choose to take a somewhat different view. As Mr Gallie suggested, they will have to examine this matter closely and to recommend that we incorporate into law adequate public safety measures, while giving absolute assurances that people with personality disorders, or those who are regarded merely as odd or difficult, will not be locked up by the state.

11:52

Christine Grahame (South of Scotland) (SNP): I want to pick up on Robert Brown's point about what he regards as the antagonistic approach taken by the Opposition in the first part of this debate. It is the duty of the Opposition to scrutinise the Executive on its behaviour, past and present, and that is what we are doing. It is also

the duty of the Opposition to be constructive when legislation is put before this chamber, particularly in this instance.

I am not convinced that this legislation is not driven by incompetence in the handling of the Ruddle case. Section 1 of the bill refers to medical treatment. I hope that, as a result of this legislation, which is subject to amendment, people who are placed in Carstairs are not denied medical treatment. Let us make this clear: Ruddle was treatable, he simply did not get treatment. I hope that the minister will listen to that.

I would like an answer from the Lord Advocate on Dr White's role in the case, which has been mentioned. In April 1998, Dr White came back to Carstairs to find that the medical sub-committee had informed Ruddle of its decision that he should be discharged. Dr White was at first opposed to that, because he had been trying—unsuccessfully—to get the man treated for five years, in the face of resistance from the regime at Carstairs. He then changed his mind. It is my understanding that he did so on the legal advice of the office of the Secretary of State for Scotland. I would like to know whether that was the case. Ruddle was able to exploit what is euphemistically called a loophole in the legislation. He would not have been able to do anything if he had been receiving treatment.

I would have raised a second point if I had been allowed to intervene earlier. Although I welcome the retention of the conditional discharge—a halfway house—I would like to know whether, during the hearing on the Ruddle case, Mr Ruddle's legal team made any offer of a conditional discharge to settle the matter, and whether that offer was rejected out of hand by the Crown.

I welcome the right of appeal both ways—that is essential to create a balance. I also welcome what has been said about the rights of an individual who is placed in an institution such as Carstairs; either people need treatment and should be in an institution, or they should be in prison. In too many cases, the reverse is true: we have people with mental health problems in prison, and people who appear not to have mental health problems—because they obtain discharge—in Carstairs.

Generally, the legislation is to be welcomed. I know that the SNP is considering amendments to the bill to protect rights all round. No doubt that will be addressed later.

11:56

Euan Robson (Roxburgh and Berwickshire) (LD): I will restrict my comments to section 3 and the inclusion of personality disorder in the Mental Health (Scotland) Act 1984. I, too, have some

reservations about that, but I do not believe that the provision should be taken in isolation. Further tests would be applied before someone was detained; they would have to establish that someone not only had a personality disorder, but was a danger to the public. Clarification of that point would be helpful, as some reservations have been expressed. However, I believe that personality disorder is only one of the tests that would be applied in any given case.

11:57

Gordon Jackson (Glasgow Govan) (Lab): I, too, welcome this bill in principle. I do so for a number of reasons. First, it is an appropriate and prompt response to an issue of public safety. We all agree that public safety is of great importance. More important, the bill begins to tackle something that has needed to be tackled for a long time. We are beginning to address how the law and the courts deal with mental health issues and, in particular, with mentally disordered offenders.

It is fair to say that the way in which we have tended to deal with people who are mentally disordered has been something of a disgrace. Part of the problem has been that when psychiatrists and the courts have applied the law, they have been speaking different languages—there has been no meeting of minds. Richard Simpson is right: psychiatrists have moved on. Sometimes I think that they have moved on towards the next century, while the courts are still trying—on this issue—to get out of the last century. This is not simply a technical matter; on occasions, it has caused real injustice, as proper disposals have not been granted and cases have not been properly dealt with.

This, then, is a step in the right direction. I very much welcome the minister's assurance that the bill is an interim measure. The problem is difficult, as the Lord Advocate acknowledged—plugging this so-called loophole is not easy—and it is particularly difficult to deal with in isolation. I agree with what was said about the obvious dangers of emergency legislation. The danger with this legislation is that in trying to solve one problem we will create others; we risk closing one door, but opening others.

I must be totally frank: I am not particularly happy with parts of the bill. Like Richard Simpson, I have concerns about section 3. The idea that we, as legislators, can declare something to be a mental illness is not one with which I find myself entirely comfortable. It may be that, in due course, we will find better ways of solving this problem. However—and this is the important point—we must look for those better ways not in isolation, but in the context of dealing with the whole subject. It is important that we, as a Parliament, examine the

reports of the MacLean and Millan committees and do not think that we have solved this problem for all time. I suspect that we have not.

We will deal with the subject again but the bill is a step forward and an appropriate way in which to deal with the problem and the issue of public safety. On that basis, I have no hesitation in supporting this legislation as an interim measure.

12:00

Mr Kenny MacAskill (Lothians) (SNP): As I said before, the problem has been on-going in jurisprudence and psychiatry for 40 years. The tragedy is that, through the incompetence and delay of the Executive and the previous Administration, we have to rush this legislation through. As Margaret Ewing said, piecemeal and hastily drafted legislation is a recipe for disaster. We are left with no option but to support the bill but we must flag up some problems.

We have to recognise that Europe is a governmental power. The bill addresses an aspect of Scottish law but our law has been irrevocably changed by the European convention on human rights. The bill is, to some extent, passé. We are assured that the bill recognises the convention. I hope it does but I have my doubts. I have been informed that appeals can be made under article 8 of the convention, on the basis that the hospital in Carstairs is a considerable distance from people's relatives.

The bill does not address two underlying problems. It deals with people who are in the state hospital at Carstairs. It does not deal with psychopaths or people with personality disorders. I share the reservations expressed by many members on how we define personality disorders. The bill does not amend section 17 of the Mental Health (Scotland) Act 1984, which outlines the criteria by which people in civil and criminal matters are admitted into institutions; it deals with section 1. It is designed to stop people with personality disorders getting out of Carstairs; it does not stop people walking out of prison at the end of their sentence, nor would it deal with Mr Ruddle, should he choose to return to Scotland. We are dealing with the detention of those who are in Carstairs, not personality problems. That is a fundamental flaw in the bill, although the MacLean committee might address it.

Michael Matheson touched on the lack of resources that are available to deal with personality disorders. As Christine Grahame remarked, treatment for alcoholism would have helped Ruddle. His personality disorder was exacerbated by alcohol and drugs, which created the paranoid schizophrenia from which he suffered. Why was the alcohol unit at Carstairs

closed down in 1996? Perhaps the Tories can answer that. I hope that whoever sums up for the Executive will say when that unit will be reopened.

The clearest critique of the bill is provided by the research note "Mentally Disordered Offenders in Scotland", which was produced by the Parliament's information centre. Page 4 details research from 1997. I understand that the research indicates that around 50 per cent of people who are patients of, or remanded in, Carstairs need not be there as they are not a danger. They should be helped in another way.

The document says:

"Health Boards have a responsibility to develop integrated and multi-disciplinary assessment, treatment and rehabilitation of mentally disordered offenders. Where possible, emphasis should be placed on the local level for provision of secure environments for the treatment (or rehabilitation) of offenders."

Note that it recommends a local level, not the state hospital at Carstairs. It continues:

"Four or five such units should be established across Scotland (including those that already exist at Perth and Aberdeen). Services could be provided on a 'supra-board' level, with occupational therapists, clinical psychologists and social work input. Health Boards should, in future, become more closely involved in monitoring the progress of patients from their areas who are accepted into the State Hospital. Overall the recommendations emphasise that the 'right kind of secure hospital facilities will reduce pressure on the State Hospital'".

Given that that information was available in 1997 and that this legislation has been rushed through in a few weeks, what extra resources has the Executive provided outwith Carstairs? What additional resources have been put into Carstairs? If no additional resources have been provided, why have they not? This bill shuts the door for some and fails to address a fundamental problem: it does not lay down how to deal with people who have dangerous personality disorders and it provides no resources to help those people.

The Deputy Presiding Officer: The Opposition parties will each be allocated eight minutes for the concluding speeches.

12:06

Mrs Lyndsay McIntosh (Central Scotland) (Con): I thank the minister for providing us with a copy of the bill in both draft and final form. I am not sure which draft we received; I think that we were working from the seventh draft before the 12th was found. Given that we have had little time to digest the bill and to consider its implications, I do not plan to give a comprehensive survey of our position. However, next week in the chamber, if not before, the minister will become fully aware of our final stance, by which time we will have had a greater opportunity to assess the full impact of the

legislation.

I know how concerned Mr Wallace will be about knee-jerk reactions, so I will try not to provide him with one today. However, as has been said elsewhere—and as Westminster parliamentarians will remember—inevitably we worry about the effectiveness of any legislation that is hastily conceived and executed.

It became obvious at an early stage that the public had grave reservations about the future of Noel Ruddle. The minister had an unambiguous responsibility to allay public concern. The changes that are proposed in the bill are to be welcomed in so far as they are interim measures. That said, we support the bill and what it seeks to achieve.

I welcome the speeches that have been made by members of all parties, particularly that of Christine Grahame about conditional discharge. Mr Ruddle was released despite being unable to deal with the changes that had taken place while he was in hospital. At the end of a prison sentence, there is a programme of training for freedom. That might have helped Mr Ruddle, and it is to his credit that he has voluntarily sought psychiatric help.

The Executive's proposal to put consideration of public safety above any treatability test is to be welcomed. The situation that meant that, irrespective of public safety, those deemed as untreatable had to be released, had to be reversed. Some might suggest that the proposal has severe implications for civil liberties. The Conservative party has always been concerned about civil liberties, the most important of which, of course, is to be free from crime and the distress that it causes. Once that liberty is taken into consideration, others might pale into insignificance.

I ask the minister to expand his definition of treatment. Does he believe that someone's condition has to be curable in order for them to receive treatment? Does he accept that a person with a condition that has been classified as incurable should receive treatment to help manage their disorder? If so, will he consider giving those with so-called untreatable disorders, who have been detained on the ground of public safety, a right to treatment that will help them manage, control and cope with their disorder? Does he agree that to deny that right would have severe moral implications? Does he further agree that no matter how much effort is put into framing laws, there is always likely to be at least one case that will lead to the discovery of yet another loophole? Does he consider that in such circumstances, the loophole must be closed as quickly as possible?

I would be most grateful if Mr Gray addressed those questions; as he is a long-term advocate of

consensus politics, I am sure that that will cause him no great problem. After all, the interest and safety of the public are undoubtedly at stake.

Notwithstanding any amendments that we may lodge, which naturally will be in line with the European convention on human rights, be assured that we in the Conservative party will do all in our power to assist the passage of the bill.

The Deputy Presiding Officer: Kay Ullrich will wind up for the Scottish National party.

12:11

Kay Ullrich (West of Scotland) (SNP): Roseanna is telling me to stand up as I have the podium—I think that she thought that I would speak sitting down.

There is no doubt that this case has raised serious legal issues regarding the ability of our laws to protect the public from violent, mentally disordered and sexual offenders. Those legal issues have been well aired over the past few weeks, but little attention has been paid to the medical issues raised by the Ruddle affair; I feel that that is reflected in the bill.

Since 2 August, there have been only two Executive statements on the health implications of the case, leaving many questions unanswered. For example, it seems incredible that there has been no serious health input with regard to the lack of appropriate treatment for Mr Ruddle in the state mental hospital. We have had no information on the treatment and practice at Carstairs from the health minister, Susan Deacon, or from her deputy, Iain Gray, who is summing up.

However, we do know that treatment for severe personality disorder was available—it was just not available at Carstairs. As a result, we have released into the community, without supervision, a man who has proved to be a violent and dangerous individual. Can Mr Gray tell us what provisions he intends to put in place to ensure that such treatment will now be available when and where the need is identified?

Given that since 1994, Ruddle's responsible medical officer considered him treatable, but could not gain access to the appropriate treatment or therapy for his patient, will Mr Gray give his reaction to what seems to amount to a complete failure of the system to support the psychiatrist who was responsible for Ruddle's treatment? Even if we close the legal loophole that allowed Ruddle to be released, it is imperative that we ensure that people with severe personality disorders will in future have access to appropriate, effective treatment.

Can Mr Gray assure us that personality disorder will be defined clearly in the bill, and that it will

relate only to those who exhibit dangerous, aggressive, anti-social behaviour, and not to people who are not anti-social but who suffer from a non-aggressive personality disorder?

There is concern about the frequent misdiagnosis of personality disorder. Will Mr Gray give a commitment that further research into professional understanding and use of that diagnosis will be undertaken? Personality disorder must not become a catch-all title, beneath which all forms of medical disorder can be conveniently placed.

Those are just some of the health issues that have emerged from the case. However, I fear that those concerns are merely the tip of the iceberg, particularly when we consider patient discharge procedures and the subsequent supervision of patients in the community. As a matter of urgency, will Mr Gray initiate a review of those issues, which is crucial for public safety and to reassure victims and their families?

For weeks we have been deafened by the sound of dragging feet by the Executive on the Ruddle case. In the eyes of the public, their handling of the case has damaged the Executive and the ministers responsible. It is their job to ensure that no further damage is done.

Many questions have been asked today; in addition to those on health that I have asked, I ask Mr Gray to answer the points raised on compliance with articles 5 and 7 of the European convention on human rights. I ask him to answer those questions fully, as we must ensure that the public have confidence in public safety, treatment of health problems and human rights.

The Deputy Presiding Officer: I noticed Mr Gray looking round for his lectern. Could it be moved fairly quickly, please? A sufficiency of lecterns is being arranged and will be with us soon.

I call on Mr Gray to wind up the debate.

12:16

The Deputy Minister for Community Care (Iain Gray): In two debates today we have placed under close scrutiny the Ruddle case and the bill that is designed to prevent its repetition. It is a testing process for the Parliament because the existing law and procedures are complex, and big issues are at stake. The tone of the debate, particularly the second one, has recognised that.

Today we do not have the comfort—and we have to say comfort—of legislating when there has been full prior scrutiny and full consultation. That is the nature of emergency legislation and of the urgency with which we have been told we should act. It means that some of the important and

broad-ranging issues that have been raised will not be dealt with today, but I will return to how they will be dealt with later.

It could have been so much worse. If we had listened to those—and to be fair, most of them are not in the chamber—who insisted that we should do six impossible, probably unlawful, things before breakfast, to keep Noel Ruddle in detention, while we recalled Parliament by lunchtime and legislated before tea, we would have risked tears at bedtime. We would have faced legislation so hasty that it might have been struck down on its first application. Of equal importance, we would have compromised the on-going work to modernise our mental health legislation in a right and proper manner.

By contrast, I recap some of the essential points of the emergency bill. First, it is a short bill with a clearly defined purpose—public safety. Secondly, it will introduce practical and immediate steps to close the loophole exposed by the Ruddle case. Thirdly, the protections that are essential to an approach based on the European convention on human rights are there; I am happy to assure members who have asked, that the legislation has been fully considered against the convention, including articles 7 and 5. Our view is that the legislation meets the requirements of the convention.

In that context, several members referred to the therapeutic regime in the state hospital. It is true that the sheriff criticised that regime. That is why, on 2 August when that judgment became available to me, my officials and I began to look at the best way to respond to those criticisms. It was decided that we should ask the Mental Welfare Commission to look into the Ruddle case. As members know, we did that. Its report will inform our response to those criticisms. The judgment was made that Ruddle's condition was not treatable. That was the opinion of Ruddle's responsible medical officer at that time.

Fourthly, this legislation bites as of yesterday. It will therefore apply to all future appeals in the sheriff court against continuing detention of a restricted patient. A question has been raised about the difference in timing of the different sections of the bill; I reassure members that the difference in timing for the appeal provision is to allow the Court of Session appeals procedures to be put in place. We expect that to be a matter of days rather than weeks.

As Deputy Minister for Community Care, I strongly endorse the need to act in this way to prevent serious harm to the public by the small group of patients who will be affected by the legislation. I am happy to give the assurance that has been sought by several members, that the legislation will apply only to those who have a

mental disorder and who manifest abnormally aggressive or seriously irresponsible behaviour. The other tests, in particular section 17 of the 1984 act, will apply.

We will do ourselves and our people no service if, in passing this legislation, we jeopardise the current review of mental health legislation by the Millan committee. That is why, with a view to the longer term, we clarified the existing position that personality disorder is legally within the scope of mental disorder. I thank Richard Simpson for his helpful comments.

Christine Grahame: I asked two questions of the Lord Advocate: if they are not answered now, will they be answered in writing?

Iain Gray: The Lord Advocate has agreed to reply in writing.

One in four of us—this point was made by a number of members—will suffer from a mental illness at some time in our lives. It is important to recognise—I welcome Robert Brown's intervention on this—that most people who suffer a mental illness are no danger to the public. The mental health framework that was launched in September 1997 is modernising the services. The mental illness specific grant invests £18 million per year in improving those services. A few weeks ago, I announced a further £2 million for the mental health development fund. In answer to Mr MacAskill's question, I can say that forensic psychiatric services—two in Glasgow, one in Edinburgh and others around Scotland—are being developed.

Not only do one in four of us, at some time in our lives, need to have confidence in those services; so do the hundreds of staff in many different professions who undertake difficult work on our behalf. I thank Karen Gillon and Lewis Macdonald for their interventions that reminded us of that.

The 1984 act is the legal framework for all those services. That framework cannot be determined solely by the tip of the mental health iceberg—the conjunction of disordered personality and acute violence—and this legislation will not do that. The Millan committee will be allowed to complete its work; it will be informed by Lord MacLean's committee on violent offenders. The legislation that follows their recommendations will be afforded the full normal scrutiny of the Parliament and its committees. We have given that assurance to bodies such as the Law Society of Scotland and the Scottish Association for Mental Health. Jim Wallace repeated that assurance today, and I am happy to do so one more time.

I will also ensure that the many important points that were raised in this debate are passed on to MacLean and Millan for their committees'

consideration. As members know, we have already asked Lord MacLean's committee to consider the Ruddle case specifically.

The bill is deliberately limited to the steps that are essential to close the Ruddle loophole now. That responsibility was placed on the Executive. I hope that members are ready to endorse the principles of the bill, to clear the way for the more detailed scrutiny at stage 2.

On 2 August—a month ago—we said that we would legislate if necessary; it is. We said that we would not legislate in haste; we have not. We said that we would legislate quickly and before any further similar releases; we are doing that.

This bill is concise, careful and considered. Above all, it is the correct thing to do now. I commend it to members.

The Presiding Officer (Sir David Steel): We now move to a decision on stage 1 of the bill. The question is, that motion S1M-115, in the name of Mr Jim Wallace, be agreed to.

Motion agreed to.

The Presiding Officer: The next motion is on procedures for stages 2 and 3 of the bill. I ask Mr Tom McCabe to move motion S1M-111.

Motion moved,

That the Parliament agrees that (a), Rules 9.7.8 and 9.7.9 of Standing Orders should be suspended for the purposes of the meeting of the Parliament at which Stages 2 and 3 of the Mental Health (Public Safety and Appeals) (Scotland) Bill are taken, and (b) directs that any vote to be taken during Stage 2 of the Bill in the Committee of the Whole Parliament shall be conducted using the electronic voting system.—[Mr McCabe.]

The Presiding Officer: The question is, that motion S1M-111, in the name of Mr Tom McCabe, be agreed to.

Motion agreed to.

Hugh Henry: On a point of order, Presiding Officer. I participated in the vote yesterday on the motion on public health, but my vote was not recorded.

The Presiding Officer: I take note of that. Your vote will be entered into the record. We will try to investigate such things.

Question, That the meeting be now adjourned until 2.30 pm today, put and agreed to.—[Lord James Douglas-Hamilton.]

Meeting adjourned at 12:27.

14:30

On resuming—

The Presiding Officer (Sir David Steel): Before we begin this afternoon's business, I would like to inform members that we are joined in the distinguished visitors gallery by Speaker J Dennis Hastert, the Speaker of the House of Representatives in Washington, and by five colleagues from the United States Congress. I am sure that members will wish to recognise them and to welcome them to our Parliament in the usual manner. [Applause.]

Question Time

The Presiding Officer: I remind members of what the standing orders say about question time. They provide that

"a member may ask a supplementary question only on the same subject matter as the original question and shall, in asking the question, do so briefly."

I intend to implement that standing order this afternoon.

