

MEETING OF THE PARLIAMENT

Wednesday 24 January 2001
(*Afternoon*)

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Scottish Parliament

Wednesday 24 January 2001

(Afternoon)

[THE PRESIDING OFFICER *opened the meeting at 14:30*]

Time for Reflection

The Presiding Officer (Sir David Steel):

Leading our time for reflection today is the Right Rev Dr Andrew McLellan, the Moderator of the General Assembly of the Church of Scotland. He has established a new tradition—everything we do in our first year is a new tradition—by making a two-day visit to the Parliament, meeting all the party leaders and spending some time in the gallery. This morning, he met members of the Education, Culture and Sport Committee. I offer Dr McLellan a warm welcome. Thank you for allowing us to use your premises.

Right Rev Dr Andrew McLellan (Moderator of the General Assembly of the Church of Scotland): I feel very much at home, Presiding Officer. To mark the new tradition, I present to the Parliament a tiny token of the continuing affection between our two institutions.

“In the service of the church,” they said to me, “would you be prepared to spend January in the Caribbean?” I have a very high concept of public service, so I have just returned from three weeks in Cuba, Jamaica, the Dominican Republic and the Bahamas.

A Church of Scotland missionary working in Jamaica told me a story. She was sitting on a beach with a bunch of Jamaican children and some Jamaican mothers. The question that people were to answer about the person sitting next to them was: “If you could give anything in the world to your neighbour, what would you give?” Nearly all the answers were along the lines of “thin lips” or “straight hair”. Eventually they came to the girl sitting next to the missionary. “If you could give Jane anything in the world, what would you give her?” The child looked very puzzled and then said, “There is nothing that I could ever give to Jane.” It was not because Jane was grown up, because there were other grown-ups on the beach who got different answers. It was because Jane was white.

That poignant story is a story about the destructive effects of racism. Two centuries ago, when the missionaries arrived in Jamaica—the first place Scottish missionaries ever went—they were detested by the English and Scottish people who were already there. The missionaries were

detested because they hated the slave trade and were prepared to say so. I hope that the churches today are as brave in speaking out against racism as were our predecessors two centuries ago. This Saturday is Holocaust day. With that dark stain on the European spirit still spread around us, it is a good week to pledge ourselves again to oppose racism everywhere.

The most radical story Jesus ever told was the story of the good Samaritan: for the central figure in the story is one of the despised. Members may remember that the story ends with Jesus pointing to a member of the hated race and saying, “Now you go and behave in the same way.”

In this very place a few months ago, I prayed at the General Assembly for

“a passionate church in a gentle Scotland”.

I hope that you like the idea of a gentle Scotland: only a nation that sets its face against racism will ever be gentle.

Now a prayer:

Gather us in, O God, with him who is himself our peace
with him who was never gathered in,
who was crucified on the outside of the city as he had
lived on the boundaries of life.

So gather us in with him, that we be not truly gathered in
until all are gathered in.

So that we may not fully belong until all belong.
Amen.

Long-term Care

The Presiding Officer (Sir David Steel): Our next item of business is a statement by Susan Deacon on long-term care. There will be questions at the end of the statement, so there should be no interventions during it.

14:35

The Minister for Health and Community Care (Susan Deacon): On 5 October, I made a statement to the Parliament setting out the Executive's plans for the care of older people and our response to the report of the Royal Commission on Long Term Care. My statement today builds upon, and reports on progress since, that statement and sets out the next steps that we will take to improve long-term care for older people in Scotland, following the Executive's recent policy review.

In October, I set out a three-year investment package, rising to £100 million per year in 2003-04, which will deliver radical, wide-ranging improvements in the care of many thousands of older people across Scotland. Those plans, which have been widely welcomed, include a massive expansion of care for people in their own homes; targeted investment to tackle delayed discharge and to prevent unnecessary admissions to hospital or residential care; investment in aids and more adaptations; measures to enable more people to retain their homes upon entering residential care; joint management of budgets and services; greater equity of charging; and the provision of universally free nursing care.

In November, the Health and Community Care Committee published its report on community care. I welcome the common ground that has been identified in this area. Today, I have submitted the Executive's formal response to the committee. In December, I published the Scottish health plan "Our National Health: A plan for action, a plan for change". It has put the care of older people at the heart of national health service priorities in Scotland. Also in December, the final report of the joint future group was published, enabling us to improve joint working, joint resourcing and joint service provision for older people. Today, I have published the Executive's response. In December, we lodged our Regulation of Care (Scotland) Bill to raise the quality of care for older people in care homes and other settings.