SCOTTISH EXECUTIVE

"The Scotland Bill: A Guide"

1. Michael Russell (South of Scotland) (SNP): To ask the Scottish Executive whether it still endorses the contents of "The Scotland Bill: A Guide", published by the Scottish Office in December 1997. (S10-203)

The First Minister (Mr Donald Dewar): As Mike Russell has said, the guide was published in 1997 and was an accurate description of the Scotland Bill and of how the white paper proposals were being translated into legislative form. The process, which was completed with the passing of the Scotland Act 1998, was widely welcomed in Scotland.

Michael Russell: I thank the First Minister for his reply. Indeed the guide was widely welcomed, particularly the section on the legislative competence of the Scottish Parliament. Will the First Minister advise his colleagues at Westminster—particularly Mr Brian Donohoe, with whom I am having a series of tedious media debates about the issue—that section 19 of the document says:

"The Parliament will have the power to debate both devolved and reserved matters".

As that statement from the First Minister—and from his previous incarnation as Secretary of State for Scotland—seems definitive, let us hope that, as far as this Parliament and Mr Donohoe are concerned, the matter is at an end. [Applause.]

The First Minister: Some applause is rather easily earned.

Michael Russell: The First Minister may also have some applause if he answers properly.

The First Minister: I have made it clear on many occasions that the first priority of this Parliament is to deal with the areas that are devolved to it, which are its responsibilities and its duties. I am very sorry to hear that Mike Russell is involved in tedious public debates, but I am not surprised, as I understand that the Scottish National party is committed to the principle that it should oppose everything and propose nothing. I suggest that a solution to the problem would be for him to desist in the debate, which would also be widely welcomed in Scotland.

Tall Ships

2. Mr Duncan McNeil (Greenock and Inverclyde) (Lab): To ask the Scottish Executive whether it will congratulate Inverclyde Council and its partners on the staging of the recent tall ships event in Greenock. (S1O-204)

The Minister for Children and Education (Mr Sam Galbraith): Yes, we would like to congratulate Inverclyde Council and everyone involved in making the event a huge success.

Mr McNeil: The event was such a success that we made a video and there is a free copy for Sam at the end of question time. For everyone else, it costs £11.99 from Inverclyde District Council.

Does the Executive recognise that while event-based tourism such as the tall ships race boosts an area's image, confidence and self-esteem, long-term gains can be achieved only by supporting the Invest in Inverclyde campaign that seeks to deliver significant benefits by improving infrastructure and by sustainably developing tourism? Such measures allow areas such as Greenock to overcome serious problems that arise from the demise of heavy industry.

Mr Galbraith: I am grateful to the member for his comments. I think I am answering this question on two dubious pretexts: first, that because boats and sailing are involved, the issue is related to sport; secondly, that I come from Greenock, which is where the event was held.

There is no doubt that, when we seek to regenerate and revitalise areas, we have to consider the broad spectrum of available tools, one of which is large sporting events. I want to congratulate not just Inverclyde Council on its outstanding work on the event, but Shetland Islands Council, which saw the next leg of the race. My heartiest congratulations go to both for taking a wide view of their responsibilities and of the way to push their areas forward.

Business Start-ups (Internet)

3. Elaine Thomson (Aberdeen North) (Lab): To ask the Scottish Executive whether it will make a statement on how it intends to use the internet to provide assistance for business start-ups. (S1O-231)

The Minister for Enterprise and Lifelong Learning (Henry McLeish): As part of our wider policy of support for the small business sector, the Scottish Executive is keen to improve the provision of information and assistance to business start-ups and other small businesses via the internet. Both Scottish Enterprise and Highlands and Islands Enterprise have basic start-up support available through their websites and work is in hand to enhance that considerably over the next few months.

Elaine Thomson: Is the minister aware of a new communications technology recently announced by British Telecom to provide high bandwidth internet access called asynchronous digital subscriber line, which will be rolled out to 10 UK cities by March next year? Does he agree that providing modern communications infrastructure, for instance in Aberdeen and the north-east, will encourage economic activity? That might help to balance the 10,000 jobs which a report this week suggested would be lost in the oil and gas industry in the next 10 years and—

The Presiding Officer: That is enough.

Henry McLeish: I am aware of the new technology that my colleague mentions. Last Friday, we had a knowledge economy breakfast with industrial and education leaders in Inverness and the matter was important not only for that part of Scotland but for the north-east. I reassure my colleague and the chamber that we are doing everything we can, in Scottish Enterprise and Highlands and Islands Enterprise, to embrace the new technologies.

We assume that items such as e-commerce are the future and that investment is required. More important, we have to work alongside many of the private providers, including BT, to ensure that we have an infrastructure that is fit for business in the next century.

Rail Services (Edinburgh–Shotts–Glasgow)

4. Bristow Muldoon (Livingston) (Lab): I want to place on record a registrable interest in the Rail, Maritime and Transport Union due to an existing constituency agreement with the Livingston constituency Labour party, and the Transport Salaried Staffs Association is in the process of reaching such a constituency agreement.

To ask the Scottish Executive whether it will make available resources to improve the

frequency and quality of services on the Edinburgh-Shotts-Glasgow railway line. R (S10-225)

The Minister for Transport and the Environment (Sarah Boyack): We are not aware of any firm proposals for improvement of the frequency and quality of services on this railway line and the development of railway services is primarily a matter for the rail industry. However, should they so choose, local authorities on the route of the line could apply to the Government's public transport fund if they believed that proposals for improving rail services on the line were eligible for support.

Bristow Muldoon: Does the minister know whether there is any intention to improve services on other lines connecting Edinburgh and Glasgow and, if there are, whether they will have any beneficial effect on other routes in the ScotRail network?

Sarah Boyack: Not directly as the Scottish Executive. However, the introduction of a four-times-an-hour train service on the Glasgow-Linlithgow-Edinburgh line will lead to a cascade of ScotRail trains throughout the network. Then there will be the possibility of higher quality trains on the Glasgow-Shotts-Edinburgh line.

Information Strategy

5. Fiona McLeod (West of Scotland) (SNP): I, too, have to declare a registered interest. I am currently a member of the Library Association.

To ask the Scottish Executive what plans it has to implement an integrated information strategy for Scotland. R (S10-207)

The Minister for Finance (Mr Jack McConnell): I recognise Fiona McLeod's interest in this issue. The Executive recognises the crucial importance of developing an information strategy for Scotland and is committed to making that happen. We will harness the best ideas from the private and public sectors and make effective use of the best of modern technology.

There are many areas in which we can make a difference. For example, we must ensure that the many publicly funded information networks in Scotland are properly integrated. We are therefore driving forward three initiatives which, taken together, will mark Scotland out as a leader in the information age. They are our work on "Modernising Government", the digital Scotland initiative and developing the knowledge economy.

Fiona McLeod: I am delighted to hear that. Will the minister give members the remit of digital Scotland to ensure that it encompasses all areas of the information profession, which is obviously interested in this, and the members of any working

group that will be set up to look at that?

Mr McConnell: As my colleague is aware, a ministerial sub-committee on digital Scotland has been established under the chairmanship of Mr Galbraith. He will make a statement to the chamber in the autumn, to outline the details of our initiative and how it will be progressed.

Fiona McLeod: I am delighted to hear about the sub-committee on digital Scotland, because I have been trying to find out about it since 2 July when I spoke to Mr McLeish. I would appreciate some early information on the remit and membership of digital Scotland.

Mr McConnell: We will be happy to provide as much information as possible in due course, at the appropriate time. Given Fiona McLeod's interest, it would be helpful if we could use her expertise and glean ideas from her as the strategy develops.

CCTV

6. Johann Lamont (Glasgow Pollok) (Lab): To ask the Scottish Executive what plans it has to monitor the effectiveness of town and city centre closed-circuit television systems. (S10-223)

The Deputy Minister for Justice (Angus MacKay): The Scottish Executive central research unit is conducting research into the effectiveness of CCTV schemes funded by the former Scottish Office—now Scottish Executive—CCTV challenge competition. An initial findings report will be available in the autumn, followed by a comprehensive report thereafter.

Johann Lamont: Some of my most vulnerable constituents have told me that they feel like prisoners in their own homes. Does the minister share my fears, in the face of the immense problems that crime presents to us all, that there may be a temptation for us to become dazzled by the quick technological fix, when more low-key, personal strategies for crime prevention may be more effective?

Does the minister also agree that CCTV must be monitored effectively, openly and honestly in order that we can support it on the basis that it is effective rather than simply because it is fashionable?

Finally, does the minister—

The Presiding Officer: That is enough.

Angus MacKay: The purpose of the monitoring that is under way is to ensure the effectiveness of the current schemes and future expenditure. The community safety challenge competition, which was launched in August for 2000-01, contains provision for £3 million-worth of challenge funding; £1.5 million for new CCTV schemes or extensions to existing schemes and £1.5 million for new

community safety initiatives, precisely to recognise that community safety embraces more than just CCTV. We are looking for innovative new schemes to be developed.

Rail Services (Glasgow to Cumbernauld)

7. Cathie Craigie (Cumbernauld and Kilsyth) (Lab): To ask the Scottish Executive what funding it has provided to enable improvements to be made to the Glasgow to Cumbernauld rail link and whether it intends to fund any new stations on this route. (S10-222)

The Minister for Transport and the Environment (Sarah Boyack): An application to the public transport fund has been lodged by North Lanarkshire Council for the opening of a new station at Gartcosh. I await the outcome of the application with interest.

Cathie Craigie: The provision of a new station on the Glasgow to Cumbernauld line is welcome. I know that my constituents in Cumbernauld and Kilsyth welcome the programme of investments at Cumbernauld station and at Croy station, which is on the Glasgow to Edinburgh line.

The Presiding Officer: Ask a question, please.

Cathie Craigie: I am sure that the improvements to the station and to parking facilities, combined with the improvements to the timetable, will encourage more people to use the railway. However, will the minister continue to work with all those concerned to deliver a new station at Abonhill? Will she inform Parliament of the Executive's plans for further investment in our railway network?

Sarah Boyack: We have plans for £18.3 million for this year and the next two years under the Freight Facilities Grant; £90 million will be available over the next three years for the Public Transport Fund, while £14 million will be available from the Rural Transport Fund.

In addition, there are payments to Strathclyde Passenger Transport from the Scottish Executive for rail passenger services provided by ScotRail, which will amount to £88.3 million for 1999-2000. Under devolution, the Scottish Executive will secure responsibility for funding the rest of the ScotRail franchise; this year this is worth £120.4 million.

Poverty

8. Alex Neil (Central Scotland) (SNP): To ask the Scottish Executive whether it has set targets for the elimination of poverty in Scotland. (S10-192)

The Deputy Minister for Communities (Jackie Baillie): As announced on 29 June, the development of targets for social inclusion is being progressed by the ministerial task force on poverty and inclusion led by Wendy Alexander.

Alex Neil: Two weeks ago, the Secretary of State for Social Security set a target for the UK of taking 1.25 million out of poverty. Even if that target is achieved, it will leave more than 1 million people in Scotland in poverty. What is the minister intending to do to take those people out of poverty? Does she agree that it is impossible to eliminate poverty in Scotland while benefit cuts are imposed from London?

Jackie Baillie: As ever, Mr Neil poses an interesting question.

The targets are currently being developed and, as Mr Neil will appreciate, there is no single definition of poverty. It is partly to do with low income, but includes wider issues such as lack of access to work, poor health, poor education and so on. We will develop a comprehensive set of targets that are appropriate for Scotland.

Bus Services (Lanarkshire)

9. Karen Gillon (Clydesdale) (Lab): To ask the Scottish Executive what proposals it has to improve the frequency of bus services in Lanarkshire. (S10-219)

The Minister for Transport and the Environment (Sarah Boyack): We propose to introduce legislation later this session. Our aim is to improve bus quality and frequency by giving a statutory basis to quality partnerships, by setting new standards for timetabling, through ticketing and enforcement, and by making arrangements for quality contracts where appropriate.

Karen Gillon: I thank the minister for her answer. I am sure that all of my Lanarkshire colleagues will agree that the improvement of bus services is essential to the regeneration of Lanarkshire.

What steps is the Scottish Executive able to take to help with the affordability of bus transport in Lanarkshire, as that is a major barrier to people using bus services?

Sarah Boyack: In a deregulated market, it is for the bus companies to set fares. Through quality partnerships, we will encourage bus companies to introduce simpler and fairer ticketing schemes and to try to reduce costs. The hope is that generating greater bus use will bring the price of bus services down and the system will be made more straightforward and provide a wider range of good tickets.

Parliamentary Questions

10. Dr Richard Simpson (Ochil) (Lab): To ask the Scottish Executive whether it will publish an audit of the parliamentary questions it has been asked, broken down by MSP and topic. (S1O-206)

The Minister for Parliament (Mr Tom McCabe): I am arranging for an audit of the approximately 1,300 written questions that have been lodged and prepared to date. Such information will be helpful to the Parliament in considering whether we are promoting the most effective dissemination of information and using resources efficiently.

Dr Simpson: Given that more than 1,300 questions have been asked, amounting to an expenditure of over £130,000 by this Parliament on questions—according to information obtained in response to a previous question—will the Scottish Executive consider, when responding to Parliamentary questions, indicating whether the information requested is already in the public domain, in order to ensure that we are making appropriate use of public funds and not wasting them?

Mr McCabe: If the information is in the public domain, we are happy to consider where it lies. If the Executive is not the main source of the information, we are also happy to consider which would be the appropriate body to provide it, and to highlight the answers where the information is clearly already public or is available from a source other than the Executive. There are concerns about value-for-money issues and about the most effective use of the Parliament's, and the Executive's, resources.

Tourism

11. Mary Scanlon (Highlands and Islands) (Con): To ask the Scottish Executive what measures it intends to take to address the decline in the number of tourists visiting Scotland. (S1O-233)

The Deputy Minister for Highlands and Islands and Gaelic (Mr Alasdair Morrison): I will publish a new strategy for the industry around the end of the year. It will address all relevant issues.

Mary Scanlon: I thank the minister for his response. I also thank Henry McLeish for his time when he met me last Friday to hear major concerns raised by the tourism industry in the Highlands and Islands. I welcome his approach to working together.

Prior to the November budget, will the Scottish Executive make strong representations to the Chancellor of the Exchequer to alleviate or reduce the crippling duty on fuel that is such a major part of the budget for a holiday in a rural area?

Mr Morrison: As Mrs Scanlon knows, we are currently consulting on tourism and we are delighted that we have had 400 responses to date. Anecdotal evidence suggests that fuel might possibly impact on the number of visitors to the Highlands, but that is only part of the matter. A great number of other considerations have to be taken into account, such as the price and quality of accommodation. Those issues are being addressed in our strategy and in our consultation exercise.

Housing

12. Bill Aitken (Glasgow) (Con): To ask the Scottish Executive how it will deal with submissions and responses to the green paper "Investing in Modernisation—an Agenda for Scotland's Housing". (S1O-221)

The Minister for Communities (Ms Wendy Alexander): I thank Bill Aitken for his question, as it gives me an opportunity, on behalf of the Executive, to thank the many organisations and individuals in Scotland who responded to the green paper.

I have today published a summary of the responses and set out the next steps that the Executive is going to take, including our plans to publish a draft housing bill in the first half of next year.

Bill Aitken: I am obliged to the minister for her response. Does she agree that the lack of investment in public sector housing is one of the major issues facing her remit? Does she also agree that the housing partnership proposals, as outlined in that green paper and as first enunciated by my friend Lord James Douglas-Hamilton when he was the housing minister, provide an appropriate response to that difficulty? In conclusion, will she undertake to expedite matters?

Ms Alexander: I am somewhat puzzled by the invitation that Bill has extended to me. I will try to encourage him by saying that the sum of £464 million which we inherited, which was planned by the Conservative Administration, will have been increased to £640 million by the end of the comprehensive spending review period. That is an increase of 40 per cent above the planned level. I would, however, like to say that the challenge is not simply about accessing public investment, but much more fundamentally about accessing other investment in partnership with the public sector. That is one of the fundamental challenges on housing policy that faces this Parliament.

Cattle Cull

13. Bruce Crawford (Mid Scotland and Fife) (SNP): To ask the Scottish Executive how many

storage units exist in Scotland containing animal remains resulting from the BSE cattle cull and what are their locations. (S1O-201)

The Minister for Rural Affairs (Mr Ross Finnie): Two. One at Ratho and the other in Glenrothes.

Bruce Crawford: The minister may be aware that the disposal of this render material from the BSE cattle cull is causing particular concern to people living in the Saline and Blairingone areas of Fife, Clackmannanshire and Perth and Kinross conjoined boundaries. In view of that concern, can the minister tell the Parliament how many tonnes of this material are still in storage, what methods have been deployed for disposal and what methods will be used in future?

Ross Finnie: There are 22,300 tonnes of that material at Ratho, and 49,800 tonnes is held at Glenrothes. As Mr Crawford will be aware, it was never the intention that this material be stored, because the EU regulation lays down that it should be incinerated. Unfortunately, at the time of that regulation—this is an important point to make—while there was sufficient incinerator capacity to deal with the animals that were already suspected of having BSE, there was insufficient capacity in Scotland and in the United Kingdom to deal with animals in the over-30-months scheme. The intervention board, which acts on our behalf in dealing with this, has now placed three contracts with incinerators. A further two are being negotiated and the intervention board has been given a target of achieving a 60 per cent disposal of the present stock by no later than March 2002.

Bruce Crawford: Can I ask for the minister's assurance that none of the BSE rendered material that is held in the storage units will at any stage be disposed of by dispersal on land?

Ross Finnie: I can give a categorical assurance on that.

Disabled People

14. Karen Whitefield (Airdrie and Shotts) (Lab): To ask the Scottish Executive what action it is taking to improve public services for the disabled. (S1O-226)

The Deputy Minister for Communities (Jackie Baillie): A new equality unit is being set up within the Scottish Executive. Its remit will include promotion of a greater awareness of the needs of people with disabilities in service planning and delivery.

Karen Whitefield: Will the minister agree with me that people with disabilities need equal access to services, and the independence to access those services? Some of my constituents with disabilities are currently working in partnership with the local

authority to establish a shop mobility scheme in Airdrie which will enable them to shop in the town and to access the local authority's service centres for social work and housing. I hope that the minister—

The Presiding Officer: We must have a question.

Karen Whitefield: There is a question. I hope—

The Presiding Officer: Hoping is not a question.

Karen Whitefield: I hope that the minister will give me a commitment to support and resource local authorities to introduce and improve schemes such as this one. Will she support it?

Jackie Baillie: I entirely agree with Karen Whitefield's earlier sentiments. In general terms, the regulations provided for by the Disability Discrimination Act 1995 to improve access to public service vehicles are being worked up. Specifically, we would all accept that shop mobility schemes can be an important help to the disabled. It is primarily for local authorities to develop those schemes at a local level, and I encourage them to do so with disability groups and with existing community transport schemes.

Employment (Forth Valley, Fife and Lothian)

15. Ms Margo MacDonald (Lothians) (SNP): To ask the Scottish Executive if it is aware of new employment opportunities identified by the local enterprise companies covering the Forth valley, Fife and Lothian areas. (S1W-245)

The Deputy Minister for Enterprise and Lifelong Learning (Nicol Stephen): The ministers and officials in the enterprise and lifelong learning department maintain a regular dialogue with Scottish Enterprise and with local enterprise companies to discuss the promotion of economic development and the identification of new employment opportunities. One very good example in Margo MacDonald's area of Lothian, which also involved Locate in Scotland, was the announcement—with the First Minister—earlier this week of 1,500 new jobs at the Bathgate plant of Quintiles.

Ms MacDonald: I, too, am delighted to hear about the Quintiles announcement. I also welcome what Henry McLeish said at the Enterprise and Lifelong Learning Committee meeting yesterday about the rapid response unit that has to be established.

I also very much approved of the improved intelligence gathering—

The Presiding Officer: Can we have a question, Margo?

Ms MacDonald: I am flattering Henry, with all due respect. [*Laughter.*]

Is Nicol Stephen able to share with us the result of any discussions between public agencies within his ministerial domain and the management of Babcock at Rosyth about the future size of its work force?

The Presiding Officer: Even flattery must be in the form of a question.

Nicol Stephen: I am not able to say anything about that issue directly. Clearly, the Scottish Executive wants to encourage new enterprise and new start-ups; it wants to grow existing enterprise and encourage inward investment.