So much has been done, but there remains much more still to do. The report of the Royal Commission on Long Term Care has provided us with a thorough and comprehensive analysis of the challenges that we face—challenges not just

for Government, but for the providers of care and society as a whole. The Executive has already implemented, or is implementing, most of the key recommendations of the royal commission report. Let me, therefore, set out the measures that we will take forward from today, and in doing so let me endeavour to clarify some of the issues in this debate.

The royal commission report examined the balance of the costs of care between the individual and the state. It identified three broad areas: nursing care, personal care and housing and living costs. The commission did not recommend the abolition of the means test. It concluded that individuals should continue to contribute to the costs of care, specifically in the area of living costs. The commission recommended, among many other things, that personal care, including nursing care where assessed as needed, should be fully funded by the state. It also recognised that any major shift in the balance of funding between the individual and the state would require radical restructuring of the care system and would carry with it resource implications.

We agree with the royal commission that greater equity should be achieved in charging for care and that existing anomalies should be addressed. That is why in my October statement I gave a commitment that we would start by ending the anomaly whereby nursing care is charged for in some settings but not in others. As I said then:

"We recognise that people who have some conditions, such as Alzheimer's disease, require a high level of care, if not specific medical intervention. It is our view that neither the rigid definition of tasks nor the professional demarcation of nursing offers a way forward. Care must be provided on the basis of a person's need, rather than on definitions of what is done or who does it."—[*Official Report*, 6 October 2000; Vol 8, c 1017.]

At that time, I commissioned Anne Jarvie, the chief nursing officer, to take forward work on the implementation of free nursing care and on the assessment of need. I am pleased today to publish her report, which makes detailed proposals for a single needs assessment for each individual who requires care. That was a central recommendation of the joint future group and the Health and Community Care Committee and supports the royal commission's conclusions.

The proposed approach is person centred. It recognises that different individuals have different levels of need that often result in a complex mix of care needs. Crucially, it builds into the needs assessment process a clear recognition of difficult behaviours to recognise better the needs of people such as dementia sufferers.

The CNO's report recommends piloting and testing the proposed assessment tools with a view to implementing the new system nationwide in

2002. I am pleased to announce today that we plan to take that work forward immediately. The implementation of free nursing care will be co-ordinated with the introduction of the new system of assessment. It, too, will be brought into operation in 2002.

We want to go further. We will extend the provision of free care to a wider range of people and will further remove the existing inequities in different conditions and different care settings. That change is consistent with the royal commission's recommendations and reflects our commitment to progressing the agenda. I recognise that there is a range of views in the Executive parties about our final destination but, together, we are committed to making practical progress in the same direction.

There has been much talk of distinctions between nursing and personal care. The reality is that different individuals have different levels of need that do not fit neatly into such boxes. Therefore, in parallel with the development of a new needs assessment system, we will develop detailed proposals for extending free care and reducing the costs of care for a greater number of people. Our priorities will be to target resources to those who are identified as having the greatest needs and to ensure that the services and support to meet those needs effectively are in place.

In practical terms, those developments will extend the provision of free care to many more older people in Scotland, including those dementia sufferers with greatest need.

Members: But not all.

The Presiding Officer: Order.

Susan Deacon: It is clear that change on the proposed scale needs to be resourced properly. We have already committed £25 million for the implementation of free nursing care. We will back our plans to extend the provision of free care with additional resources.

Next week, Angus MacKay, the Minister for Finance and Local Government, will set out how the more than £60 billion that is available to the Executive over the next three years will be subject to a new best value and budget review mechanism that will apply to the way our budget is allocated from 1 April 2002 onwards. That review will identify the extra resources needed to fund our additional and new commitments. I am pleased that the Scottish Cabinet has formally agreed that additional resources for long-term care will be a top priority for this Administration.

In line with the recommendations of the royal commission, the Health and Community Care Committee and the joint future group, we will initiate a thorough examination of the substantial

public sector resources that are allocated to older people's care to ensure that those resources are used effectively.

Extending the provision of free nursing and personal care also requires legislative change. I am pleased to announce that the Executive has decided to introduce a bill on long-term care later this year. That will set in train the necessary legislative changes to give effect to our commitments. Consultation on the proposed contents of the bill will begin next month.

The Executive is determined to work to provide a better, fairer system of long-term care for Scotland's older people. The practical, resource and policy implications of making further progress are significant and complex. There is a shortage of data on which to base decisions and an ever-evolving landscape as legislative changes take place north and south of the border. The existing care system is riddled with perverse incentives and anomalies. In making further change, we must be careful not to add to those complexities. The care system also contains many competing needs and demands for resources that will require us to prioritise carefully any additional investment that we make.

We have conducted a thorough examination of community care services—especially domiciliary care—through the joint future group. We have unravelled many of the complexities in that area and are implementing targeted investment and policy interventions, as well as legislative change, to improve the existing arrangements.

It is clear to me that there is a need for a similarly in-depth examination of the provision of long-term care services in Scotland. I am therefore announcing the establishment of a development group on long-term care. It will not be a review group or a group that duplicates work that has already been done, but a focused, well-supported team that will concentrate—over a short time scale—on action and implementation, that will build on the work done to date and that will help to inform the continuing development of policy, legislation and investment in this area. The group will be chaired by Malcolm Chisholm, the Deputy Minister for Health and Community Care and minister with lead responsibility for older people's issues. It will report to me in August, in time to inform the development of the long-term care bill and national and local spending decisions for the year starting 1 April 2002.

The group will also help to guide our implementation of joint budgets and single needs assessment and our commitment to the extension of free nursing and personal care, all of which will come into effect during 2002. It will examine the practical implications of cross-border issues and relations with reserved policy areas, notably the

Department of Social Security and the benefits system, and residency criteria. It will examine and bring forward recommendations on gaps and duplication in service provision. The development group will bring together—around the table, not across it—a team of Scotland's experts to assist us in that process. In particular, we will wish to draw upon the knowledge and expertise of the Royal Commission on Long Term Care.

I will announce the full remit and membership of the group shortly. However, I am pleased to announce today that Mary Marshall, director of the dementia centre and member of the Royal Commission on Long Term Care, has agreed to serve as a member of the group. I am pleased also that Sir Stewart Sutherland—chairman of the royal commission—has agreed to work with the group to share his knowledge and expertise.

I have set out today a significant package on the development of long-term care for older people: free nursing and personal care for more people; a new and fairer system of assessing need; the setting up of a care development group; additional resources to be made available; the necessary legislation put in place; and a time scale within which that will be delivered.

This is a clear and practical demonstration of our commitment—a new deal for Scotland's older people.

Nicola Sturgeon (Glasgow) (SNP): The statement will be received with dismay by elderly people throughout Scotland. Nowhere in it does the minister commit the Scottish Executive to full implementation of the Sutherland report, either now or in the future. Does the minister agree that what she has announced today still leaves many elderly people behind, faced with the prospect of having to sell their family homes or of using their life savings to pay for help with washing, dressing and going to the toilet? It is help that no one wants to ask for but which many, through no fault of their own, are forced to rely upon simply because they are old.

Does the minister agree that all this comes after three months of Scotland being led to believe by the First Minister—in interview after interview—that the Government would implement Sutherland in full? Today we are being told that that is not what he said after all. It seems that Labour—north and south of the border—is suffering a sudden lapse of memory. Is it not the case that Sir Stewart Sutherland was right? The First Minister has marched Scotland's pensioners to the top of the hill, only to send his health minister to march them straight back down again.

Will Susan Deacon answer the question that is on the lips of every elderly person in Scotland today: "Why?" The First Minister believes that full

implementation is a crucial equity issue. The Health and Community Care Committee and the people of Scotland agree. It can be afforded. It seems that the only ones who do not agree are London Labour. Is it not the case that, when faced with the choice between doing what is right for Scotland and toeing London's line, this Government will always opt to keep London sweet and let Scotland down?

Susan Deacon: Many of us in the chamber have spent probably the best part of two decades, and in some cases longer, campaigning for the creation of this Parliament so that we can develop the appropriate policy solutions to meet Scotland's needs. [*Interruption.*]

The Presiding Officer: Order. There is too much running commentary. If questions are asked, we must listen to the answers.