A good example of that, announced today, was the investment of £60 million by Motorola at South Queensferry and the creation of 200 jobs there.

Ms MacDonald: Babcock, please.

Nicol Stephen: That is the sort of commitment that we want companies to make to the areas to which Margo MacDonald refers. It shows great confidence in Scotland, in Lothian and in the work force at South Queensferry.

Ms MacDonald: On a point of order. I did ask about Babcock, and although I am highly delighted about Motorola and the rest, there is such an enormous work force and such a huge element of the Scottish economy represented at Babcock that I should have an answer on that.

The Presiding Officer: I will treat that as a supplementary question rather than as a point of order.

Nicol Stephen: I think that I explained that, at this stage, because of the confidential nature of discussions—

Ms MacDonald: There are discussions?

Nicol Stephen: There are many issues that the Executive, Locate in Scotland, Scottish Enterprise and the local enterprise companies are involved in. I am not able to say anything further at this stage, but I will take up the matter and the concern expressed by Margo MacDonald. If I am able to give her any information in addition to what I have just said, I will do so.

Warm Deal Grants

16. Margaret Jamieson (Kilmarnock and Loudoun) (Lab): To ask the Scottish Executive whether it will make a statement on what provision is being made to promote the take-up of warm deal grants to pensioners and families on low incomes. (S10-238)

The Deputy Minister for Local Government (Mr Frank McAveety): The warm deal registered

installers have contractual responsibility for publicising the scheme in their areas. In addition, we propose to promote the scheme through organisations such as Help the Aged, Energy Action Scotland and Disability Scotland. A number of warm deal promotional events are also scheduled to take place to coincide with the onset of winter.

Margaret Jamieson: How does the scheme relate to other initiatives to tackle fuel poverty?

Mr McAveety: It is important to stress that the scheme is part of an overall package to tackle fuel poverty in Scotland, in conjunction with our colleagues in the UK Parliament. It complements the UK Government's commitment to reduce the level of VAT on household fuel bills from 8 per cent to 5 per cent, to introduce winter payments for pensioners and to increase income support for needy pensioners, payable from April 2000. Through our strategy, combined with that of our partners in the UK Parliament, we believe that we can journey on the road to tackling fuel poverty in Scotland.

Economic Aid (Unst)

17. Tavish Scott (Shetland) (LD): To ask the Scottish Executive whether it is working with the Ministry of Defence in preparing a plan for economic aid to the island of Unst to help replace the jobs to be lost at the RAF Saxa Vord base, and when an announcement on the plan will be made to the people of Unst. (S10-191)

The Deputy Minister for Highlands and Islands and Gaelic (Mr Alasdair Morrison): We will work closely with the Ministry of Defence to assess responses to its current consultation, and will explore with the local community and agencies what action is appropriate.

Tavish Scott: I am grateful for that reply. I further ask the minister if he will recognise what effect the job losses will have on the economy of a community of 1,000 people in the north of Scotland. The loss of those jobs will mean that 30 per cent of the population, more than 50 per cent of the work force and two thirds of the school roll will potentially go. Therefore, the current 42-day consultation period is not adequate. Will the minister make representations to the Ministry of Defence on the length of the consultation period, and will he consider the designation of the area as initiative on the edge? That could give much-needed stimulus to the area.

Mr Morrison: I empathise with Tavish Scott. I face a similar situation in the island of Benbecula, although not quite on the same scale. I am grateful to Wendy Alexander, who recently visited the island of Unst and gave me a valuable insight into the situation. We are having a conference on the

island of Harris on 5 November, when the issue of initiative on the edge designation will be discussed. I assure Tavish Scott that I shall visit Unst shortly, and I shall liaise with him and the Deputy First Minister as we continue our dialogue with all the relevant agencies to identify possible options for that community.

Open Question Time

The Presiding Officer: We now move to open question time. I stress that supplementary questions should refer to the same topic.

Cathie Craigie (Cumbernauld and Kilsyth) (Lab): On a point of order. I ask clarification from you, Presiding Officer, on why members who asked questions in the question time that we have just had were allowed little time to develop their question when other members were allowed to ask two supplementary questions and more.

The Presiding Officer: At the beginning I read out the standing order. I am bound by that standing order as much as anyone else. It says that questions should be brief.

Cathie Craigie: The order for business surely allows for one supplementary question. Today members have asked more than one supplementary question.

The Presiding Officer: Being generous, I allow second supplementary questions when I think that a member has something further to ask a minister. We are taking up valuable time. I call Mr Alex Salmond to ask the first question.

SCOTTISH EXECUTIVE

Transport

1. Mr Alex Salmond (Banff and Buchan) (SNP): To ask the Scottish Executive what are the details of its transport policy. (S1O-194)

The First Minister (Donald Dewar): I confess, Sir David, that that sounds like an invitation to a long answer. You will be glad to hear that I will resist that temptation.

The Administration is committed to providing an integrated system, with improved transport services and genuine choice for the public, and to recognising the need to meet high environmental standards and to tackle the problems of gridlock and urban congestion.

Mr Salmond: Let us focus on the Executive document on toll taxes and charges that I was reading over the summer. I cannot describe it as a medal-winning document, by any means. The document seems to suggest that the Executive will be minded to put the administration of the toll taxes into the hands of private companies. If that is the case, how does that square with the Executive's commitment to ring-fence those charges so that they will all be used for transport infrastructure? Alternatively, will the First Minister rule out the use of private companies in the collection of his toll tax?

The First Minister: I think that for me to accept that invitation would be a sign of arrogance, as we are in the middle of a consultation process. I hope that Alex Salmond, along with his colleagues, will think of joining the consultation rather than riding around the country spreading doom and despair, and running scare stories at every possible opportunity.

It would also be helpful if Mr Salmond would clarify the SNP's position on such matters. After all, in August 1998 we were told by its official transport spokesman that

"there is merit in discussing highly focused road-pricing"

and that

"there may be some arguments for motorway tolls".

The SNP conference in September 1998 recognised that

"certain car pricing schemes may provide the revenue needed to develop alternatives"

and committed the party to

"support focused road pricing to help develop public transport alternatives".

Those subtleties have been missed out of recent press releases. I am sure that Mr Salmond regrets that, and I hope that he will put that right in the future.

Mr Salmond: It is open question time, but I can help the First Minister by saying that our opposition to his toll tax proposals has been well ventilated in recent months, otherwise he would not be so concerned about the campaign.

If he will not answer the question on his views of private companies collecting his toll tax, can he elaborate on section 4.3.2 of the consultation document "Tackling Congestion", which says that,

"the Scottish Executive is not... minded to place a limit on the maximum charge or levy which can be imposed"?

Does that mean that the sky is the limit as far as toll taxes are concerned?

The First Minister: No, it does not mean that the sky is the limit and, as Mr Salmond well knows, the aim of the consultation is to gather opinions and to decide what is practical and right and what will tackle the problems of urban congestion and gridlock. If any scheme goes forward, it will be on the basis that it is appropriate and that there has been proper local consultation, and with the approval of the Administration. I say again very seriously that this is a very big area and while I accept that there is a great deal of room for political mischief making, if there is any truth at all in what is said by the nationalist party about its wish to see improvement in Scotland—

Dr Winnie Ewing (Highlands and Islands) (SNP): Get the name right.

The First Minister: —and real problems being tackled, then he should come out and start discussing his own plans and start commenting constructively on ours. He falls very far short of that at the moment.

Mr Salmond: I would have thought, after the Skye bridge fiasco, that the First Minister would be anxious to rule out private companies administering the toll tax. Can I put to him the extent of the charge that might be entailed by his toll tax plans? If the tax is 5p a mile, it means that someone commuting from Glasgow to Edinburgh, or, for that matter, from Hamilton to Edinburgh—

The Presiding Officer: A question.

Mr Salmond: —might be involved in a charge of £900 a year. Will the First Minister confirm that figure, or would he care to put a ceiling on Dewar's toll tax?

The First Minister: The gentleman is working very hard today. Of course, the references to Hamilton would not for one moment suggest to me that we are thinking about a by-election. We are thinking about long-term policy—

Mr Salmond: £900?

The First Minister: —for the good governance of Scotland and decent transport in Scotland. That kind of calculation is an insult to the argument; it is not the basis on which any calculation would be made. If Mr Salmond joined the debate, he might get a little more information about how these things work, which would certainly help. He seems to think there is no support for this, but, for example, the chief executive of the Glasgow Chamber of Commerce says that if motorway tolls are a way of getting vital arteries open, then the chamber would support it, providing that revenues raised went directly into transport infrastructure projects.

Mr Salmond: £900?

The First Minister: There is a genuine debate here—come and join it.

Governance of Scotland

2. David McLetchie (Lothians) (Con): To ask the Scottish Executive how its guidelines on collective decision making will improve the governance of Scotland. (S10-236)

The First Minister (Donald Dewar): I take the view that the whole devolution scheme improves the governance of Scotland and, although I think that the views of David McLetchie and his colleagues are occasionally ambiguous, I would like to think that he would join me in that. Collective responsibility is a widely accepted mark of cabinet government. It contributes to and encourages stable, responsive government fully

accountable to the Parliament. The guidance on collective decision making sets out a sensible framework for cabinet government; its publication is a mark of our commitment to open government, and I would have thought it would have been welcomed.

David McLetchie: I welcome the First Minister's answer and ask him to confirm that he has no plans, following the publication of the report of the Cubie committee and the decision of the cabinet that may follow from that report, to change the principles of collective responsibility set out in the guide to decision making published by the Executive last month. In particular, will he disown the suggestions by his Deputy First Minister at the weekend that somehow or other the concept of ring-fencing may be introduced as a permanent feature of government?

The First Minister: The word ring-fencing is used in many contexts, but this is not one in which I would use it. Our colleagues in the Liberal Democrats have very strong views, as does everyone in this chamber, on higher education finance. We have made it very clear that the Cubie committee will be asked to look in depth at the matter, as was requested by a whole range of higher education institutions who rejected the pell-mell rush to judgment that the Conservatives were in favour of. The conclusions will be examined by the cabinet and we will look for ways to proceed. I know that the opposition parties look with hope at that process. I look on it with hope as well, but for rather different reasons.

David McLetchie: We note that the First Minister distinctly failed to answer the question. It was not about tuition fees, but about whether the principles of collective responsibility set out in his own document were being undermined by his Deputy First Minister.

On the principle of collective responsibility, is the welcome suggestion from the Minister for Rural Affairs about a package of aid to sheep farmers the official policy of the Executive, or is it a breach on his part of the principle of collective responsibility, and a spot of freelancing initiative? If it is the policy of this Administration, will the First Minister now be telling Mr McConnell to sharpen his pencil? He is already finding £80 million to fund one set of Liberal Democrat policies. What budgets will he be cutting to fund another one?

The First Minister: Mr McLetchie should go and have a look at what was said on that occasion, which was that, of course, we would be examining all options. That is the position. We have had some good discussions about this. We will be in touch with the National Farmers Union. The record of this Government in helping agriculture is a remarkably good one. Almost £60 million over and above the European support payments was found

last year, and we are well aware of the problems that are currently faced by the agriculture sector. At least we have a track record of genuine concern and of action. I commend it to Mr McLetchie.

Dorothy-Grace Elder (Glasgow) (SNP): Does the Scottish Executive agree that in the interests of the better governance of Scotland, the Department of Social Security and the benefits system in Scotland should be the responsibility not of Westminster, but of this Scottish Parliament?

The First Minister: No, I do not, but that is one of the differences between the nationalists and ourselves. I entirely accept that Dorothy-Grace Elder has a very individual, sometimes even idiosyncratic, point of view about the governance of Scotland.

She is setting up a test of nationalism. We have a devolved system. If she is worried about what is happening in that field, I ask her to welcome—as I am sure she will—the working families tax credit, which comes into force in October and will help about 130,000 low-paid families in Scotland to the benefit of around £170 million, on best estimates. That is the kind of practical way in which, working together with Westminster, we are trying to tackle the problems of deprivation, unlock opportunity and allow people in this country to recognise and realise their potential.

Dorothy-Grace Elder: So we cannot afford it in Scotland? Is that what the minister is saying? We manage to spend £1.5 billion a year running Trident, and that is being cut from British benefits.

The Presiding Officer: Order. I did not call you for another supplementary.

Scottish Civic Forum

3. Malcolm Chisholm (Edinburgh North and Leith) (Lab): To ask the Scottish Executive what action it proposes to take in relation to funding the Scottish Civic Forum. (S10-200)

The Minister for Finance (Mr Jack McConnell): The partnership agreement confirms the Executive's commitment to encouraging the development of the Scottish Civic Forum. I will meet representatives of the civic forum shortly to discuss the possibilities for support.

Malcolm Chisholm: Given that we have made radical commitments to involve outside people and bodies in the work of this Parliament, and given that the civic forum is a crucial umbrella organisation for that purpose, I welcome the fact that the minister is holding meetings with the forum's representatives. Can he confirm that no legislative action is required prior to funding the forum, and will he ensure that support is given to the forum as soon as possible?

Mr McConnell: As colleagues in the chamber are already aware as a result of the debate that took place in June, there is a difficulty in identifying a statutory responsibility that allows us to provide core funding for the forum. That is why we are meeting representatives of the forum to examine the issues of funding and the other ways in which we can support their organisation, and to examine the overall issue of civic engagement with this Parliament and with the Executive in the months and years ahead.

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): Will the minister ensure that civic bodies in our rural areas outside the central belt are consulted with regard to the funding of the civic forum?

Mr McConnell: Yes, I will raise that issue with the representatives of the forum. It is important that whatever arrangements we establish with them and with other bodies, we ensure that the whole of Scotland is represented in the consultations and the engagements that take place over the coming four years.

Dr Winnie Ewing (Highlands and Islands) (SNP): On a point of order. Is it in order for the First Minister to refer to my party by the wrong name, which he has a bad habit of doing? If it is in order, we could all play this game and a wrong name for his party springs to mind—the ex-socialist party.

The Presiding Officer: Ministers are responsible for their own answers.

Dr Ewing: On a point of order. With all respect, that is not a proper answer. We are in parties in this chamber and the parties have names. We could start playing funny games with this if you do not rule that it is out of order for the wrong name to be given to a party.

The Presiding Officer: I cannot rule it out of order because there is nothing in the standing orders that says that parties should be called by their proper names, but I would have thought that it is obvious that they should be.

National Cultural Strategy

The Presiding Officer (Sir David Steel): We now move on to the debate on motion S1M-107, in the name of Mr Sam Galbraith, on a national cultural strategy.

15:16

The Minister for Children and Education (Mr Sam Galbraith): I am pleased to open this debate on the national cultural strategy for Scotland. I believe that there has never been a better time for us to have such a cultural strategy. We face the future with the confidence of a nation with its own new Parliament. It is the intention of the Scottish Executive to prepare a cultural strategy so that we can properly promote and develop Scotland's diverse cultural interests in the new millennium.

Over the years, various aspects of cultural life have been subjected to scrutiny, review and research. Most recently, there has been the excellent work carried out by the Scottish Arts Council under the chairmanship of Ruth Wishart. The process on which we are embarked is different in that it is intended to be the first in which we draw together all parts of the cultures and arts in Scotland and go further in examining all aspects of our cultural life.

At this stage, nothing is ruled out and nothing is ruled in. We shall listen to what the people tell us in the consultation. However, it would be disingenuous not to make my starting point clear. The aim of this process is to establish a clear strategy and set of objectives, which we can all work together to achieve in the years to come.

This process is not about a wholesale restructuring of the arts and heritage sector. Some changes might be needed, but the focus is firmly on the arts and what they can do for individuals in our society. This is not an exercise in re-engineering bureaucracy. The strategy will recognise the richness and diversity of our culture and seek to harness it for the benefit of all our citizens. It will encompass all the arts, including music, dance, theatre, writing, sculpture, architecture, painting, design crafts, television, film, photography and video. The strategy will embrace the most recent developments in multimedia and the creative industries with their important associated economic effects.

The strategy will embrace Scotland's cultural heritage, our museums, galleries, libraries and the built heritage. It will celebrate the past, while preparing for the future. It will embrace the old and the new, the traditional and the modern. We also recognise that the Gaelic and Scots languages and traditions are each important and that the cultural wealth that other languages and traditions

have brought also has a contribution to make.

My colleague, Rhona Brankin, launched this process a few weeks ago in Inverness. Copies of the national cultural strategy are now available in print as well as on the internet and in this Parliament. Our aim is to ensure that the process is as inclusive as possible. To that end, we are planning a series of meetings throughout the country, from north to south and east to west. Those meetings will be open to the public and will be held during September, October and November.

Fiona McLeod (West of Scotland) (SNP): I have asked this question before in relation to another matter. Mr Galbraith is talking about consulting throughout the country. When we talked about the education improvement bill, he said that he would consult young people. I have to say that the efforts at consultation have not been inclusive of young people. Will Mr Galbraith assure us that consultation on the cultural strategy will be better than that on the education bill, whose website has received only 24 messages?

Mr Galbraith: I must explain to Fiona that it is in the nature of consultation for responses to be submitted in a rush at the end, rather than at this stage. It is not true to say that the consultation has not been inclusive—it has been very inclusive. We are only at the start of the process—we have September and October still to come—and we should resist rushing to judgment while it is still in its infancy.

I can assure members that everyone will be included. This strategy will not belong to anyone in particular—it will belong to the people of Scotland. It will not be the property of the Scottish Executive or of the Scottish Parliament; we want ideas from everyone. We want to reach as many people as possible, whether they be arts professionals, amateurs, large organisations, neighbourhood groups, multinational organisations or small businesses. We anticipate a healthy debate and even some argument.

This Parliament, as the assembly of elected representatives of the people of Scotland, has its own role to play. We can reach people in all parts of Scotland and conduct debates with our constituents. I hope very much that that will happen.

We are now at the start of the intensive process that I have described. Once the initial consultation is over, we will consider the responses that we have received. Certain themes or strands may then emerge on which we want to seek further views and advice. Our strategy will then be drawn up, taking into account the views of those who have responded. We intend to produce a strategy document by the middle of next year. It is

important to stress that the process will not end with the production of that document. To be of any use, the strategy will need to be revisited regularly and updated when necessary.

It may be helpful if I take this opportunity to outline those areas on which we wish to focus particular attention. As I have said, the process is to be as inclusive and far-reaching as possible. We will certainly look at what have traditionally been considered to be the arts. We will also want to look at architecture, the built heritage, education, social inclusion, creative industries and the links that can be built up between those different areas.

In all that, our duty is to sustain quality and achievement and to ensure that everyone who wishes to participate in the arts is able to do so. Accessibility in the widest possible sense is the key to any future strategy. We want to ensure that those people who wish to participate in the arts in any way have an opportunity to do so and do not feel excluded.

We have a great wealth in our museums, galleries, libraries and built heritage. We have a rich and diverse built heritage of ancient monuments, archaeological sites, landscapes, historic buildings and townscapes, all of which provide an important, enriching, authentic and tangible record of the peoples of Scotland. The built heritage provides a sense of place and community throughout Scotland, in both urban and rural areas. It makes a major contribution to the sense of national identity that we all possess. Indeed, many of our cultural institutions are located in buildings of historical or architectural distinction.

Our stock of castles, great houses, abbeys and historic towns and villages is one of the principal reasons why tourists come to Scotland. There is thus a major economic as well as an intrinsic cultural value to our built heritage. There are also strong arguments, rooted in the principle of sustainability, for the retention and, where appropriate, reuse of our historic buildings.

We must strive for excellence in our new buildings, because they will be our monuments to future generations—our young people must be proud of them in times to come. That is why we made a commitment in the “Partnership for Scotland” agreement to develop a first-ever national policy on architecture for Scotland. Since we made that commitment, we have been preparing a framework document as the first step in the development of such a policy. The document will be published on 20 September and will set out the Government’s views on the benefits of good architecture. It will also describe the potential role of Government in the promotion of policy and outline a framework for action. The

purpose of the document will be to raise awareness of the importance of good building design and to stimulate debate on the many issues that are involved in the making of good architecture.

Scotland is a nation at the cutting edge of technology, which, too, has links with culture. The value of the creative economy to Scotland is estimated at £5.3 billion and 91,000 jobs. However, there is potential for further growth and I am confident that the national cultural strategy can assist in further developing employment in the sector.