Susan Deacon: That is why in October 2000 I set out a distinctive package of measures to meet Scotland's needs. That is why we have taken forward work under the chief nursing officer to examine how we can best extend the provision of free nursing care, how we can assess need more effectively and in doing so how we can apply and achieve greater equity in the provision of long-term care to the people of Scotland.

During my statement, I heard many mutterings from the Opposition benches. I hope that some of those members were listening. This is a complex area of policy and a complex area of service provision. We have set out some of the most major, radical, bold changes in this area that have been taken in decades. We have started to unravel the confusion, complexity and inequity that we inherited in the care system. We have already backed it with additional investment and I have given an absolute commitment today that we will back it with further investment. We will make to older people in Scotland only those promises that we know we can keep and deliver, that are tangible and real, and that will make a real improvement to their lives. That is what we have done today.

Mary Scanlon (Highlands and Islands) (Con): There is no doubt that, in the past three months, the Executive has led Scotland to believe that it will fully fund personal care. That has never been denied in any media reports. As Sir Stewart Sutherland said, the Executive has marched people up to the top of the hill. That reminds us of the grand old Duke of York. The Executive has led

"thousands of women and men
to believe the tale
when you're old and frail
that Scotland would care
if only you dare
and they'll never trust Labour again."

We now have another group, another committee, another delay, another commitment and another year. We had a lottery of care between young and old, then between nursing care and personal care. Now we have a lottery of care on the type and level of dementia. How much more do the elderly have to be demeaned by the Government?

When it comes to personal care, what about the single budget that was recommended by Sutherland and by the Health and Community Care Committee? This Parliament is not dictated to by the Minister for Health and Community Care. The cross-party Health and Community Care Committee fully agreed that we would recommend the funding of personal care, and I ask the minister to give all Labour and Liberal MSPs the opportunity to vote with their conscience and not according to Lord Lipsey.

I ask the minister to clarify the difference between two things that she said in her statement. She said that personal care, where assessed as needed, will be fully funded by the state. She went on to say that there would be free care to dementia sufferers with the greatest need. That needs clarification.

Susan Deacon: There has been much discussion in this chamber recently about ministerial statements. I am pleased that I have had the opportunity to make my statement today. I only wish that Opposition spokespeople had listened to what I said in that statement.

Mary Scanlon refers to a lottery of care for Scotland's older people. I heard David McLetchie make a similar point on television at the weekend. They are right. There is a lottery of care for Scotland's older people, which developed over 20 years when the Conservatives were in power. Along with many older people in Scotland, I take it ill to take lectures from the Tories on this subject.

In the 18 months that the Executive has been in power in Scotland, we have set out additional investment and we are taking forward legislative change. Mary Scanlon mentioned single budgets. Did she not listen to my statement in October and to the commitment that I have repeated again today?

We will introduce major changes to the care system—single budgets, a new needs assessment system, legislative changes to change provision and investment in services to meet people's needs. It is a big, tall order, but we have taken it by the throat—we are taking it forward and backing it with action. We are repairing the damage done by the Conservative party over the past two decades.

Mr Keith Raffan (Mid Scotland and Fife) (LD): First, I welcome the minister's announcement on

the further steps that the Executive will take to improve long-term care for older people in Scotland and on the additional resources that have been and will be made available.

In view of the First Minister's repeated statements before, during and since the Christmas recess that free personal care for all older people is a top priority for his Administration, why is the minister so reluctant to do what we in the Liberal Democrats have done and give, on behalf of the Scottish Executive, a clear, firm and unequivocal commitment in principle to free personal care for all the elderly, with a definite timetable for its implementation? Is it because of a lack of personal commitment on her part, or because she is being leant on by the UK Labour Government? Is the minister aware that, in this chamber, she is in the minority and that the majority in this Parliament is for free personal care for all older people?

Susan Deacon: The First Minister has stated clearly in recent months that the care—long-term care in particular—of older people will be a top priority for his Administration. Today, I have set out an absolute commitment from all of us—from the entire Scottish Cabinet—that that is a top priority. We want to match that priority not just with words, but with hard, tangible action that delivers what old people need—better services, fairer services and greater equity.

The First Minister said also that we would look to go further than we had already gone in our response to the royal commission report. That is why, today, I have given a clear commitment that, building on the work of the chief nursing officer's report, which was published only today, we will look to extend the provision of free nursing and personal care to ensure that more people have greater equity in the charges that apply to them in the care system.

Yes, our priority is, unashamedly, to target our resources first and foremost on those in greatest need, to ensure that more people in the care system receive care according to need, not means. I have endeavoured to set out clearly how we will take that work forward. I hope that we can all agree that we are taking important steps forward in the right direction.

The Presiding Officer: Before I call any more members, I should say that a large number of members now want to ask questions, so the shorter the questions and answers are, the more we will get in.

Dr Richard Simpson (Ochil) (Lab): I welcome the statement and recognise the Executive's commitment to supporting our older citizens as a top priority for future funding. I also acknowledge the progress that will arise from the statement. Am I right to interpret the statement as, first, a

renewed commitment—in reviewing all the resources that are currently applied to the elderly—to achieving equity across all care settings? Secondly, does the statement mean that the false division between nursing and personal care will be abolished and replaced by a care needs assessment whereby a threshold of need will be set, above which all care needs will be met but below which there will continue to be means testing until we can afford otherwise? Thirdly, is it the Executive's intention to drive that threshold down, as resources become available?

Susan Deacon: Richard Simpson raises a number of important points. I will attempt to address each of them in turn. [MEMBERS: "Answer the question."] Let me answer the question. First, Richard Simpson raises the global resources that go into the care of older people. We have had many debates in this chamber about investments of £100 million, £200 million or £300 million. Several billion pounds of public money are spent on the care of older people in Scotland.

I do not believe that any political party, any service provider or any politician would say that those resources are being used as effectively as possible at the moment, not least because of the gaps and the duplication that exist in the care system. One of the royal commission's conclusions was that that should be examined, that there should be more joint working and joint budgeting and that better use should be made of those funds. We will address that to ensure that those resources hit the front line and meet people's needs.

On the distinction between nursing and personal care, I commend to Richard Simpson and to other members the CNO's report, which I published today. It directly addresses the definition of care. As I said in my statement, the report makes it clear that people have complex needs—a mix of needs. We said that our approach to extending greater support for care in Scotland would be needs based. That is exactly what it is and we will continue to build on that approach in terms of investment—a point that Richard Simpson raised—and of improvements to service delivery.

Mrs Margaret Smith (Edinburgh West) (LD): I welcome the fact that the issue is at the top of the agenda and that progress is being made. I welcome the fact that we are going further than the rest of the United Kingdom. I do not welcome the fact that there is not a full commitment to free personal care.

We are in the situation outlined by Keith Raffan. The majority of members of Parliament—and does not being a Parliament count for something—want the full implementation of free personal care. The challenge for the Parliament is to find a mechanism by which it can implement that. The

Health and Community Care Committee produced a straightforward, unequivocal, unanimous cross-party report that recommended full commitment. The report put neither time frames nor straitjackets on the commitment. It was unequivocal and the committee knew where it wanted to end up.

Is the minister telling us that the short-term implementation group that will sit for six months will have on its agenda an item to look yet again—although why we need to, I do not know—at whether we should be going for full implementation of the Sutherland report? The minister says that she will remove some of the unfairness from the system. If a system is unfair, it is so root and branch. The question now is whether Mr McLeish is on London's leash or on the Parliament's leash.

Susan Deacon: Margaret Smith and I share many views and objectives. It is unfortunate that she should suggest that our motives are anything other than to do our best by Scotland's older people. That is what we have been committed to since the day and hour the partnership Administration came into office.

The group that I am establishing is not a review group. It will take forward action and implementation. We want it to work with us to look at how we can extend the boundaries of the provision of free nursing and personal care in Scotland and how we can do that in a way that is effectively resourced, that ensures that services meet the needs that we have identified and that ensures that we look at the overall organisation of the provision of older people's care.

It is unfortunate that the royal commission report, which is referred to so often in the chamber—all 200 pages of it—is reduced to one line. I have read and re-read that report time and time again. Any member who has not, should do so. It is clear that progress can, and arguably should, happen in stages to ensure that it is managed effectively, that the care system does not suffer and that old people benefit as a result. That is precisely what we are doing. We have been true to our promises and we will continue to be so.

Shona Robison (North-East Scotland) (SNP): Age Concern Scotland called on the Scottish Executive to make a clear, unequivocal commitment to the introduction of free personal care for all older people. It asked the Executive to announce a deadline by which all personal care costs will be met from the public purse.