The market for culture is highly competitive and we must consider ways in which Scotland can promote and market its culture. We must use the opportunities that are offered by new technology, such as the internet and CD-ROMs, and by software design and development to raise the international awareness of our intellectual and cultural products. The Scottish cultural resources network, which I opened a few years ago, is a wonderful example of what can be achieved in that area.

We are an old and proud nation with an opportunity to build a new and even greater future. We should put in place a sound framework for the future of our culture. The consultation process that we are engaged in is the first step in designing a national strategy for the future development of Scotland's culture. We are giving all Scotland's people a chance to participate. We need to do that, and we need to do it now.

I move,

That the Parliament agrees that culture, in all its diversity, has a central role in shaping a sense of community and civic pride in the new Scotland, and a contribution to make to its prosperity, health and cohesion; welcomes the Executive's proposals to develop a national cultural strategy for all of Scotland's people, and endorses the far-reaching consultation process on which Scottish Ministers have embarked.

The Presiding Officer: I call on Michael Russell to open for the Scottish National party.

15:26

Michael Russell (South of Scotland) (SNP): Your propriety as regards the names of parties was never questioned, Sir David.

I welcome this debate. The opportunity to discuss cultural matters is an example of why there should be an effective Parliament in Scotland. I have never been a member of the Westminster Parliament but, as I am sure the minister will confirm, the discussion of Scottish culture could never be central to the work of Westminster—that is not a criticism—although it can be central to our work.

I give a broad welcome to the Government's proposal, as culture is a subject on which there could be bipartisan support. I hope that that will develop. However, I am critical of this motion and lodged an amendment, which, unfortunately, was not called for debate. One of the difficulties I found in trying to amend the motion was its anodyne nature. Another difficulty was the reference—buried in the middle—to the national cultural strategy. There are many areas of cultural policy in which the Scottish National party would want to work with the Administration, but the national cultural strategy presents difficulties, on which I will concentrate today.

The Government's document is stylistically attractive but, as we will discover during this debate, lacking in substance. It opens with a quotation from the partnership agreement document, which the Government seems to believe is a work of art—it is certainly a work of fiction. It says:

"We believe that arts and culture have a central role in shaping a sense of community and civic pride in the new Scotland."

None of us would have any difficulty in endorsing that. We believe that arts and culture are central to our lives. Another quotation in this document, however, is even more accurate. It is from A L Kennedy, speaking in the Poets' Parliament. She says:

"I think Scottish writing has contributed to the moves that set up a Scottish parliament, but it did that by being non-aligned and anarchic and critical and all the things it is and I hope will remain".

The important nature of cultural activity of all sorts is that it should be anarchic, critical, non-aligned and exciting. Anybody who has been in Edinburgh in recent weeks will have found that even this douce city, which can be grey in the heart of winter, has its existence touched, transformed, shaken and enlightened by the intense application of the arts—even if some weeks ago the First Minister called some of the performances "fair hellish".

There is an enormous range of activity apart from the festival: the fringe, the television festival, the film festival, the book festival and a range of other activities. An early step that the minister might take would be to persuade the festival authorities that it is fundamentally daft to have a festival continuing without a fringe and that the festival period should be intensified, not diluted.

Creativity and culture should touch our national life. It should touch everyone because everyone can be transformed, shaken, enlightened and excited by creativity and everyone is creative. The real question in a cultural policy, therefore—and I do not want to talk about strategy—is what a Government can do to make that happen. What is

the Government's proper role? Its proper role is to encourage and support excellence, diversity, creativity and inclusion—those are all things that a Government must aim for. How is that to be done? It is to be done by consultation, discussion and financial support.

The question we have to ask of this strategy is: will it achieve its aims? I have to say that—at the moment, with the jury out—I, like many people, have severe doubts. The strategy is off to a bad start, because the right way of starting the search for the answer to those questions would have been to consult the other parties in the Parliament before the document was published.

For example, I am worried about the composition of the focus group—and about focus groups in the arts. I am sure that many of the people are well qualified, but the group does not seem to be particularly inclusive. If there had been an attempt to consult the other parties, we might have agreed on how we could contribute to the process.

So here is the document, fully formed. Indeed, the document is almost ironic, because although it contains Scottish Office prose, it also contains the most wonderful pearls—not written by the Scottish Office, of course. One of those pearls is this superb quote from Hugh MacDiarmid:

"He canna Scotland see wha yet

Canna see the Infinite".

There is not the slightest sign of the infinite in this document—it is all far too definite already. We have to have a strategy to get a strategy. The strategy should be to discuss how the Government takes a proper role in the arts, and that is not being done.

Many issues are not even mentioned in the document. There is hardly any reference to education, language and local input, and only one word on broadcasting. I can imagine the embarrassment of the Administration and why it may want to avoid talking about broadcasting. The BBC regards itself as one of the biggest, most important cultural organisations in Scotland—it cannot be excluded. Broadcasting has to be included.

There is nothing on sport, strangely enough. Many people would argue that to treat sport as a separate subject is daft. Sport is one of the biggest influences on our lives. We should not be dividing those influences; we should be looking at being inclusive as we go forward.

The worst thing about this document is that, by its very existence, a national cultural strategy will exclude people—it is a sort of five-year plan for the arts. We need an approach that includes people. Before we go ahead, I would like some

thought to be given to that problem.

The Executive will come up with a plan next year, and no doubt there will be many words about consultation. No doubt the Executive will tell us that people are responding only when the consultation periods are over, and things of that nature. The reality is that the strategy is going to exclude people. It is also going to use a methodology that says nothing about anarchy and the need to have diversity of opinion. Unfortunately, it is going to be a new Labour approach to cultural strategy, and that is the last thing that Scotland needs.

There are many good things happening in Scotland across the spectrum of culture, the arts and the built heritage. I have called for a review of the Scottish Arts Council—which Sam Galbraith has refused—not because I do not think that good things are happening in the Arts Council. Many good things are happening: crafts, traditional music and excellence in support for publishing. There is a wonderful new scheme for novels. Books such as "The Voice of the Bard", by Tim Neat with Dr John MacInnes—I have a copy here—were published in the past few days with the support of the Arts Council. There are excellent things happening, but the structure puts people off applying and is unnecessarily bureaucratic.

Scottish Screen is doing great work. Its presentation to the Education, Culture and Sport Committee last week was excellent. Many artists are achieving things in Scotland. We want to find a proper way of supporting them, opening what they do to others and infecting others with a sense of creative purpose. We do not want to define a national strategy that can be set on a shelf and which—by definition—will exclude.

I welcome this debate because there is a way forward. The way forward would have been to have had a proper consultation before the document was published. Although that has not been done, there is still time for the Executive to consult the other parties to establish whether we can come to a common mind on encouraging Scottish culture. Would that not be a great achievement? We could encourage people to be touched, opened up and changed.

That is certainly the purpose of the Scottish Parliament—no matter whether it is devolved or, as I hope it will be, independent. Change in Scotland can be achieved to give people new life and new hope but, reading this document, I fear terribly that that is not the direction in which we are going. We are closing things down and that is not what should happen.

What does culture mean to people? In the middle of the document is a quotation from

George Campbell Hay:

"Fad na bliadhna rè gach ràithe
Gach la's gach ciaradh dhomh
Is e Alba nan Gall 's nan Gàidheal
Is gàire, is blàths is beatha dhomh".

In another language, that means:

"All year long each season through
Each day and each fall of dusk for me
It is Scotland, Highland and Lowland
That is laughter and warmth and life for me".

That is what culture in all its aspects is about. It is laughter and warmth and life. It is neither a five-year plan nor something for control freaks. If only I felt a touch of laughter, warmth and life in this document, I would be more confident that the strategy on which the Executive has set out will be successful. The Executive does not have to rush ahead; it could stop and think again. If it rushes ahead now, it will not produce the laughter, warmth and life that Scotland can have in its new democracy.

The Deputy Presiding Officer (Ms Patricia Ferguson): Before calling Mr Brian Monteith to open for the Scottish Conservative and Unionist party, I remind members that they should indicate that they wish to speak by pressing the appropriate button.

15:36

Mr Brian Monteith (Mid Scotland and Fife) (Con): Thank you, Deputy Presiding Officer, especially for the full title of the party.

On first impressions, there seems little with which to disagree in the Scottish Executive's motion. To paraphrase Ben Wallace's words yesterday, I am in favour of culture. It is understandable that the Scottish Executive should seek to have a strategy for culture.

However, the motion contains a fundamental flaw in that it appears to have been drafted on the premise that culture is a finite entity and a commodity that can be planned, shaped and organised by the Government. That might not be the intention of the motion; we will wait to find out what happens when the cultural strategy is published. Culture is the product of our nation's artistic, political and economic history, and of the spontaneous and independent contributions of talented individuals.

As that august Scottish historian, Michael Fry, said, culture is not something conjured up by an official statement or a subsidy. Culture is sucked in with the mother's milk. It is in the air. It is lived and breathed. Without such sustenance, it is unlikely

that anything else will keep it alive.

The role of the Scottish Executive should be to preserve and promote our historical record and artistic achievements, and to foster an open society in which new contributions can be made without requiring political endorsement. A cultural strategy might be required by the Government, but only in the same way as the best incomes policy is no incomes policy. The Government should try to encourage excellence, to nurture and enable, but it should do so at arm's length. It should not seek to create or endorse culture so that it becomes official.

The last decades of old Scotland before the union of crowns in 1603 lent an enduring shape to national culture. John Knox's cultural revolution, which is known to us as the reformation, stressed that people should be taught to read the bible for themselves. That generated a literate population, which was better educated than any other in Europe and gave Scots a fascination with the problems of good and evil—with the dual nature of man. It produced a highly intellectual—not elitist—culture: a democratic intellect that is still alive in the 20th century. That culture was truly popular; it took deep root and flourishes to this day.

The strength of our culture then was proved by the fact that it did not need a state to support it. It was not a disaster when the king and his court, who had been the main sponsors of artistic works, moved to London in 1603, nor was our culture damaged when Scotland entered into union with England in 1707—quite the reverse. In 1707 the greatest days of Scottish culture lay in the future. As the lives of ordinary Scots were enriched by the union and the empire, so was their culture enriched.

Scottish culture has never been dictated by an elite or by the policy of the state, nor should it be. Scottish culture has always been what the Scottish people say it will be. If Scottish culture is to remain true to its traditions, we should continue to keep the state at arm's length.

Politicians and bureaucrats can foretell the future of our culture no more than they can predict anything else. The present flourishing condition of the Scottish novel, theatre and films owes nothing to political interference. Politicians in Scotland have more often tried to ban artistic innovation than to encourage it, and I know that some members of the Conservative party have tried to do that, too.

Mr Galbraith: Indeed.

Mr Monteith: Yes, indeed. Such conformity and patronage risk creating a circle of pseudo-artistic sycophants who are mainly interested in pleasing politicians. As a matter of fact, I had breakfast with them the other day.

A national cultural strategy could lead to a concept of official art, as happened in the defunct Soviet Union. Continual debate about our culture, something that was impossible in the east European soviet states, is what is required. To borrow from Trotsky, culture is permanent revolution.

We should debate the poor understanding of Scottish and British history by today's schoolchildren. It is a sad fact that many children do not know who Robert the Bruce was, or indeed David Livingstone, and that they know of William Wallace only through a Hollywood version of the truth.

We should debate the concept of excellence, as John Tusa did during the international festival of the arts, but I notice that excellence is not mentioned in the cultural strategy document.

We should also debate the need for a national theatre. Although I notice that Kenny Gibson is not here, I mention for his benefit that I have worked for the Royal Lyceum Theatre Company and for the Tron Theatre.

We have national companies for dance, for opera and for music, but we have no national theatre. Our regional theatres manage very well on significantly less funding than is available to theatre companies in Nottingham, Leeds, Sheffield and other English cities. Indeed, it could be argued that regional producing theatres in Scotland would be better to seek funds from an English arts council. A national Scottish theatre company, created as an addition to our existing producing companies, would showcase our finest talents and provide a vital export when touring abroad.

I have no doubt that many members enjoyed some theatre during the international festival of the arts. How many of them realised that the actors, many of them well-known names, in official productions such as "The Speculator", were earning about £5 an hour?

The talent is here but the money is not, and that is why many actors gravitate towards London. A national theatre could help to change that. It would encourage excellence and have many positive spin-offs, not least for our infant film industry.

Debate is necessary, as are clear guidelines for how the Government and its agencies will work in the cultural field. We will support a cultural strategy that preserves and promotes our historical past and encourages debate about the future. However, the Government can no more pick winners than it can put the Bay City Rollers back at the top of the charts.

The Deputy Presiding Officer: Thank you, Mr Monteith. Before I open up the debate, I advise members that the allocated time for each

contribution is four minutes. Several members want to speak, so they should stick to the time limit.

15:43

Dr Elaine Murray (Dumfries) (Lab): I should declare an interest. In the past, I was the spokesperson on cultural issues for the Convention of Scottish Local Authorities. I am therefore delighted that a national cultural strategy is being proposed.

Some members of other parties have misunderstood the purpose of a national cultural strategy, which is to determine how the Parliament and the Government can support cultural activity in our country. It is not about how we can control culture; it is about how we can support culture.

In the months before the Scottish Parliament came into being, there was much discussion among interested parties such as COSLA, the Scottish Arts Council, the Scottish Museums Council, the Scottish Library Information Council and the voluntary sector, about the way in which Parliament should handle culture. Many people argued for the appointment of a minister for culture and for a national cultural strategy. I am pleased that the Parliament is making progress. It has delivered a minister for culture and is now undertaking a consultation exercise on a cultural strategy. I stress that we are still at the consultation stage, and have not yet defined the strategy.

Culture is much misunderstood. The word is frequently used as an alternative for the arts and it is often thought of as a minority interest of the urban middle classes. In fact, when she heard that there was to be a debate on culture, one member—who is not here now—said that she was not interested in culture. That is unfortunate.

The proposed nationwide consultation on a national cultural strategy gives us an opportunity to emphasise that culture is much more than a minority interest.

Everyone has some form of exposure to culture, at very least the culture of their own community and its history. Culture interprets and illuminates a community's experiences; at a national level, it expresses Scotland's history and environment. Indeed, it has often been asserted that the Scottish cultural identity played a major part in bringing about the conditions that created the Scottish Parliament. At the moment, some members of the press might think that that is a bad thing, but I think that culture played an important part in bringing our Parliament about.

Last week I went to see a play called "The Darners" at the festival—that is the Langholm arts

festival, not the Edinburgh international festival. The play is along the lines of "The Steamie" and is about the experiences of women working as darners in the town's textile industry in the 1950s. Apart from being a very funny and excellent performance by ordinary, local people—by talented people who sing and act as amateurs and who enjoy it—it demonstrated for me two important aspects of culture. First, it enabled members of the community to celebrate their own culture—their traditions and history. Secondly, it allowed me, as an outsider, to experience and understand better the experiences of that community. Those are two important facets of culture. That is why promoting and widening access to culture is so important.

Engaging in cultural activity helps us to understand each other and ourselves better. It improves our self-esteem and our tolerance and appreciation of the different cultures of others. That is why cultural activity must be part of the strategic objectives of the Parliament; the minister mentioned its connection with health, lifelong learning, social inclusion, tourism and enterprise.

The Executive is to be congratulated on starting the consultation process so early in the life of the Parliament. A few weeks ago I was very pleased to hear on the radio the minister for culture giving her commitment that the consultation process would be thorough and extensive and would stretch all the way from Ullapool to Dumfries. I know that people in Dumfries are already looking forward to engaging in that consultation process.

Scotland has many traditions, cultures and participants. The national agencies, local authorities—which are extremely important in the cultural scene—and the voluntary sector all play important roles in the provision of cultural opportunity. Scotland's culture is one of our greatest assets in attracting visitors, but it is much more than that: valuing and understanding our culture in all its diversity allows us to understand where we come from. Once we have done that, culture might also help us to determine where we wish to go.

15:48

Richard Lochhead (North-East Scotland) (SNP): I welcome the debate on Scottish culture. It is great to see us grabbing the cultural thistle so early in the first session of the Scottish Parliament. I agree with Elaine that if there were no Scottish culture, there would be no Scottish Parliament.

I want to seek a couple of assurances and to raise some concerns. I want to be assured that "Celebrating Scotland" is not simply another glossy document full of warm words and nice phrases. Let us have a refreshing approach from

the Executive—a response to the recommendation with a plan of action that is properly resourced. That is essential. It is crucial that running through the strategy is a thread that recognises the importance of allowing Scottish culture to develop as opposed to dictating that development.

Many people outwith the Parliament are sceptical about the document. Last night, I spoke to my colleague, Sandy Stronach, who is a great champion of Doric in the north-east of Scotland and who helps to organise the Doric festival, which is coming up in a short time. He looked at the document and said that he thought that, as usual, more effort had gone into the design than into its content.

It is no wonder that people such as Sandy Stronach are so sceptical when they see the membership of the focus group. "Representative" was not the word that Sandy used to describe it. That is no wonder when we consider the diverse cultural traditions throughout Scotland and then consider the focus group.

At the centre of any approach to Scottish culture must be a recognition of the unquantifiable contribution of many thousands of groups and agencies around the country. They are the people in the front line, the people who develop Scottish culture.

The document is called "Celebrating Scotland". In celebrating Scotland, we have to remember to celebrate the whole of Scotland. We need a bottom-up process, not a top-down process. That means channelling support and funding to the many groups around the country, and that is where we can help to develop Scottish culture.

In the document, I would like to have seen more recognition of the role of local authorities. Local authorities are usually left to pick up the tab to help organisations that are trying to develop Scottish culture by teaching all of us about it and by involving us in it. The local authorities are strapped for cash and, in turn, many of the groups that they help to fund are strapped for cash. We must remember that.

Local authorities and agencies create many diverse cultural initiatives. The recent opening of Dundee Contemporary Arts—a world-class and award-winning facility—is an example of the achievement of a local objective. Yet only 65 miles up the road, in the city of Aberdeen, we see the Aberdeen Arts Centre going round cap in hand to oil companies and local businesses, trying to get cash to survive. That arts centre is an important facility and venue in Aberdeen, and it is important that central Government should step in to help such organisations.

Another area where local authorities and agencies play a key role is in film production. Over

recent years we have seen a complete lack of support from successive Governments for Scotland's film-producing community. As a result, many local authorities and agencies have stepped in to fill the gap, creating, for example, film commissions. Much of Scotland now has such commissions; there are especially successful ones in Glasgow, Edinburgh and the Highlands and Islands, as well as two or three in other areas. New film initiatives are being developed in, for example, Tayside and Lanarkshire. Central Government has played absolutely no role in achieving those ends. Scottish Screen has assisted but it has been unable to give any direct financial assistance because it is strapped for cash as well. That is where central Government could come into play.

The film commissions provide training for script-writers, film-makers and so on, but they also provide an economic benefit for the local communities, which can promote themselves as film locations. In "Mission: Impossible"—and I am talking about the film starring Tom Cruise, not the Labour candidate's task in the Hamilton South by-election—the scene on top of the train was filmed in Dumfriesshire. Two weeks' shooting put £100,000 into the local economy, and that came about because of the local film initiative. That is the way in which central Government can step in and help local authorities and agencies.

It is important that the message from the new Scottish Executive is not the message that we were getting from Downing Street in previous years. Its cultural icons are things such as the millennium dome. Hundreds of millions of pounds could have gone into sustaining many of our local cultural organisations instead of London's dome. I welcome the opportunity today perhaps to hear the minister condemn the millennium dome and say that the Executive will put money into Scottish organisations from now on.

15:54

Trish Godman (West Renfrewshire) (Lab): I represent a village called Kilbarchan, which is known locally as an artists' village. Last Saturday, I spent many happy hours at the village's annual arts club show. Duncan McNeil is not here, but he and I have both been at the Greenock arts club's show. I can go to those shows and appreciate the art but, as they say, "Masel, ah cannae actually draw." I remember when I was at school, painting what I thought was a wonderful picture of a storm at sea, and the teacher coming up to me and saying that he was going to distemper his living room at the weekend and perhaps it would be a good idea if I helped him. But although I cannot draw, I can appreciate what goes on in those local arts clubs.

I want to talk about what I see as the link between the cultural strategy and the social inclusion agenda. I can think of the women from Easterhouse who write poetry about what it is like to live there, to be unemployed and to suffer poverty and ill health. Their efforts are partly funded by City of Glasgow Council. When we read poems written by drug addicts, recovering addicts and their families, we feel what they are going through. I can think of a project funded by Inverclyde Council, for teenagers who are referred by the courts because they are first offenders. They write, produce and act in plays that address local issues such as drugs, unemployment and domestic violence. Those enthusiastic and talented young people are supported by their families and by their peer group, who turn up, applaud and shout with great gusto when they see their pals on the stage.

This morning, we debated the changes in the Mental Health (Scotland) Act 1984. I worked for a long time in a psychiatric unit, where the patients were encouraged to write, draw and act whenever possible. It was a moving experience to read poetry written by patients who were trying to gain an insight into the horrors and agonies of being mentally ill. We must encourage the gamut of arts in schools and local communities. There is a wealth of talent out there, which lies mostly untapped.

As the minister said, the cultural strategy should be for everyone. We should not only encourage community talent in continuing such events as the successful Edinburgh fringe festival, but encourage people to support community arts. The cultural strategy for Scotland is not only about national galleries, large productions and shows; it is about giving local people and communities the opportunity to express their feelings and aspirations through the arts. I was delighted to hear the minister's commitment to social inclusion in the strategy. That is important, because that is what the issue is about.

15:56

Lord James Douglas-Hamilton (Lothians) (Con): It is true that the Scots are entitled to be proud of their heritage—past, present and future—and, as Trish has said, that heritage should be inclusive. I agree with Richard Lochhead's comments on the importance of the film industry to Scotland. As a vital part of our culture, that industry has tremendous potential to shape the country's economic and social development. Films such as "Braveheart", "Rob Roy" and "Loch Ness" have given a boost to tourism in Scotland, while other films such as "Chariots of Fire" and "Local Hero", which have strong Scottish characteristics, were important in giving expression to Scotland's

identity.

Some of Scotland's film-makers have also received recognition for outstanding films such as "Mrs Brown", "Shallow Grave", "Trainspotting", "My Name Is Joe" and "Ratcatcher", which recently won a prize at the Edinburgh film festival. Edinburgh now hosts film premieres that might previously have gone elsewhere. Furthermore, the recent promotion of "Gregory's Two Girls" by the charismatic Bill Forsyth gives further evidence of the imagination and the undoubted creativity in the Scottish film industry.

Just now, the film and television industry employs 4,000 people in Scotland and the national lottery's support for film-making and the creation of Channel 4's office in Glasgow should lead to more job opportunities. The activities of Scottish Screen, which was set up by the previous Administration, play a huge role and now cover the whole range of film and television culture.

It is essential to enhance the visual arts to give greater stature to Scotland's culture. Scotland has the capacity to play a leading role in the film industry and commitment from ministers will make that a reality. As the Minister for Finance is providing £80 million extra for education, I ask ministers to use part of that funding to increase Scottish Screen's grant, which would enable that organisation not just to produce an innovative development programme, but to assist with educational projects.

I will—if I may—reveal a secret of the past. During the previous Westminster Government, one of the women engaged in providing hospitality in Bute House took it very much in her stride when she had to welcome former Presidents Gorbachev and Mitterrand, but when she heard that Mel Gibson of "Braveheart" might be coming, there was almost uncontrollable excitement. I suspect that that might have been the representative reaction of many Scots. Not only do films made in Scotland create employment, encourage tourism and provide recreation, enjoyment and entertainment, they give a higher profile to Scotland's way of life.

I call on ministers to give Scottish Screen and the Scottish film industry all their support, which it strongly deserves. It is an excellent opportunity for our country to grasp and I hope that the ministers will respond positively.

16:00

Ian Jenkins (Tweeddale, Ettrick and Lauderdale) (LD): I welcome "A National Cultural Strategy", which Mr Galbraith introduced today. I have heard Ms Brankin talk about this on several occasions—she talks a good game. I am impressed by her commitment to the task ahead.

In essence, the document is a celebration and an appreciative comment on Scottish culture. It is a kind of mission statement and it has a mission statement's strengths and weaknesses. It lays out positive aspirations for a national strategy and sets out a basis for consultation. This is a consultation document, although the title may suggest that it is the strategy.

I would like to give Ms Brankin and Mr Galbraith one piece of advice. Someone said that this was a closed document, but I think that it is almost too open-ended and might be difficult to respond to. I remember that when the McIntosh commission sought people's opinions it asked questions. I understand this document, but I do not quite know what I am being asked and think that a framework of questions would help.

The place of government in the arts is something that we must be careful of. It should be at arms' length. Its place is not to direct the arts, but to create a climate in which the arts can flourish and artists can put down roots.

We want to ensure that the strategy is inclusive. It needs to be geographically inclusive, covering the Borders to the Highlands and the Shetland islands. It must embrace the widest possible range of cultural activities. In scale, it should encompass great orchestras, town bands, ballet dancing and line dancing. The strategy must not be elitist, but it must protect minority interests as, in essence, many of the arts will appeal only to minority interests and a majority decision might swamp good quality things.

We should not be talking only of high culture. As Trish Godman said, the strategy must be socially inclusive. As she spoke, I thought of an occasion about a fortnight ago when I went to Galashiels to launch the publication of a book, "New Horizons", by a mental health charity. It contained touching and moving poetry. Life-enhancing art was put into the book with good backing and something was produced which raised the self-confidence and self-esteem of people who needed that help.

How do we foster talent when we find it? I do not know the answer to that and am only saying that it is a question to consider. When we get a talented musician or actress, we must try to ensure that a promising career is not cut off because of lack of funds or opportunity. We should give them the opportunity to foster their talent in Scotland in order for them to be able to practise it beyond, if that is what they wish.

The national strategy should start in schools and village halls and reach up to national institutions, such as the National Library and Scottish Ballet. I hope, like Brian Montieth, that a national theatre will be considered.

I would like to tell members a story. Ten days or

so ago, I sat in the rather psychedelic surroundings of the Hub listening, for about 15 minutes, to a Japanese dance director who could not speak English. For a wee while, it was slightly embarrassing, then somehow the man's artistic integrity turned his speech into a strangely eloquent declaration. He kept saying, "I am Japanese. I am individual. I am in Scotland."

I hope that our arts strategy will allow our talented youngsters and our artists to be national, to have their roots in our nation, to be individual, to be creative and to be able to use their talents on an international stage to universal acclaim.

16:05

Ian Welsh (Ayr) (Lab): In view of Mike Russell's comments about football as culture and given Rugby Park's undoubted status as a venue for live, participative and enthralling theatre—more Sturm und Drang than son et lumière—perhaps I should mention my connection with Kilmarnock Football Club as a registrable interest.

I, too, welcome the minister's call for a national consultation on cultural strategy, but in this instance at least, I may have been seduced by the sheer poetry of Mike Russell and Brian Monteith's welcome of the document. They are not quite yet the Fran and Anna of Scottish cultural opposition, but they are getting there.

The Parliament has many concerns—the economy, education, health, poverty, social inclusion—but the search for national identity is no doubt the most productive and purposeful way in which we can energise this country's cultures. I say cultures because we must recognise that there are many Scotlands and that by seeking a commonly held cultural vision for Scotland and working in parallel with the existing myriad, disparate, critically worthwhile initiatives, we can do much to bring the Scottish people together.

I hope that the consultation process will identify some practical issues and initiatives, such as the real need to bolster and boost arts provision in schools. I hope that the process will pick up, as Ian said, on the crucial need to celebrate and nurture our home-grown talent.

I believe, and I am with Mike Russell on this, that we must ensure that the notion of cultural diversity is alive in our established arts institutions. I also believe strongly that we must build on the work of the Edinburgh festival to create a coterie of festivals, throughout the country, as positive and vibrant celebrations of life in Scotland. I commend all members to visit Ayr during the next month to visit the Septembayr initiative.

As Mike Russell said, we must develop the anarchic spirit and ensure that our children are

connected. They must be encouraged to be creative and we must ensure that their imaginations are untethered by the harsh grind of the real world.

I challenge all the participants in this debate to be equally anarchic in the consultation process and to ensure, with all Labour members, that culture is broad, popular and engaging. We must ensure that the end point of the consultation is not a five-year plan but—if I may be metaphorical for a moment—a year-long national festival.

In conclusion, I have two practical questions. I come from a local authority background and I am proud of the way in which South Ayrshire Council has continued to be able to support the arts, notwithstanding the resource constraints that it faced. How important will the role of local authorities be in the provision of arts and culture? As a corollary to that, how can we ensure that arts and culture form an integral part of social inclusion?

16:10

Mr Lloyd Quinan (West of Scotland) (SNP): The one issue that slightly concerns me about this debate is that there has been little or no discussion about practitioners of the arts or artists. There has been an awful lot of talk about meaningful, to-be-desired initiatives and consultations, yet no mention of the Broadcasting Entertainment Cinematograph and Theatre Union, Equity, the Musicians' Union or of our individual artists.

For nine years, I was an elected official of Equity and during those years—which were principally years of Conservative Governments, although there was one period of a real Labour Government in early 1979—we never had an opportunity to develop our cultural strategy. The Scottish committee of Equity was determined that there should be such a strategy for Scotland, which would be committed to the development of the three national performing arts companies—ballet, opera and the national theatre.

I will give members a few bits of background information about the people we are talking about but paying no attention to. The average earnings of an artistic worker in Scotland in any year is £8,500 and most are unemployed for 22 weeks in any year. All artistic workers have extreme difficulties with the Inland Revenue and the Benefits Agency. I make a plea to the Executive: that it addresses the issues of our artists and the artistic community on the reserved areas of benefits, income tax and other taxation matters. The Executive should take a leaf out of the Irish book, as Ireland has been extremely successful over the past 20 to 30 years.

The creative industries make up 5 per cent of this country's industry. I am perplexed Sam's figure of 91,000 full-time jobs as, according to Scottish Enterprise's creative industry team, in July 1999 there were 70,000 full-time jobs. I assume that the team has not conducted a new study since then. There were only 64,310 jobs in food and drink; and there used to be 41,000 in textiles—until the advent of the Labour Government—and 46,000 in electronics.

The arts are vital to this country and, more important, people employed in the arts live and work in Scotland, although we do not give them the opportunity to work as often as they wish. For example, in 1997 131 contracts were issued to members of Equity, of whom there are just over 1,600 in Scotland, by Scottish producing companies, repertory theatres and touring companies. In 1998, 213 contracts were issued. This morning, I was told that Equity expects around about the same figure for this year, because the Scottish Arts Council, under its current regime, spends an enormous amount of money on consultation, management and bureaucracy, but little or nothing on the production of theatre works.

I shall quote from this year's annual report for Equity in Scotland:

"too many companies are cutting back on the number and size of productions. Although there seems to be plenty of lottery money to improve buildings and facilities, there is standstill or less money to run these companies, and the first things to be cut seem to be productions and actors' wages."

The report goes on to say:

"There has been an increase of administrative bureaucracy and a decrease of the production which the public pays to see. Of course audiences are falling, there is less for them to see!"

I am also shocked to discover that there is not a single practitioner among the people who are on the focus group. I suppose that we can rejoice in the fact that the Minister for Finance's wife—

The Deputy Minister for Culture and Sport (Rhona Brankin): What about Donnie Munro?

Mr Quinan: He is not currently a practitioner.

I hope that Bridget McConnell's membership of the focus group might lead to the release of some money to the arts, if she has a word in her husband's ear.

I draw members' attention to the following joint motion passed at the annual conferences of the Musicians' Union, Equity and BECTU in Scotland, as it covers one of the most important issues for those organisations:

"In view of the fact that Scotland contributes 10% of the BBC licence fee total but only receives 5% of the total

expenditure for BBC TV programmes this AGM of members in Scotland calls on the Governors of the BBC to ensure that the whole licence fee raised in Scotland is spent in Scotland primarily to provide work for our members thereby counter-balancing to some extent the London bias of most media production."

I hope that the focus group will take that on board and that the Executive will consult the industry's practitioners and the unionised members of BECTU, Equity and the Musicians' Union. I know that that might be difficult for a non-socialist party, but it may well be worth while.

16:15

Robin Harper (Lothians) (Green): My interests in this debate are registered in the proper place.

I compliment Mike Russell on the excellent and eloquent way in which he expressed his concerns. There is an art form that is capable of touching and transforming and enlightening us. It is anarchic and critical and non-aligned. I am, of course, talking about theatre, but in particular about travelling theatre companies, which bridge the gap between professional theatre and the community that Elaine Murray mentioned. Travelling theatre takes professional acting into the community.

As Lloyd Quinan pointed out, the total number of actors employed in Scotland has fallen by 50 per cent during the past two years—since the Labour Government was elected. How has it happened? How is the problem addressed by the document that is before us? There has been a positive efflorescence of administrative posts in the publicly subsidised sector. I refute what Brian Monteith said when he suggested that the arts do not need subsidising. He seemed to be giving a historical perspective to show that the arts survived without subsidy in the past. That is completely incorrect. We would not have much of the music and much of the theatre that we have today—our Mozart and our Beethoven—without the private and public subsidies available in previous centuries.

I am not convinced of the wisdom of going all-out for a national theatre now. I am speaking for a more diverse form of theatrical excellence in Scotland. I plead with the Executive and with all those involved in this debate to support all kinds of theatre in Scotland.

16:17

Des McNulty (Clydebank and Milngavie) (Lab): I declare an interest here, because for the last three years I have had the privilege of being chair of the Glasgow 1999 festival of architecture and design. At the risk of making an east coast, west coast point, 1999 is the biggest cultural

festival that has taken place in Scotland since Glasgow became the European city of culture in 1990. I am delighted, having had that experience of working closely with architects, designers and the community to mount that festival, that for the first time it is envisaged that there will be an architectural strategy for Scotland, as part of a broader cultural strategy.

Architecture is crucial to the regeneration process of a city such as Glasgow and its surrounding area. The city's architecture and its regeneration fit together. What can be achieved by bringing them together can affect tourism and housing, can support the economy, and can upgrade and secure the environment. Architecture has a series of clear and concrete payoffs. Above all, architecture stands at the intersection between people and their daily lives, and the key artefacts of living. By looking at architecture and design in a new way we can make substantial changes in the way in which people see themselves and their past, and in which they look to their future.

Scotland in general, but Glasgow in particular, has a unique architectural heritage. Its tremendous Victorian buildings are superb, and unrivalled anywhere else in the world. Glasgow also has a vibrant present. The Crown Street regeneration project, and the architectural expo of homes for the future which Glasgow 1999 is putting on, are transforming historically disadvantaged and run-down parts of the city. That is helping us to create a glorious future for Glasgow. The inner city must be made more attractive if people are to be drawn back into it. One of the keystones that I would like to see emerging from this strategy as far as architecture is concerned, and culture more generally, is that it should build on existing achievements. There are many things in Scotland that we do tremendously well. Let us build on these and reinforce them.

One thing in the 1999 programme that I am particularly delighted about is the level of community participation, which has been central. It was a key part of the bid and is one of the key reasons why Glasgow won the accolade of city of architecture and design. It has also been a key element of the delivery: £500,000 has been spent on local, community-based projects; four major community festivals are being run in Glasgow; five major projects have upgraded urban spaces in disadvantaged areas. There will also be a conference on dementia and design at the beginning of October, focusing on the particular needs of that disadvantaged group in society. One of the things that has been crucial to the festival is a strong educational programme, which will influence the curriculum of every primary school in Scotland.

Those members who drive into Glasgow will

have noticed the huge sign on the gasometer. It is, I think, a beautiful sign—it is very well done. It depicts the gallus nature of Glasgow. If we look on the other side of the road in the evening, we see the Cranhill water tower lit up. That is also an emblem for Glasgow, for what can be done to recreate and reincarnate disadvantaged parts of the city.

The festival has been a celebration of architecture and design. One tremendously exciting thing about it has been the degree of attention that we have had from people elsewhere in the United Kingdom, Europe and around the world. People have come to Glasgow and seen it in a different way. They have seen its existing architecture and the tremendous exhibitions which we have brought to Glasgow. They have seen the process that we are engaged in of transforming Glasgow and leading it into the 21st century. More than 500,000 visitors have come to the exhibitions; the hotels are full and hoteliers are falling over themselves to build new hotels; the Glasgow collection has helped 58 designers and 35 manufacturers, who have won 15 awards in the process, offering hope for the future of Glasgow's economy.

The key achievement of 1999 has been the Lighthouse, where Rhona Brankin will launch the Executive's architectural strategy later this month. I hope the consultation process that follows the "Celebrating Scotland" document will involve more than practitioners: it must involve them, but must also involve the users of architecture and design, as the users of other forms of culture are involved.

Above all, we need to involve people in their own communities taking control of their own lives. Culture, architecture and design must be a component of that. Let us get away from the idea of culture and architecture being done by somebody else—by professionals in a glass or concrete box. Let people be involved and dictate what they want, and we will carry forward the cultural strategy for Scotland successfully, and build on what we have already done.

16:22

David Mundell (South of Scotland) (Con): I agree with what Rhona Brankin said in the introduction to the "Celebrating Scotland" document:

"Scotland's culture belongs to all the people in Scotland."

I note the compulsory *i* word, inclusive, in her strategy, but I find the tone of the document a little elitist, presupposing the answer to the question at the top of her list, "What does culture mean to you?" Culture does not exactly mean what is on the list given in her introduction: films, plays, museums, galleries, libraries, historic buildings

and architecture. It is the way in which we live our lives in our communities, and the traditions and activities that underpin those communities.

As we are all giving examples from our diaries, I will let members into what I was doing on Saturday. I attended an agricultural show in Moffat, in Dumfriesshire, where local people were displaying their sheep, cattle, horses and hens. A home industry section displayed baking, knitting and home painting—not the politically correct items that are often trotted out these days. There was also the usual home craftwork.

The level of support at that event, and at shows across Scotland this summer, is a great tribute to people in farming communities. The number of entries have generally been up and the standard has never been higher, despite the appalling crisis which people face in the sheep and dairy industries.

This weekend, there is another show in the tiny village of Bentpath, in Eskdale, where people will come from miles around for terrier racing and fell running, although I will be participating in neither. Smaller shows are happening in one-room village halls throughout Scotland, yet no real reference is made to them in this document. Nevertheless, that is the culture of Scotland that I recognise.

In the document, Hugh MacDiarmid is quoted—a famous Langholm man, and Dr Murray has already alluded to Langholm. We must recognise that in the town of Langholm the most important cultural event is the annual common riding. That is the case in many border communities. The medium that carries culture throughout Scotland's diverse communities is not always—unfortunately for Michael Fry—*The Herald*. It is much more likely to be the *Annandale Herald*. In Langholm, it is the wonderful *Eskdale and Liddesdale Advertiser*. Try as Elaine Murray and I might to be on the front page, we are invariable outdone by the activities of the local drama group or the rugby club. We must be absolutely clear that we value such activities as part of our culture. As Iain Gray referred yesterday to the fact that health underpins so many aspects of our life, so culture is interwoven as well. The end of sheep farming on our hills would not just be a personal and economic tragedy; it would undermine Scotland's rich and diverse culture.

Many people in rural communities throughout Scotland have a genuine fear that this Government is not concerned about their culture and way of life. I do not think that this document goes any way to allay those fears, but I hope sincerely that the consultation process will. The Government must promote more understanding between town and country areas. We must foster that understanding of different cultures, different ways of doing things, and—dare I say it—different pastimes. We must have a strategy for culture that

has the promotion of that understanding of all Scotland's cultures at its heart.

I conclude with a specific plea to give pre-eminence in Scotland to an individual who genuinely has global potential. I misread Rhona Brankin's introduction, and thought that he had been on her focus group, but as he had been dead for 203 years I do not think that Robert Burns could have contributed to that. Burns is one of Scotland's pre-eminent assets. England does not have a Shakespeare day, but tourists visit Stratford-upon-Avon and spend money in that area to a degree that people in Ayrshire and Dumfries and Galloway could only envy. Let us not only put Burns at the heart of our culture in Scotland, but build on the economic potential that that could bring to the south-west of Scotland.