Why have the minister and the Government let Age Concern down? Why have the minister and the Government let down the estimated 100,000 people in Scotland who would benefit from free personal care if Sutherland was fully

implemented? Why will the Government not invest the £25 million needed to bridge the gap to meet the personal care costs of all Scotland's elderly people? The Government will have £53 million in its reserves; using half of that would meet the full personal care costs of Scotland's elderly people.

Finally, why does Government prefer to listen to London Labour rather than to the tens of thousands of frail older people living in Scotland who have been let down by the minister's statement?

Susan Deacon: I will deal with the substance of the question rather than with the tired political rhetoric.

In this chamber, not only in this debate but in discussions on every issue, we have heard repeated calls for more, more, more. On health and community care, we have heard demands to do more and spend more on the NHS, community care and the voluntary sector. We have made commitments to additional investment in all those sectors. We will not make commitments when we cannot say how they will be resourced or when they will be delivered.

We want to address the problem that the royal commission report identified—to get to the bottom of what needs exist in our country and to ensure that they are met effectively in terms of a fair and equitable charging system and the provision of services. Many older people need better services. For example, they need action to be taken to tackle delayed discharge. They need support in their own homes, which they are currently not able to get. The measures that I set out in October and those that I have set out today go a considerable way towards addressing those needs. I assure the Parliament that measures that I introduce in future will do likewise.

David McLetchie (Lothians) (Con): In her statement last October, the minister told Parliament that approximately 7,000 to 8,000 Scots had to meet the full costs of their personal care—indeed all aspects of their care costs in residential accommodation. Today, she said that the extension of free care will apply to “many more” older people. I have a simple question for her: how many more and how much of a dent does she intend to make in that 7,000 or 8,000?

Susan Deacon: It is precisely so we can answer questions such as those and deliver on those needs that we are proceeding with the work that I outlined in my statement.

We can meet needs only when they are assessed and identified. The chief nursing officer's report sets out how we can do that—how we can better identify and address the needs of older people with a range of conditions—such as by having a more effective and sensitive way of

addressing those with challenging behaviour, including people with conditions such as dementia.

I repeat that we are taking forward meaningful work on that matter to ensure that we get the right data and information so that we can take informed policy and investment decisions. The development group that I have established is not open ended. It has six months to carry out a focused and much-needed piece of work in Scotland, so that we can address the matter that David McLetchie has raised with the precision with which he wants us to address it.

Mr John McAllion (Dundee East) (Lab): I will ask a question that is not about London Labour, but is about elderly people who live in Scotland.

The minister will know that more than 7,000 people with dementia in long-term NHS care are not charged for any element of personal care. At the same time, more than 30,000 people with medium to severe dementia—either in care homes or at home—are subject to means testing, so they might be charged for personal care. When will all those in the group who are currently being charged for personal care receive it for free? What is the time scale?

Susan Deacon: John McAllion raises an important point. It is worth noting again that many people currently receive personal care free or receive significant support in their personal care costs under the existing means test. The critical difference in what I have set out today is our intention to extend the boundaries so that more people fall within that net, based on need. We will report on the issue in six months' time, through the work that Malcolm Chisholm will lead. We plan to take action on the matters that John McAllion has raised from 1 April 2002—14 months from now.

Dennis Canavan (Falkirk West): Did the minister see Sir Stewart Sutherland's letter to *The Scotsman* yesterday, in which he stated that, to implement the recommendations of his report in full, only an additional £25 million per annum would be required over and above the money that the Scottish Executive had already committed? Does the minister agree that £25 million, which works out at less than 0.15 per cent of the Scottish Executive budget, would be money well spent to ensure a fairer deal for all elderly people and to avoid the accusations that the Executive has been building up false expectations of full implementation of the Sutherland report?

Susan Deacon: I remind Dennis Canavan that we are already spending substantially in excess of the sum that he mentioned. We announced £100 million extra in October. Almost £0.5 billion more is going to the national health service this year and, of course, there have been other increases in the local government spend.

I have seen Sir Stewart Sutherland's letter. The figures available to us certainly differ from those that he has quoted. However, I have something very important to say: Sir Stewart Sutherland, his royal commission, the Executive and I all agree that more work must be done to identify the need that is out there. The royal commission report is based on estimates and mentions the "funnel of doubt" about both current and projected need. We will act on our promises and extend the boundaries of the provision of free care; however, we will do so in a costed, properly assessed and therefore deliverable way.