16:28

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD): I want to comment on what Mike Russell and Brian Monteith said. Mike gave the game away when he said that he found it hard to frame an amendment. I agree. I do not think that he had much opposition to what was being said in the document. He tried hard, but I give him five and a half out of 10. I take issue with Brian Monteith in no uncertain terms. I did not like the tone of his remarks at all. I regard them as extremely dangerous in any civilised society. The state certainly has a role in the arts, as does local government. It was rightly pointed out by Robin Harper—who is not present now—that Beethoven and the rest would not have been successful without public and private patronage. I warn members against Mr Monteith's philosophy. It was Hermann Goering who said,

"When I hear the word culture I reach for my revolver".

Let us not go down that laissez-faire, culture-will-happen-by-itself road. Culture does not happen in that way, and I disassociate myself entirely from Brian Monteith's remarks. I assume that, because it is late in the day, he was not thinking about what he was saying.

Other members have referred to the importance of diversity, and that word is in this document. Coming from the Highlands, I am keenly aware of the differences. Mike will know from his visit to the north-west, and Winnie will know from her visit to the Durness games, how different Durness is from Thurso, how different that is from Dingwall, from Banchory, from Lochaber or wherever. As we go forward with the strategy it is desperately important that we guard the rich tapestry that makes up Scotland. Scotland is a diamond with many facets and future generations will curse us if we do not protect and enhance that. So a special plea—please, Rhona, take this on board and

guard the special things.

It is a courageous document early in the life of Parliament and I am proud to be associated with it. It firmly underpins our direction and gives purpose. I know that Rhona has worked hard on it and I have a lot of respect for what she and Sam are doing. I commend the document.

16:31

Mrs Mary Mulligan (Linlithgow) (Lab): All of us agree that Scotland has a distinct and rich cultural identity. At this stage in Scotland's political development and as we approach the new millennium it is apt for us to take a look at our cultural strategy. In answer to the points that Mike Russell made, I do not see this as a static document but as a tool to show where Scotland's culture is and to give pointers to how it could or should be developed in the future. There was discussion prior to the establishment of a Scottish Parliament on how culture should be represented. The fact that a cabinet minister and a junior minister have responsibility for it shows the commitment of the Executive. The fact that the Parliament has established the Education, Culture and Sport Committee shows how we value our culture and recognise the importance that education can play in taking it forward.

I would like to concentrate on the mechanisms of developing our culture and on education and the Scottish Arts Council in particular. Education very clearly provides a means for arts to be introduced to or further developed in young people's lives. I am not suggesting that teachers and schools will be the only influence. I recognise the importance of community influence. For many young people who live with disadvantage, schools can provide opportunity and enlightenment. It is for that reason that I have some concerns about the way in which some schools that have found their budgets ever decreasing have tried to drop arts and sports from the curriculum. I believe that as a Parliament we should be making it very clear to the education profession that the appreciation and practice of the arts has so many benefits for the learning process that they should not be so easily lost.

In my constituency, Linlithgow, a number of children and young people attend West Lothian Youth Theatre, a very productive and enthusiastic company. I doubt that all of them will follow in the footsteps of Ewan McGregor or Sean Connery—I do not doubt their skills, but the opportunity might not be there—but they are, through taking part, learning confidence, teamwork and the ability to think beyond the more obvious premise. Those are very important life skills and should be part of a fully rounded education.

My concern is about people's access to the arts and culture, which brings me to the role of the Scottish Arts Council. Each year it makes project funds available through a wide range of schemes to individual artists and to arts organisations throughout Scotland. The SAC has also assumed responsibility for distributing a share of the National Lottery funds for the benefit of the arts in Scotland. The National Lottery Act 1998 requires the SAC to produce a strategy explaining its priorities for distributing those funds. I raise that point because the role of the SAC is to emphasise the importance of resources being made available to all areas of the arts.

The SAC's report "Scottish Arts in the 21st Century" highlights the need to get rid of unnecessary distinctions between so-called high arts and popular culture, between the amateur and the professional and between art forms that celebrate diversity and those that create false barriers.

The Deputy Presiding Officer: Wind up, please.

Mrs Mulligan: I do not want to suggest that the arts and culture can be furthered only by injections of large sums of money. Practically, we have to acknowledge that the moneys that are available have to be used for the widest possible access.

In conclusion, a cultural strategy for Scotland should belong to all the people of Scotland. Access to the arts and our heritage can be assisted by education and by adequate and sensitive funding.

16:36

Cathy Peattie (Falkirk East) (Lab): I welcome this strategy. As Mike Russell said, it is right that there should be more consultation. This document is a stepping stone. It is a start. I would have been shouting at the top of my voice if it were a thick document telling us how the arts should be delivered in Scotland, but that is not what it is about; it is about starting the debate and getting people together to look for a way forward.

I am sure that people will not be surprised to learn that I am particularly interested in traditional music. Do not worry: I will not sing, I will speak. It is important that we examine traditional music, and not just singing, but story telling. Music is performed in Scotland that tells the story of our family histories. History and culture in Scotland are handed down in our music. In farmland areas, fishing villages and the inner cities, a host of songs tell us what life was like for the people who sang and wrote them. Traditional music is important, and perhaps on another day I will sing some of the songs to you all.

Traditional music is an important part of our heritage. Any cultural strategy should nurture and support communities' participation in that music, because traditional music is handed down by our grannies, our grandpas, our aunties, our uncles and all those folk who have gone before us. We must hold on to that.

It is important that we recognise artists and those who entertain, but it is important also that the strategy recognises the people of Scotland. Ours is a people's culture and not something that is imported. We recognise the importance of an international culture, but let us dwell on the importance of the people's culture and those who perform.

Community is important in Scotland. It plays a vital role in education and in encouraging people to develop their skills and to feel pride in their language. I was pleased to see reference in the document to the Scots language. I hope that we see an end to the chastisement of bairns for using their Scots language—the language they learn in the playground, in their communities and in their homes.

Local authorities play a vital role in delivering the arts and working with arts organisations, and I hope that the culture policy will take that into consideration.

I urge the minister to ensure that the consultation meetings are not for the great and the good to talk about nice arts in Scotland. The meetings must take place around the country, allowing people to participate. The minister must ensure that the structure of the consultation makes participation easier, so that people can come along and think, "Somebody listened to what I had to say and the way I said it. My voice is important." If we can achieve that, we will have something to be proud of. Mary said that the strategy will grow and change; that it is about confidence and about celebrating Scottish culture.

I will not sing, but I will read this poem by Liz Niven:

"We'll ken whaur we cam frae
an whaur we ur gan
We'll aw hae a say each
wumman an man".

Let us celebrate our language, as well as our culture.

16:39

Mr David Davidson (North-East Scotland) (Con): I read the document and I am afraid that I thought it was gey thin soup but, with a bit of luck, following the range of contributions that we have had today, it will probably evolve into a decent

broth fit to stand on.

I am particularly concerned by any move towards the prescriptive management of culture in Scotland, in particular by the various lobby groups that seem to have been created artificially to satisfy the needs of funding bodies. We will have to watch that.

I agree with Jamie Stone that Scotland has a rich tapestry of regional and sub-regional cultures. Those are expressed through music and verse, through literature and especially through language. Many regional tongues have a structure and a traditional use spanning back over the centuries. My family roots are mostly in the north-east, with a little smattering of border blood.

I wish to make a plea for the Doric, which has been already been mentioned today. I know Sandy Stronach well and appreciate the work that he does. The Doric tongue is spoken daily by many in the north-east, especially in the rural areas. As a boy in Aberdeenshire, I spoke two languages: Scots English and Doric. If I had not done so, I would have been isolated from the community. There are distinct differences in Aberdeenshire in the Doric. There is a range from Kincardine up through Deeside and Donside. As for Buchan, I am sure that Mr Salmond will remember the learning curve required when he first stood there as a candidate.

Doric is a rich and expressive language. Every member can talk about expressions of style and accents from their areas. People talk about the differences in the dialect between different villages. We have to remember those differences, which carry over into music and verse. We think of the bothy ballads of the north-east, fiddle music and accordion music—every one of us can think of something that we remember from our youth, that may be suppressed today or not encouraged enough.

We should expand the cultural diversity at community level in schools and homes and encourage children to be proud of their local culture. When they have confidence in their local culture they can take on board other regional cultures and take part in cultural exchanges. That will make Scotland an even richer place. If Scotland is nothing else, it is the most magnificent hotch-potch of culture in a small landmass, which people find easy to visit and regularly come back to. I think that we will all agree on that.

I hope that the Executive approaches the consultation in a way that will enable it to come to conclusions that establish a base to bring real support and encouragement to the freedom and proliferation of the different aspects of our culture. I was particularly taken by Mike Russell's comments and passion about the chaos that can

give rise to a natural generation of culture. We do not want an artificial straitjacket of conformity that requires things to be stylised and to fit in a dictionary. That is not what our culture is about.

I know that members of the Executive are listening and I welcome the fact that this document has come before the Parliament today. I make one plea to the Executive: I hope that it will ensure that every aspect of Scottish tradition and culture has equal access to support and encouragement. I do not hear calls for a minister for Doric or a minister of Lallans. I appreciate the wonderful force that the Gaelic speakers have brought together to push their cause, but that is only one aspect of our country and I ask that we have uniformity of support for our future culture in Scotland.

16:43

Irene McGugan (North-East Scotland) (SNP):

I congratulate the Executive on initiating this debate at such an early stage in our programme. The advent of the Scottish Parliament should itself mark a new phase in the confidence of Scotland's culture. I have no such confidence that the document under discussion today will deliver this revitalisation, despite the fact that it was introduced by a surgeon with undoubted skills in the theatre.

I want to examine one or two of the gaps in the strategy. I accept that the document is not meant to be prescriptive, but the Executive could have taken the opportunity to give tangible commitments to some aspects of arts and culture.

The Executive has professed its credentials in joined-up government. In culture policy, that must mean a clear set of objectives to ensure that arts policy engages with education. "Celebrating Scotland" gives no real explanation of how the Government sees Scottish culture being promoted in schools. I suggest that there might be some good ideas in the as yet unpublished report on Scottish culture and the curriculum, which successive Scottish Office ministers have suppressed.

Still on education, the Executive has made much mention of social inclusion. However, it is not clear how far the abolition of student grants and the imposition of tuition fees extends access to Scotland's culture.

On language, although we have heard a couple of lines of MacDiarmid, there is no evidence to indicate that the Government takes at all seriously the issues surrounding the Scots language, which probably receives less state support than any other minority language in Europe. Over the past four years, the Scottish Office and the Scottish Executive have received continual representations from academic and cultural bodies on the pressing

need for a census question on Scots, which would make planning and provision possible. "Celebrating Scotland" gives not the slightest indication that the Executive is committed to making progress on this or any other issue relating to the Scots language.

The key to the future of the arts is the economy. For the strategy to be effective, we need to create a suitable financial climate. This is a question of investment, not subsidy, because the arts create more wealth than they consume. The Government and, by implication, the Scottish Arts Council should not continue to dictate terms purely because of the strength of their funding role. We need a radical rethink of the funding situation.

The Executive talks a great deal about community, and I suggest that it would be better if the balance of financial power were shifted in favour of local authorities, which are more responsive to and supportive of distinctive local initiatives. There are some good examples of local authority support for grass-roots projects in which value to the community is given as much priority as pure profit.

Although we are all agreed that local authorities are best equipped to promote such initiatives, the problem at the moment is that funding is difficult to source. Since the reorganisation of local government, there is no longer a duty on councils to ensure adequate provision of facilities or cultural activities for the inhabitants of their areas, although councils were given a new power to give grants towards the expenses of any organisation providing cultural activities. The Government-imposed cut has, of course, led to a sharp decline in the expansion of this aspect of Scotland's culture.

We need a better structure for the investment of public money in the arts and we need to encourage private investment. Why not encourage the arts community itself to take the lead in such developments? Creativity now has a value. Artists should be encouraged to develop their entrepreneurial streak, capitalise on the interest that exists and seek commercial support. Links between chambers of commerce and arts groups have proved successful in Europe and there are all sorts of ways in which arts groups can engage with business. One such project exists on the Royal Mile. Dom has brought together under one roof a range of artists, sculptors, poets and scholars. By creating its own core finance through the provision of services relevant to the commercial sector, it manages to support less lucrative aspects of its work while retaining its creative independence.

The Scottish Parliament can help to create a climate of partnership between the arts and business to promote self-sufficiency. However,

financial incentives need to be supportive. Nothing in this paper indicates that the Executive has any of the ambition that was shown by the Irish Government in providing state allowances and tax breaks to outstanding artists, musicians and writers. How wonderful it would be for Scotland to pioneer such innovations and for Governments across Europe to take note.

I want briefly to mention some major elements of the Scottish cultural scene. Traditional music is very wide-ranging. The Scottish Parliament has a role to play in supporting the fèisean movement, for example. However, it is not enough to support musicians; we need to make an effort to retain the ancillary jobs that are supported by the music industry. Despite the success of our bands and the achievements of some small recording companies, the critical mass of permanent jobs in the popular music market, for example—production, sales and recording—is located outside Scotland. Music industry investment needs to return to Scotland.

Crafts workers need a special mention. There is no support system for individual craftsmen and craftswomen. We need to promote the quality of our design production and encourage people to come to Scotland to buy.

The construction of the new Parliament building is a tremendous opportunity to make sure that a high profile is given to the skills of Scottish crafts workers. The European Parliament has a scheme to ensure that artists from all European countries are commissioned to provide artwork for display in the public areas of the Parliament building. Michael Russell has commended the scheme to the Holyrood project team, which has agreed to examine it. We must also ensure that as many as possible of the commissions for the internal decoration and fittings of the Scottish Parliament go to Scottish designers and artists and that Holyrood becomes an exemplar of Scottish design and achievement.

The role of Government is to support the arts and to allow them to evolve, not to impose a strategy whose effect will be to limit and inhibit creativity.

16:51

The Deputy Minister for Culture and Sport (Rhona Brankin): I will deal with points that were raised in today's debate, starting with those of Mr Russell. I thank Cathy Peattie for voicing some of my concerns about Mr Russell's speech. He does not seem to have grasped that the Government's document is small because we hope to involve people in a consultation process about what the national cultural strategy should be. The document does not comprise the national cultural strategy; it is the first stage in developing it. It is kind of the

SNP to say that it will wait and see but I had hoped that it would contribute to the process.

We will be inclusive. I thought that Mr Galbraith explained that well. We have said that the document is meant for all the people of Scotland. I would welcome it if those who have expressed concern about inclusiveness would suggest ways in which we can best consult. We want to consult community arts groups and people in remote areas. In reply to those who have sought assurances that rural Scotland will be involved, I give categorical assurances—as one who lived in rural Scotland for 25 years—that that will happen. We have been asked to go to Thurso, we will go to the national Mòd in Fort William to consult our Gaelic-speaking colleagues and we will go to all parts of Scotland. That is central to the consultation process.

Although Mr Russell claimed not to think much of the document, it was interesting that half his speech was made up of quotes from it. One of the reasons why the line by A L Kennedy, which he quoted, appeared in the document was that we thought that it was marvellous. Of course artists have to be involved in the process. If Mr Russell knows artists who feel excluded from the process, we would like him to get in touch with us.

Mr Russell spoke about sport. We already have a national strategy for sport, which is detailed in the document "Sport 21: Nothing Left to Chance". Sport plays a vital role in our culture and we need to examine how culture and sport can link together—I know that our shinty-playing colleagues will contribute to the consultation process. However, there was no point in initiating another massive consultation on sport when that document had already been produced.

I will deal with Mr Monteith next. He appears not to think that Government should be concerned with culture but that is because he misunderstands the role of Government in culture. We agree that decisions on funding should be at arm's length but we disagree with the free-market approach to culture of Mr Monteith and Mr Fry.

As Sam said, we have a healthy creative industries sector worth £5.3 billion, which creates 91,000 jobs in Scotland. That is important, and Government has a key role in supporting culture and our creative industries.

I agree with James Douglas-Hamilton about the importance of the film industry in Scotland. We are putting an extra £1.8 million into Scottish Screen over the next three years. Recent tax breaks mean that the production costs of British films of up to £50 million can be written off in the first year. Film is a vital sector and we are committed to promoting and supporting it.

The Scottish National party tells us that the

document is too prescriptive, whereas I am told by Ian Jenkins that it is too open. The document is intended to stimulate debate and to encourage people to become engaged in that debate. I agree that it has to be geographically inclusive and that it has to look at how we can foster talent in our children.

Richard Lochhead asked whether arts and culture will be properly resourced. We are putting in an additional £31 million over the period of the comprehensive spending review. He mentioned that the focus group was not representative. Realistically, if the focus group was representative of everybody in the arts and culture sector in Scotland, it would have a cast of thousands. Donnie Munro is a performing actor.

Several members *rose*—

The Presiding Officer (Sir David Steel): Order.

Rhona Brankin: Ian Welsh and Elaine Murray mentioned the important role of local authorities. Local authorities have to be key partners in this strategy. We already spend more than £200 million annually on culture and leisure, and local authorities are key partners in delivering social inclusion.

I come now to Lloyd Quinan's comments. We are happy to talk to the producers, and Lloyd talks about the unions that are involved. Yes, I will be holding meetings with those unions—it is important that we speak to them. The best way of supporting artists is to support the creative industries. That is where we will be creating jobs, which will be a key plank of any cultural strategy. However, practitioners are important and we must never lose sight of the fact that a national cultural strategy is for the people of Scotland.

Michael Russell: Will Ms Brankin give way?

Rhona Brankin: No, I have an awful lot to get through.

The Presiding Officer: Ms Brankin has the last two minutes.

Rhona Brankin: Thank you. I am delighted to have stimulated so much interest.

I agree with Robin Harper. I have worked in the Scottish theatre sector and recognise its importance. I will be having discussions with that sector.

Mr Monteith mentioned a national theatre for Scotland. I realise that there are many views about that, which will provide for a heated debate. We are not afraid of having that debate; indeed, we will have it during the consultation.

I welcome Des McNulty's contribution on architecture and social inclusion. I assure him that we intend to build on Scotland's—and indeed

Glasgow's—achievements in architecture. We see community involvement as a key element of any national policy on architecture.

Mr Mundell talked about the definition of culture. We could spend a month talking about that. As somebody who has lived in a rural area for 25 years and has competed in the Black Isle show on many occasions, let me tell members that the culture of our rural communities is a central plank of any policy on the rural economy. That is a perfect example of why culture needs to get into other areas of government, and I thank Mr Mundell for raising the matter.

Having heard Cathy Peattie sing traditional Scottish songs on many occasions, I was sorry that she could not sing today. I believe that it is against standing orders to sing in the chamber, which is a great pity, as it would have been nice to hear her.

We must be inclusive. A national cultural strategy is not for the great and the good; it is for everybody in Scotland.

I agree with Irene McGugan that education is central to any cultural strategy. That is why it is right that culture and education are going hand in hand.

The main aim of the consultation process is to establish a set of clear, understandable objectives. I hope that members will talk to people in local papers and broadcasting, and to people in their communities, whether in the performing arts or in community arts projects. Members know the people at home and in their communities, and should get out and talk to them.

I ask people in the media to do that as well. They should tell people about our consultation document and encourage them to tell their friends and families about it. Above all, the media should urge people to think about the consultation document and send their responses to the Scottish Executive. With the help of all members and all people in Scotland, we can deliver a cultural strategy that is fit for Scotland in the third millennium.

The Presiding Officer: Before we move to decision time, I inform the chamber that the clerks have been able to provide the result of this morning's vote on motion S1M-110, on the timetabling of the Mental Health (Public Safety and Appeals) (Scotland) Bill, which we had to take on a show of hands. The result of the vote was as follows: For 107, Against 2, Abstentions 0.

Decision Time

17:00

The Presiding Officer (Sir David Steel): The question is, that motion S1M-107, in the name of Mr Sam Galbraith, be agreed to. Are we all agreed?

Members: No.

The Presiding Officer: There will be a division.

FOR

Alexander, Ms Wendy (Paisley North) (Lab)
 Baillie, Jackie (Dumbarton) (Lab)
 Barrie, Scott (Dunfermline West) (Lab)
 Boyack, Sarah (Edinburgh Central) (Lab)
 Brankin, Rhona (Midlothian) (Lab)
 Chisholm, Malcolm (Edinburgh North and Leith) (Lab)
 Deacon, Susan (Edinburgh East and Musselburgh) (Lab)
 Ferguson, Ms Patricia (Glasgow Maryhill) (Lab)
 Finnie, Ross (West of Scotland) (LD)
 Galbraith, Mr Sam (Strathkelvin and Bearsden) (Lab)
 Gillon, Karen (Clydesdale) (Lab)
 Godman, Trish (West Renfrewshire) (Lab)
 Gorrie, Donald (Central Scotland) (LD)
 Grant, Rhoda (Highlands and Islands) (Lab)
 Gray, Iain (Edinburgh Pentlands) (Lab)
 Henry, Hugh (Paisley South) (Lab)
 Home Robertson, Mr John (East Lothian) (Lab)
 Hughes, Janis (Glasgow Rutherglen) (Lab)
 Jackson, Dr Sylvia (Stirling) (Lab)
 Jamieson, Cathy (Carrick, Cumnock and Doon Valley) (Lab)
 Jamieson, Margaret (Kilmarnock and Loudoun) (Lab)
 Jenkins, Ian (Tweeddale, Ettrick and Lauderdale) (LD)
 Kerr, Mr Andy (East Kilbride) (Lab)
 Lamont, Johann (Glasgow Pollok) (Lab)
 Livingstone, Marilyn (Kirkcaldy) (Lab)
 Macdonald, Lewis (Aberdeen Central) (Lab)
 Macintosh, Mr Kenneth (Eastwood) (Lab)
 MacKay, Angus (Edinburgh South) (Lab)
 MacLean, Kate ((Dundee West) (Lab)
 Macmillan, Maureen (Highlands and Islands) (Lab)
 Martin, Paul (Glasgow Springburn) (Lab)
 McAveety, Mr Frank (Glasgow Shettleston) (Lab)
 McCabe, Mr Tom (Hamilton South) (Lab)
 McConnell, Mr Jack (Motherwell and Wishaw) (Lab)
 McMahon, Mr Michael (Hamilton North and Bellshill) (Lab)
 McNeil, Mr Duncan (Greenock and Inverclyde) (Lab)
 McNeill, Pauline (Glasgow Kelvin) (Lab)
 McNulty, Des (Clydebank and Milngavie) (Lab)
 Morrison, Mr Alasdair (Western Isles) (Lab)
 Muldoon, Bristow (Livingston) (Lab)
 Mulligan, Mrs Mary (Linlithgow) (Lab)
 Munro, Mr John (Ross, Skye and Inverness West) (LD)
 Murray, Dr Elaine (Dumfries) (Lab)
 Oldfather, Ms Irene (Cunninghame South) (Lab)
 Peacock, Peter (Highlands and Islands) (Lab)
 Peattie, Cathy (Falkirk East) (Lab)
 Radcliffe, Nora (Gordon) (LD)
 Robson, Euan (Roxburgh and Berwickshire) (LD)
 Scott, Tavish (Shetland) (LD)
 Simpson, Dr Richard (Ochil) (Lab)
 Smith, Elaine (Coatbridge and Chryston) (Lab)
 Smith, Iain (North-East Fife) (LD)
 Smith, Mrs Margaret (Edinburgh West) (LD)
 Stephen, Nicol (Aberdeen South) (LD)
 Stone, Mr Jamie (Caithness, Sutherland and Easter Ross)

(LD)

Thomson, Elaine (Aberdeen North) (Lab)
 Wallace, Mr Jim (Orkney) (LD)
 Watson, Mike (Glasgow Cathcart) (Lab)
 Welsh, Ian (Ayr) (Lab)
 Whitefield, Karen (Airdrie and Shotts) (Lab)
 Wilson, Allan (Cunninghame North) (Lab)

ABSTENTIONS

Adam, Brian (North-East Scotland) (SNP)
 Aitken, Bill (Glasgow) (Con)
 Campbell, Colin (West of Scotland) (SNP)
 Crawford, Bruce (Mid Scotland and Fife) (SNP)
 Cunningham, Roseanna (Perth) (SNP)
 Davidson, Mr David (North-East Scotland) (Con)
 Douglas-Hamilton, Lord James (Lothians) (Con)
 Elder, Dorothy-Grace (Glasgow) (SNP)
 Fergusson, Alex (South of Scotland) (Con)
 Gallie, Phil (South of Scotland) (Con)
 Gibson, Mr Kenneth (Glasgow) (SNP)
 Goldie, Miss Annabel (West of Scotland) (Con)
 Hamilton, Mr Duncan (Highlands and Islands) (SNP)
 Harper, Robin (Lothians) (Green)
 Hyslop, Fiona (Lothians) (SNP)
 Johnstone, Alex (North-East Scotland) (Con)
 Lochhead, Richard (North-East Scotland) (SNP)
 Marwick, Tricia (Mid Scotland and Fife) (SNP)
 Matheson, Michael (Central Scotland) (SNP)
 McGugan, Irene (North-East Scotland) (SNP)
 McLeod, Fiona (West of Scotland) (SNP)
 Monteith, Mr Brian (Mid Scotland and Fife) (Con)
 Morgan, Alasdair (Galloway and Upper Nithsdale) (SNP)
 Mundell, David (South of Scotland) (Con)
 Quinan, Mr Lloyd (West of Scotland) (SNP)
 Reid, Mr George (Mid Scotland and Fife) (SNP)
 Robison, Shona (North-East Scotland) (SNP)
 Russell, Michael (South of Scotland) (SNP)
 Salmond, Mr Alex (Banff and Buchan) (SNP)
 Sturgeon, Nicola (Glasgow) (SNP)
 Tosh, Mr Murray (South of Scotland) (Con)
 Ullrich, Kay (West of Scotland) (SNP)
 Welsh, Mr Andrew (Angus) (SNP)
 White, Ms Sandra (Glasgow) (SNP)
 Young, John (West of Scotland) (Con)

The Presiding Officer: The result of the division is: For 61, Against 0, Abstentions 35.

Motion agreed to.

That the Parliament agrees that culture, in all its diversity, has a central role in shaping a sense of community and civic pride in the new Scotland, and a contribution to make to its prosperity, health and cohesion; welcomes the Executive's proposals to develop a national cultural strategy for all of Scotland's people, and endorses the far-reaching consultation process on which Scottish Ministers have embarked.

Domestic Violence

The Presiding Officer (Sir David Steel): We now move to the debate on members' business, on motion S1M-94, in the name of Maureen Macmillan. This debate will be concluded in 30 minutes.

Motion debated,

That the Parliament notes the Work Plan drawn up by the Scottish Partnership on domestic violence which has as part of its remit an examination of the experience of women in rural areas; calls for swift consideration to be given to improving the safety of women at risk, and supports the work carried out in this field by Women's Aid and other organisations in the Highlands and Islands.

17:04

Maureen Macmillan (Highlands and Islands) (Lab): When one has been involved, as I have, in campaigning against domestic violence for nearly 20 years, it is easy to forget that not everyone realises how domestic violence pervades every part of society. As I speak I am conscious that women who have experienced domestic violence might be listening, because one in five women will be victims of violence in their lives. Two hundred children in Scotland today will see their mothers abused. Twenty-five per cent of all reported violent crime is domestic violence that is committed by men against women, and dear knows how much goes unreported.

There are misconceptions about domestic violence. The most common one is that the abuse is drink related. Domestic violence is not caused by alcohol, as both the Strathclyde police and Ross-shire police discovered when they kept records of cases last Christmas. It is not confined to one social class. Middle-class women might not present themselves at refuges, but they telephone for advice and help. They are as likely to suffer domestic violence as are women from other social classes.

Another misconception is that domestic violence happens only in urban areas. I can assure members that it happens in rural areas, too. Isolated areas are often deliberately chosen by an abuser to cut a woman off from her friends.

Abuse does not run in families and it is not necessarily the case that a violent father will have violent sons. Nevertheless, domestic violence affects children profoundly.

Violence is used to control a woman by making her afraid. The abuser uses threats as well as physical violence, and assaults are sometimes severe. Just less than half of female murder victims are murdered by their male partners, and three quarters of those victims are killed by the man after they have left him. Not all abuse is

physical. Many women suffer psychological or sexual abuse, which is used to control, and which can be damaging in a different way.

It is of the utmost importance that women have easy access to help and support, but in the Highlands and Islands there are particular problems. In a small community, the abuser might be an important figure who is well liked. A woman might suffer in silence because she feels that she would not be believed. It is important that women in such situations should be able to get information on where to find help.

It can often be difficult for a woman to leave her abuser because there might be little or no public transport and the distance involved might be enormous. Once a woman has made the decision to leave—and that is not an easy decision—it is of paramount importance that she has a safe place to go. In the Highlands, that is not always easy.

There are no women's refuges on the west coast mainland north of Dunoon and none on the east coast mainland north of Dingwall. The existing refuges are overloaded; three families might be living in a house meant for one. We still need more space.

Last year, Ross-shire Women's Aid gave shelter to 26 women and 43 children, and helped and advised 200 women through telephone helplines and visits. It had to turn away 37 women and 55 children. One reason for that is that women often have to stay on in refuges longer than is necessary because there is a lack of rented housing to move on to, and that blocks refuge spaces that other women need.

Refuges are funded, not centrally, but by local authorities. The provision of housing therefore varies from council to council, and the level of commitment can depend on the attitude of one official in a housing department. I pay tribute to Orkney Islands Council's housing department for its efforts to help abused women.

Outreach work and the building of new refuges, both of which are now being tackled by Highland Council, are only part of the answer. Not every woman wants or needs to be in a refuge, although some women need to move as far as possible from their abusers for safety's sake. There are only two outreach workers for the Highland Council area.

Not every woman wants to leave her community. A woman needs to be supported in her community and to feel safe. Changes in the law are required to achieve that. The support that is available is improving through partnerships among health boards, the police and voluntary organisations.

Domestic violence is beginning to be treated in an holistic way. That is a significant move forward.

Organisations such as the Highland Domestic Abuse Forum are trying to reach out to the whole of the Highlands by educating and campaigning, or rather, they would do so if they could get sufficient funding. It is discouraging to be unable to initiate campaigns that have long been established in other areas. O for a zero tolerance campaign in the Highlands.

An audit of good practice throughout the country is needed. The areas that are only now recognising the extent of the problem need successful initiatives and encouragement. What we need most of all is a change in public attitudes, and that can be achieved only through public service broadcasting and through work in schools. Relationship education is as important as health education or drugs education, and it is a matter of great concern that around 10 per cent of teenage girls still condone violence in a relationship.

No amount of refuge provision will stop abusers, but a change in social attitudes will. I hope that the Scottish Partnership on Domestic Violence will reconvene soon and that its recommendations will be presented to Parliament as soon as possible. Domestic violence is a cancer in our society and we must do our utmost to find a treatment.

The Presiding Officer: I should be grateful if members kept their speeches to about four minutes' duration.

17:09

Dr Winnie Ewing (Highlands and Islands) (SNP): I whole-heartedly congratulate Maureen Macmillan on her speech. The passion and clarity of her description of domestic violence should make us all pause to consider this terrible problem. I welcome her last point about public attitudes: we must find a way to get the nature of the problem home to people.

I have some credentials to speak in the debate. I served on the Westminster select committee on violence and marriage, which was misnamed "battered wives". Hundreds of women came before us, as well as one battered husband, who very bravely gave evidence. It is almost always women who are battered, although not in all cases.

My second credential is as a former member of a legal practice, which was not a posh one. I advised hundreds of battered women in civil and criminal cases. I will mention one case of a woman who came to see me. I could see immediately that she had been battered and I thought that she must be over 50. She was 31 years old and her face had no planes left, because all the bones had been broken. Domestic violence is a terrible thing, and we do not know whether violence towards women extends almost inevitably to the children.

The select committee on violence and marriage was followed by another on violence and the family, and on which Margaret Ewing served, because clearly the subject needed to be widened. If many of the recommendations made by those select committees had been acted on, perhaps the problem would not be as grave as it is now.

Being one of the Highlands and Islands list MSPs, I am aware of the lack of provision in the far north and west of Scotland. We need to make more money available to create the safe haven provided by refuges. I do not often read *The Sun*, nor do I always believe what I read in it. However, today I read that Chancellor Brown is sitting on a £10 billion surplus because of the self-assessment tax arrangements, which have provided more money than he expected.

We need some money to tackle the problem of domestic violence. It will not be solved entirely along the lines that Maureen suggested—we need to spend some money on creating safe houses. I criticise the cutting of money to citizens advice bureaux—where they exist—because often they provide people with a port of call. As a lawyer, I am also aware that in some places people do not even have ready access to a legal aid lawyer.

I have one final significant point, which grew out of my years of reflection on the subject, about having a roof over one's head. I used to find that if a woman had a mother, a friend or a sister who would take her, her problem was not so grave and she could escape. However, that was not a possibility for many women—the mother's house was overcrowded, or there was nowhere to go—who were stuck in their wretchedness.

I would like council house tenants to have the right to take the tenancy and to throw out a husband who has been proven to be violent to his wife—a battered husband would have the same right. That would require a simple change in the law. Many tenancies are joint, many are in the man's name, and many are in the woman's name. Legally, the woman can put the husband out, although she often does not know how to do it. Sometimes, I was able to help in that process. However, where the tenancy is joint or is in the man's name, the woman is stuck. That would be a sensible issue for the Executive to consider and it would not require a complicated bill.

I appreciate very much what teachers do when they see evidence of violence towards children. Teachers often act as a barometer and draw problems to the attention of people who can help.

17:14

Mrs Lyndsay McIntosh (Central Scotland) (Con): I am delighted to be able to speak in today's members' business debate on domestic violence. I am grateful to Maureen Macmillan for highlighting the work plan drawn up by the Scottish Partnership on Domestic Violence, particularly for rural areas. Living in and representing central Scotland, I have to say that the problem of domestic violence still pervades the central belt.

As colleagues inform me, rural areas in the Borders and the south of Scotland suffer acute problems that are similar to those of the Highlands and Islands. I am thinking particularly of tied housing—the Matrimonial Homes Acts tie the house so that a woman cannot put her husband out. I am thinking of access to services. As has already been said, sometimes people have to travel 100 miles to the nearest public telephone to call for assistance—a woman who has suffered domestic violence cannot chap a neighbour's door. Geographical isolation, the lack of housing stock, people's attitudes and—sometimes—the response of the police, can all be problems.

I should add a note of caution. Domestic violence—as Dr Ewing mentioned—is not just men abusing women and children. A number of women—admittedly a small number—harass and verbally and physically abuse men. It would be wrong not to admit that.

Before I became a member of this Parliament, I sat on the bench in my district court, and I chaired the justices training sub-committee. Part of the training was to go out and do a tour of duty with the local police force—not just on traffic duty when we got to go in the fast cars, but on night duty. Going out and seeing the way in which the police do their job is not a new idea of Ian Davidson's; it is something that we were trying to do many years ago. It would pain members to see the sights that I saw. I came upon those scenes not because women had reported violence themselves, but because neighbours had reported a disturbance, gone to the home and seen women who had been battered to a pulp. It was horrifying.

I sincerely hope that this Parliament will address the issue of domestic violence, and I am grateful to Maureen for bringing it to our attention.

17:17

Nora Radcliffe (Gordon) (LD): I want to home in on one aspect of this debate—women's refuges and the way in which they are funded. I will illustrate the problem with reference to a refuge in a market town in my constituency. A letter from the manager of the refuge starts with the words:

"We would like to draw attention to the erratic way our

particular refuge is funded."

The refuge gets £22,000 in grants from the local authority, out of which it pays back to the authority nearly £11,000 in rent. The letter continues:

"Our main income has to be derived from housing benefit. This has caused serious problems for us in the past as not all families are eligible to receive this; when occupancy rates fluctuate we have to struggle to pay even the basic expenses."

On occasion, the manager has had to wait to receive her salary until the housing benefit money came in. That is totally unacceptable. Last year, the refuge dealt with 146 contacts and accommodated 30 families including 34 children, but it had to turn away 35 families.

The need is huge. There is some provision to meet that need, but it is woefully inadequate and refuges are not funded properly. There is an enormous amount of work to be done. We have to give much greater commitment to it, and somehow we have to find the money to fund refuges and to give equity of access across rural and urban areas.

The Deputy Presiding Officer (Mr George Reid): I am conscious that about 10 members wish to speak, but without a motion to extend the business, I must now go on to the concluding speeches.

Ms Margaret Curran (Glasgow Baillieston) (Lab): May I move a motion to extend the business?

The Deputy Presiding Officer: Yes.

Motion moved,

That the meeting be extended by 30 minutes.—[Ms Curran.]

The Deputy Presiding Officer: The question is, that the motion to extend the meeting by 30 minutes be agreed to.

Motion agreed to.

The Deputy Presiding Officer: In that case, we can continue with members' speeches.

17:20

Dorothy-Grace Elder (Glasgow) (SNP): I have been involved for many years with battered women. My involvement has been both as a journalist, trying to publicise some of the groups that aid those women, and as a volunteer. I have therefore met umpteen battered women—although perhaps not nearly as many as my colleague Winifred Ewing—and I can assure anyone in this chamber with any doubts whatever that, in Scotland in the 1990s, there are women in much the same mental and physical state as wartime atrocity victims. Such women always wear cover-

up clothing to hide some of their scars and bruises and pretend to lead a normal life. I have met women who have been kicked in the stomach while they were pregnant or have had their arms broken and their ribs kicked in; and I once met a woman who had had a lit blowtorch taken to her body.

In many ordinary homes right across the spectrum in Scotland—"chez nous"—there are women who are no better off than their great-grandmothers, because, like their great-grandmothers, they have no place to go and will put up with anything just to keep a roof over their head. I am sure that members will agree that that is totally unacceptable in this age.

Such violence can never be tackled until we have sufficient places of immediate refuge for those women and their children. The most terrible scandal in this whole affair is that, in Scotland, each year 9,000 women and their children are turned away from refuges because of lack of places. Those 9,000 women actually believed the pledges of successive Governments that something would be done about domestic violence.

The motion quite properly concentrates on domestic violence in rural areas, particularly the Highlands. However, cities such as Glasgow are so short of refuge places that, in areas such as Easterhouse, desperate Women's Aid workers have to phone round refuges as far apart as Galloway and Inverness to find a bed for the night for a woman and her children. Every week, 50 women from Easterhouse alone apply for the four available places in that area. That is scandalous. In the long term, battered women will be in a worse position because of the massive housing stock transfer and the demolition of 15,000 Glasgow council houses. The homeless, including battered women and their children, will suffer more. As it is, women stay for far too long in the few refuge places available and many children are being brought up in so-called temporary shelters for several years at a time.

Last year, Helen Liddell announced that a series of advertisements in a campaign against violence would start on boxing day. The campaign cost the Scottish Office £600,000, but not one penny went into extra refuge places. A sum that was mere peanuts was added later because women's groups and my party protested strongly that we wanted substance—real money—to save those women, rather than a shadow show on television.

We have a great chance in this Parliament to save such women through all-party co-operation between men and women of good will, so let us not blow that. What happened to the thousands of women who trusted those advertisements and who thought that they would receive aid only to be

turned away after a great extra rush following Christmas? They are back with the batterers, still wandering from room to room, or dead. As a parliamentarian, I do not intend to carry on my shoulders for the next four years the responsibility of doing nothing, and I am sure that every member feels the same.

17:24

Cathy Jamieson (Carrick, Cumnock and Doon Valley) (Lab): I welcome the fact that the motion has been lodged for debate, although it gives me no pleasure to be speaking here, as it shows how much work we have still to do.

I welcome the recognition that women in rural areas have received today, particularly the recognition of the difficulties in reporting incidences of domestic violence, which is a term I prefer to the phrase "battered women". I also recognise the problems that people in rural areas have finding alternative accommodation.

My main point relates to the effects of domestic violence and abuse on children and young people. Quite often, that kind of abuse cannot be seen written on children's faces. In a publication that is about to be produced by Scottish Women's Aid, there is a piece of writing by a child. The child wrote, "Dad makes me angry and sad. I am sad but you can't see sad because I am smiling. I am sad inside." That says it all and explains children's position in relation to this issue.

Information from Scottish Women's Aid suggests that as many as 100,000 children might be living with the problem of domestic abuse. Earlier, Winnie Ewing mentioned taking a pause to think about things. I would urge people to pause for a moment and reflect on the sheer scale of the impact of domestic abuse on children. We have responsibilities to those children. They are not safe or secure in their own homes, but face daily physical violence, emotional abuse or sexual abuse.