Dorothy-Grace Elder (Glasgow) (SNP):

Although I know that the Liberal Democrats are genuinely concerned about the situation, I say to them—and the minister—that if they are so concerned they should pull out of the coalition after yet another shabby let-down.

There is a mystery about this afternoon. Although the minister has been facing the pack in the chamber, there is a gentleman at her side—Mr McLeish. We want to hear from the organ-grinder this afternoon, even though we know that the ultimate organ-grinder is in London and his name is Tony Blair. Will the minister stop taking calls from Tony Blair to tell her what to do? Furthermore, will she realise the sorrow felt today by the Parliament's Health and Community Care Committee? The original committee members worked for 10 months on the Sutherland report and produced their own unanimous report—with Labour members very much included—that backed free personal care for all. Does the minister realise that she has personally let down that committee as well as the frail elderly in Scotland, whose concerns are being buried in a time capsule under the floorboards?

Susan Deacon: I take it from Dorothy-Grace Elder's opening remarks that I am the monkey. I will not take offence at that; instead, I will address the points that she has raised.

We have all debated this matter at length in the past—including at First Minister's question time—and I am sure that we will continue to debate it in the future, as we should. However, when we do, we should not try to reduce a complex and important policy area to single demands or to open-ended commitments and aspirations that of themselves do not make a difference to the people we all care about. Today I have set out a radical programme of measures that will make a difference and we will continue to drive that work forward in the months and years to come.

John Young (West of Scotland) (Con): As Winnie Ewing is the mother of the house and I am the father of the house, logically we will both need elderly care before the other 127 members. I have noticed that, when under pressure, Susan Deacon

tends to go pink in the face while Henry McLeish plays with his tie. Both signs are very evident this afternoon.

I have to put my question to Susan Deacon as I cannot put it to Henry McLeish. Will she give us a categorical assurance that Tony Blair, Gordon Brown or indeed any other Westminster minister has not put pressure on her, or particularly on the First Minister, on this matter?

Susan Deacon: It seems that talk of the time of life is rife in the chamber today—perhaps that is why I am going pink in the face. Whatever the case, I am sure that there are many years left in both the mother and the father of the Parliament and that we will hear a lot more from them.

I am pleased to give a categorical assurance that the policy was made in Scotland for Scotland by Scottish ministers elected by the Scottish people to deliver improvements for Scotland's older people.

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): Does the minister understand the huge disappointment that will be felt throughout Scotland at the fact that she has dogmatically set her face against a declaration of intent to fulfil the recommendations of the Sutherland report? Does she also accept the fact that a majority of MSPs disagree with her and want her to go that extra mile?

Susan Deacon: Older people and their families would be disappointed if ministers made statements that did not result in practical change for them. Open-ended commitments alone do not make practical changes, but measures to extend the boundaries of free nursing and personal care will make a difference, as will investment in services. Today's announcement is much more than warm words; it represents hard practical action. I hope that members across the Executive and Opposition parties will welcome the fact that change will come about as a result of the measures that I have set out today.

Mr Duncan Hamilton (Highlands and Islands) (SNP): The minister told John Young not to worry, as today's announcement is not a London let-down but a Scottish let-down. I suggest to her that that does not give much solace to the people who have been let down today. If she cannot tell David McLetchie how many people will be affected by today's announcement, how can she tell us that it is fair and equitable?

Susan Deacon: This Administration gets its principles and priorities right and translates them not into words but into practical action. We have made clear the fact that our principle is to achieve greater equity and we have made it clear that our priority is to assist those in greatest need. Through the resource allocation exercise that the Minister

for Finance and Local Government is overseeing, additional resources will be made a priority and the work that Malcolm Chisholm is doing will match that to need. That is practical politics—the work of Government. Opposition parties may shout from the sidelines; Governments deliver results, which is what we are doing.

The Presiding Officer: As this is an important statement, I have allowed it to run on well over the half-hour period. As a debate in which many members wish to speak follows, we must move on. I apologise to the six members who have not been called.

Proposed Protection from Abuse Bill

The Presiding Officer (Sir David Steel): The next item of business is the committee debate on motion S1M-1392, in the name of Alasdair Morgan, on behalf of the Justice 1 Committee, on its proposals for a protection from abuse bill. As I said, this debate is heavily subscribed and I ask those who wish to speak to press their request-to-speak buttons now.