How can a child concentrate on their school work when they have been up for half the night because of what has been happening in their house? How can a child concentrate on their school work when they are afraid of what is happening at home when they are not there? How can a child risk bringing their friends home from the school when they do not know what they will face or walk into? How does a child deal with the well-meaning people who ask what is wrong, when they are too embarrassed to tell? Those are the real issues that children are facing daily.

How do children deal with being desperate to get away from the violence but being terrified of the consequences? They do not want to leave their home, local area, school and friends. One

hundred thousand children face those issues every day—that is the scale of the problem.

I want to congratulate Scottish Women's Aid and other organisations on the work that they have done throughout the years to address this issue. A long time ago, during my summer holidays from college, I regularly worked for the organisation as a play leader. I am glad to see that children's workers are now recognised as a much more necessary part of the service provided to children. I question whether the 13 full-time refuge support workers, 31 part-time workers and eight outreach workers can provide the support needed for 100,000 children.

The clear message that comes through from the children's comments is that they need services in their own right. In the document that I referred to earlier, "Young Peoples Aid"—or "Young People Said" depending on how it is read—the most telling comments are the two words at the end, "please listen." Listening in itself is not enough. We need to hear the voices of children and act upon them.

17:28

Shona Robison (North-East Scotland) (SNP): As Maureen has already said, domestic violence affects all sections of society. It does not depend on class or whether people live in rural or urban areas; it affects all sections of society.

As has been said, women's aid groups provide excellent services throughout Scotland, despite their piecemeal funding. Helen Liddell's Scottish Office campaign against domestic violence raised expectations, as Dorothy said. The worst aspect of that was that the expectations were not met and many of the women who subsequently phoned the helpline were not found refuge places. It must have taken a lot to reach the stage of being able to leave a violent relationship and make that difficult decision, but not receiving the service they expected must have been a difficult blow.

We are aware of the acute difficulties in rural areas and the lack of refuge spaces. I would support the move to consider that as a matter of urgency.

Much has been said about physical abuse, but I want to make a couple of comments about the psychological abuse that many women experience. People ask why women do not leave. They do not leave because they do not have the self-confidence left to make that decision. We must raise those women's self-confidence and enable them to make the decision, but we must ensure that services exist for them once they have.

I call for a national funding strategy so that no

matter where they live in Scotland, women can leave a violent relationship.

17:30

Dr Elaine Murray (Dumfries) (Lab): I too wish to congratulate Maureen on securing a debate on this important issue. I am glad that so many people are here; this is a large attendance for members' business and it shows the importance that we attach to the issue.

Like many other members, I ask the Executive to examine how women's aid groups are funded. There is a particular problem in my constituency with Dumfries and District Women's Aid. The group does a vital job, locally and nationally, and recently achieved a national profile for its "Breaking Point" video, which not only describes the experiences of women who have suffered domestic violence, but shows how they managed to get out of their relationships and began to rebuild their lives. It is important that women get the message that there are ways in which they can get through the abusive situation and that mechanisms are in place to support them.

I should say that Dumfries and District Women's Aid also provides support for male victims of domestic or sexual violence. The group is not affiliated to Scottish Women's Aid; that is true of about 15 per cent of rural women's aid groups throughout the country. Dumfries and District Women's Aid is affiliated over the border in Carlisle and therefore, last year, could not receive a portion of the £250,000 that was distributed to local groups through Scottish Women's Aid. We should ensure that there is a mechanism that allows all groups to get their share of funding, because irrespective of their affiliation the job that they do is extremely important.

As Maureen said, we must recognise that there are particular problems in rural areas such as the Highlands and the south and south-west of Scotland. Perhaps we should consider a more coherent way of addressing the problems of funding and giving some stability to the rural groups.

17:32

Phil Gallie (South of Scotland) (Con): I speak with some trepidation as the first male speaker in this debate, but it is important that males stand up on this issue. Domestic violence does not affect just women; it affects families.

Cathy Jamieson's speech about children was very moving and went to the heart of the problem. The effects on children of domestic violence in the home are horrendous and they carry on through a lifetime. We hear about them all too often when cases are tried in our courts and people relate

back to their upbringing and experiences as young children. Cathy's points were very important. That does not undermine, in any way, the issues that Maureen has raised today and I congratulate her on the fact that she has also raised those issues with the Justice and Home Affairs Committee. That is another way in which the issue will be debated well into the future.

This is not a new issue, but it has been hidden under the surface for many years. Dorothy spoke about people who wore long sleeves to hide the signs of the abuse they were experiencing. That says something about society in the past. We should hope that we are now moving forward and have the strength to stand up to the issues.

The solution is not all about injecting money. It is about care and support. It is also about the way in which the police address the issue. At the beginning of the summer, I went along to a good conference that was organised by Strathclyde Police and heard a wide range of contributions. The conference emphasised that the attitude of the police in the past was perhaps to think, "Oh no, it's just another domestic abuse situation." That attitude has changed and the seriousness of the issue is now coming to the fore. It is great to see that forces such as Strathclyde Police are getting to grips with this issue.

I want to highlight the fact that, in the past, local authorities, Governments—in particular the Conservative Government—and others have not been dead to this issue. Elaine served on South Ayrshire Council, which replaced the Tory-led Kyle and Carrick District Council, which treated domestic violence very seriously indeed. It introduced a shelter in the Craigie area of Ayr, where 20 women could find shelter and support. Part of the support is the breathing space that shelters offer: the time for reflection, the time to gather things together again and the time to relate to other people with the same problems. It is very important for like-minded people who have the same experiences to come together, particularly when we hear that all their confidence has been driven out of them.

I could go on for much longer, but the Deputy Presiding Officer is getting impatient with me. We should think about men as well—domestic violence sometimes happens to them, as the mother of the house said. All the men are with her.

The Deputy Presiding Officer: I am never impatient, Mr Gallie, but I am conscious that if we keep speeches to about three minutes everyone might be able to speak.

17:36

Mrs Mary Mulligan (Linlithgow) (Lab): I, too, welcome the opportunity to discuss domestic

violence. It is important that Maureen has brought the issue to this arena. As many members have said, if we are to assist women in situations of domestic violence, we must make resources available. It is important that we do not raise expectations and then fail to fulfil them.

I want to pick up on two points Maureen raised: the zero tolerance campaign and education. The zero tolerance campaign has been clear that prevention should be part of the campaign. At the beginning of this year, it launched a project called Respect, the idea of which was to show young people that they should have respect for one another—both young males and young females—and that they should treat one another as civilised human beings rather than get involved in violent acts, be they physical, mental or sexual.

The project used posters, postcards and a great deal of literature, which was given to young people in places where they usually go, such as youth clubs, discos and clubs in towns and cities. However, there is still concern that the message is not getting across and that prevention will not become part of the package. The zero tolerance campaign has gone on to develop an education pack that includes all the usual booklets, CD-ROMs and everything else that we have in education packs these days. The pack is to be taken into schools. It might be more effective in rural areas than some of the methods that have been tried in the past. It is also designed to instil in all of us a respect for one another, a respect that would ensure that no one, male or female, is abused in the same way as some of the people we have heard about today. I hope that members will join me in welcoming that progress and that, in the future, the zero tolerance campaign will be able to distribute the pack to all schools in Scotland.

17:39

Ms Sandra White (Glasgow) (SNP): I wish to thank Maureen for initiating this debate, and to thank you, Mr Deputy Presiding Officer, for extending the debate. I realise that, when you were a member of the Westminster Parliament, you introduced a bill on this issue.

This is a very emotive issue, and I do not want to get too emotive about it. Others have described the horrific scenes that they have seen, and the consequences. The majority of incidents of domestic violence involve battered women.

We must take a two-step approach to this issue. First, we need immediate action. The zero tolerance campaign has been mentioned. The campaign raised awareness; the problem was that it gave people hope and aspirations, but we did not follow them up with funding. I hope that we have learned a lesson from that.

Both emotional and financial resources are desperately needed. Local authorities fund women's aid groups; perhaps the Parliament could consider ring-fencing local authority funding for this purpose.

We cannot impose such a change, but we could perhaps recommend to the Convention of Scottish Local Authorities that the funding could be ring-fenced. That way, women's aid projects could go ahead on a long-term basis, which would give them continuity and security, and women who approach the organisations would have something to hang onto. They would know that the organisations will still be there in two or three years' time.

The second approach is a long-term education strategy, through schools and homes. We must introduce something like a good citizenship scheme into schools, to teach boys and girls to see each other as equal partners. I would like that on the curriculum. It would go a good way towards getting people to treat each other equally. It may take a number of years—women have had to endure violence for centuries—but we must tackle it for this generation and for future generations. I congratulate Maureen on raising this important subject.

17:41

Malcolm Chisholm (Edinburgh North and Leith) (Lab): I was moved by Maureen Macmillan's speech, and I hope that from today the Parliament will make it a priority of its first year to develop a comprehensive strategy against violence against women. I was brought into this issue by the zero tolerance campaign, which started in this city, and which taught us about the three Ps, which have also been mentioned by others.

Prevention, through education, is important. The male attitudes that lead to domestic violence, rape, child sexual abuse and other male abuses of power must be challenged. I hope that the Scottish Executive will involve zero tolerance from now on.

Protection is also essential. That is why we need several legislative changes, such as allowing all women, rather than only married women, to get an interdict with power of arrest, and such as providing specific protective measures for rape victims in court.

Provision is the third P, and the one that has been highlighted most today. I hope that funding will be sorted out in this year's spending round for Women's Aid and for rape crisis centres, either by a specific central grant, or through ring-fenced local authority budgets.

17:42

Ms Irene Oldfather (Cunninghame South) (Lab): Colleagues, we sit here today in a Parliament which has equality at its core and a greater proportion of female members than any other level of elected representation in Britain. That is why I particularly welcome the opportunity for us to debate this motion. It is a sign that Parliament recognises the importance of women and of combating domestic violence in Scottish society. I choose my words carefully. The problem is a societal one. There is a tendency for some to see the perpetrators of domestic violence and their victims as the only parties involved. That is not so. Domestic violence feeds off the ugliest attitudes within sections of our society and gives those same attitudes succour. Such violence is a cycle which can only be broken by zero tolerance, both of the act itself and of those attitudes which undermine the equality to which we are entitled within a just society.

It will be difficult to confront those attitudes. A recent survey carried out by the child and women abuse studies unit showed that more than one in two young people between 14 and 21 thought that women provoked violence in a number of contexts, such as by the way that they dressed. One in two boys and one in three girls thought that there were some circumstances where it would be acceptable to hit a woman or to force her to have sex. That these results come some 30 years after the first equal opportunities legislation shows that a concerted effort is required to challenge attitudes and ensure that violence towards women is eliminated. Nothing can be more important than ensuring that a woman can live free from fear and free from threat of violence within our society.

The change in attitudes which that requires will not be easy to achieve and a concerted effort from people from all walks of life will be needed. I believe that we have made an important start here today; we have shown cross-party support. Let us hope that we have sent a message of zero tolerance of violence against women to all Scotland.

17:45

Tricia Marwick (Mid Scotland and Fife) (SNP): I add my thanks to Maureen Macmillan for securing today's debate. Scottish Women's Aid has done much to raise the issue of domestic violence and to provide practical solutions. The Parliament can learn from and use the expert advice which such organisations can offer. Indeed, the Justice and Home Affairs Committee will meet representatives of Scottish Women's Aid next week to discuss legal means of protecting women, and to see what this Parliament can do to help them.

As Maureen rightly says, there are particular problems in rural areas. For those who live in a small village, miles from the nearest town, who rely on public transport, and who have two toddlers in tow, it is very difficult to get away and there is nowhere to go anyway.

It is difficult to enter the debate at this stage, because much has already been said: I just want to add my thoughts. One of the central themes of this debate is the need for resources and money. One of the most horrifying statistics is the fact that 9,000 women were turned away from women's refuges last year. Those women took the decision to make a break from their partners and we did not find them the help and resources to do so.

I saw Jack McConnell nodding his head at Jackie Baillie: I hope that he was telling her that there will be money for women's resources.

We need safe and accessible refuges, with the support staff, and we need dedicated police officers to deal with complaints. We need 24-hour helplines so that women can get the help they need, particularly in rural areas.

I look forward to working with Maureen Macmillan in the Justice and Home Affairs Committee, under the convenership of my colleague Roseanna Cunningham, to put legislation in place that will truly protect women, but we need the resources—the money—to do that.

The Deputy Presiding Officer: There is room for one more speech, of up to three minutes.

17:47

Johann Lamont (Glasgow Pollok) (Lab): I welcome this debate on domestic violence. It is one which is too often left hidden and not allowed to come out into the open.

We spent some time this morning, quite rightly, debating issues of public safety in relation to people with diagnosed mental illnesses. Domestic violence, which, in the vast majority of cases, is a violence which men visit upon women, is carried out by sane men against the women whom they live with or have lived with, and they carry it out simply because they can.

The issue of male victims of domestic violence is the exception which proves the rule. In reality, most domestic violence emerges where we find a certain kind of behaviour acceptable, where men's and women's roles are defined in a certain way, and where it is acceptable for men to view women in that way.

We obviously need to address the misery, fear and violence that is the daily experience of far too many women. I agree with the comments that

have been made on funding and I say this: this Parliament, which has so many women, must reflect women's priorities, and I hope that the Scottish Executive will listen when we discuss funding. We cannot afford to have women who screw their courage to the sticking-place and who ask for help if that help is not there for them.

We need to examine a whole range of issues in some detail: I want to highlight one. There is a clear issue about the legislation in this country, some of which does a disservice to women and undermines those who are fleeing violence. There is a clear role for the Justice and Home Affairs Committee in scrutinising current legislation. Representatives from the Glasgow women's support project raised one example of that with me: the way in which the Children (Scotland) Act 1995 can be used by male abusers of women, because of questions of access, to create further difficulties for women fleeing violence.

I hope that the Justice and Home Affairs Committee, with women's organisations and other organisations supporting women who are fleeing violence, will deal with this and other matters that have such tragic consequences for women and their families.

The Deputy Presiding Officer: I apologise to the one member who wanted to speak who could not be called.

17:50

The Deputy Minister for Communities (Jackie Baillie): I join others in congratulating Maureen Macmillan on securing today's end-of-business debate and for raising such an important topic early in the life of the Scottish Parliament. I am disappointed, however, that the usually packed press galleries are virtually empty—not least because of the quality of the debate, but considering the seriousness and importance of the issue that is being debated.

All of us continue to be shocked at the extent of domestic abuse and the real and disturbing effect that it has on children who are caught up in such violence, as Cathy has vividly described. Domestic abuse is not peculiar to Scotland, nor is it a modern-day phenomenon. Sadly, the problem has been rooted in society for centuries and has an international dimension. We have an opportunity—a responsibility—to create a climate in Scotland that will not tolerate violence, particularly within the family circle.

I am grateful to Maureen for bringing to the attention of Parliament the existence of the Scottish Partnership on Domestic Violence and the draft work plan that it has prepared. The need for a multi-agency approach to domestic abuse was recognised in several recent reports, which is

why the Scottish Office adopted that approach in bringing together the key agencies nationally and establishing the partnership. We have a core group of policy advisers in the Scottish Executive that is working alongside experts in the provision of services to victims. That group includes the police, the judiciary, the prison service, the health service, local authorities and victims organisations. The partnership is chaired by Anne Smith QC, and includes representatives from Scottish Women's Aid, Scottish Rape Crisis and Victim Support Scotland.

I assure members that the Scottish Executive gives its full support to the work of the partnership, and believes that it will provide us with a model for making a significant impact on service provision to victims of domestic abuse. That model will allow us to deal better with the effect, but we must not lose sight of the need to do more to tackle the cause. Only then can we begin to turn round the situation and make Scotland a safer place for women.

The remit of the partnership should put us on that course. It has been asked specifically to develop an action plan that is firmly located in the Government's overall strategy on violence against women. It will, for example, recommend minimum levels of service for women who are experiencing domestic abuse, to provide a consistent delivery of service throughout Scotland. Particular regard will be given to the needs of women from rural areas—a point that was strongly made by Maureen Macmillan—as well as those from ethnic minorities and the disabled. It will also take into account the impact of domestic abuse on children and young people. Importantly, it will consider effective strategies to prevent male violence against female partners and their children. I am sure that all members will agree that that is a challenging and ambitious, but worthwhile, piece of work.

The partnership has submitted its work plan to Scottish ministers, which sets out the time scale for the discharge of its remit. Since then, the work plan has been issued as a consultation document. Responses are being analysed and will be considered by the partnership when it meets next on 27 September. I shall attend that meeting and I look forward to seeing the partnership in action. We anticipate that a revised work plan will be published towards the end of October.

The Scottish Executive is supporting the work of the partnership with a domestic abuse advertising campaign that will extend over a three-year period. The campaign began last Christmas, with a television advertisement that showed how domestic abuse can start insidiously with verbal abuse. It also showed the distressing effect that such abuse has on children. That has been

backed up with advertising on local and community radio as well as with press advertising.

I turn briefly to Malcolm's point. We recognise the value of Zero Tolerance Trust public awareness campaign. Members of that organisation have been invited to meet me tomorrow to discuss their forward work plan.

I now address the experience of women in rural areas, which was highlighted by Maureen Macmillan. It is clear that women in outlying islands and other remote areas face the greatest difficulty in gaining access to the services that are vital to their needs. I am aware that there is no Women's Aid provision in Orkney, and that therefore no refuge is available, although I am delighted that the council is making positive efforts. The nearest provision of such services requires victims to travel to Dingwall or Inverness. The picture is the same on Shetland and the Western Isles, specialist services being available only on the mainland.

We know there are gaps in provision and we also know there are inconsistencies in the way such services operate. That is why the work of the partnership is so important. In terms of service provision, the bases of statutory services are generally found at a range of locations throughout rural areas. Nevertheless, the very size of such areas means that many communities will be distant from outlying services. This makes access to emergency services very difficult for women experiencing abuse.

I know that in many rural areas few local services are provided and transport is clearly a major factor with low levels of service, high costs and lengthy journeys. Community issues such as lack of privacy and lack of confidentiality bring other difficulties. I am very concerned that in some of the remote and rural communities there is often an acceptance and tolerance of domestic abuse, often resulting in isolation and marginalisation of those attempting to address it.

I am pleased that the partnership will specifically address the very wide range of issues affecting women in rural as well as urban areas. I expect the recommendations they submit for consideration by Scottish ministers will be wide-ranging but practical. I am absolutely clear in my mind that it is incumbent on all of us—local authorities, the health service, voluntary organisations and the Scottish Executive—to get far better co-ordination and a level of provision that is consistent with the needs of the victims of domestic abuse.

The services provided by Women's Aid and other organisations are often an oasis in a desert of despair and hopelessness for many women seeking to escape. I echo the points made by

Maureen Macmillan and extend my support and thanks to those volunteers—and I know Maureen is one of them—who do such a marvellous job.

I share the concerns expressed by a number of members about funding and I am well aware that many women's groups experience difficulties. Women's Aid in particular have expressed their concern that there is no consistency of approach and therefore no security on offer to allow them to plan for the future and improve the quality of and expand the range of services they provide. Those are matters that will also be considered by the partnership, but I assure you that they also exercise my mind and I hope we can devise an acceptable arrangement to improve the current position.

The partnership is charged with devising a national strategy, and the issue of funding is implicit in that. However, it is worth pointing out that last year funding amounting to almost £370,000. A grant of £30,000 was also made to Victim Support Scotland to provide, in association with Women's Aid, a telephone counselling and advice service for those using the freephone helpline facility set up to support the domestic abuse advertising campaign.

In addition, Scottish Homes gave grant funding of £136,000 to three projects for households that had suffered domestic violence. That provided 20 units of 39 bed spaces, a long way short of what is needed, and I agree that is essential that those services and refuge spaces are there.

I welcome the opportunity provided by Maureen to demonstrate the level of priority and seriousness given by the Scottish Executive to the battle to eradicate violence against women. I am pleased to record publicly my gratitude to the members of the partnership for their efforts to date, and particularly my gratitude for the services provided by Women's Aid and other voluntary and statutory organisations in dealing with the victims of abuse. There is still much to do before Scotland can begin to have a feeling of pride in the way it has tackled domestic abuse. We have embarked on a challenging and ambitious future. I want this Parliament to make a difference.

Meeting closed at 17:59.

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