Tommy Sheridan (Glasgow) (SSP): On a point of order, Presiding Officer. It is necessary to make the point that, although six members were disappointed in the previous debate, one political party has been left out completely.

The Presiding Officer: As always, your point is noted, Mr Sheridan. I try to be fair most of the time and I think that you will find that you are called to speak more often than most members.

15:19

Alasdair Morgan (Galloway and Upper Nithsdale) (SNP): Presiding Officer, I am sorry to have to speak to you from this position in the corner of the chamber and I assure you that that has no bearing on the importance of today's debate.

It gives me great pleasure to present the report on behalf of the Justice and Home Affairs Committee. I came to the committee and this report late in the day and I congratulate the Justice and Home Affairs Committee and its convener, Roseanna Cunningham, on working both well and together. I particularly congratulate Maureen Macmillan, whose suggestion set the committee down the road towards the proposed bill and who acted as reporter for the committee when discussing the proposals with outside organisations and ministers. I thank the officials and officers of the Scottish Parliament and the Scottish Executive who assisted the committee.

Domestic abuse continues to be a major blot on Scottish society. One in four women experience domestic abuse and 25 per cent of all reported violent crime is related to domestic abuse. The law at present does not protect all victims equally. The principal statutory protection afforded to victims of domestic abuse comes under the Matrimonial Homes (Family Protection) (Scotland) Act 1981. That protection does not extend beyond spouses and cohabitants with occupancy rights. Furthermore, the courts have no powers to attach a power of arrest to a common-law interdict. That means that many people who are vulnerable to domestic abuse, including divorcees, are excluded

from the scope of the 1981 act. Women—it is largely women who are concerned—who may have had the protection of a matrimonial interdict with power of arrest lose that protection immediately on divorce, which is often the time when they are most at risk of abuse.

This debate is the first in the Scottish Parliament on a proposed committee bill. The matter was first raised by Maureen Macmillan in August 1999 at the second meeting of the Justice and Home Affairs Committee. There was unanimous agreement that the issue should be pursued because of its seriousness. There was also enthusiasm, even at that early stage in the Parliament's existence, for the committee system to prove that it could, if necessary, progress towards legislation that was not necessarily at the top of the Executive's priority list.

In retrospect, and in scrutinising the *Official Report* of that early meeting, it is interesting that some concerns were raised about how rapidly the matter could be pursued, given the Justice and Home Affairs Committee's other business. Regrettably, although this matter regularly causes harm and distress to people, it has taken us almost 17 months to reach this stage.

The committee took oral evidence from a selection of relevant organisations, including the Family Law Association, the Association of Chief Police Officers in Scotland, the Scottish Partnership on Domestic Abuse, the Sheriffs Association, Scottish Women's Aid and the Association of Scottish Police Superintendents. After that process, Maureen Macmillan, in her capacity as reporter to the committee, held further meetings with the Family Law Association, the Lord Advocate, a representative of the Law Society of Scotland and the Scottish Legal Aid Board. Additionally, we received written evidence from the Department of Social Security, the Scottish Executive and the Scottish Police Federation.

I thank all those organisations for their time. I stress how useful their contributions have been. I hope that members will consider the breadth of opinion that has been canvassed as proof of the work that the committee did in coming to the view that is today before members in the Justice and Home Affairs Committee's report. The original suggestion that the reporter made was for a bill to amend the 1981 act in order to extend protection to victims of abuse who are not currently within its scope. However, it rapidly became clear from the evidence that we took that it would be extremely difficult to extend protection to all those people who require it by means of such a bill.

Amending the 1981 act was the route that the Scottish Law Commission proposed and that the Executive endorsed in its white paper on family

law, which proposes extending the protection that is afforded by the 1981 act to include separated spouses, divorcees, cohabitants and former cohabitants.

In evidence to the Justice and Home Affairs Committee, Scottish Women's Aid, while welcoming those proposals, was, as stated in the committee's report, concerned that

"the focus of the recommendations continues to be the quasi-matrimonial state of the relationship and the 'matrimonial' home. Women not coming into such a definition because they have fled the family home, or have never actually shared a home with their partner must seek orders under different legislation".

We accepted the arguments that amending the 1981 act would require the definition of cohabitee to be extended to include those categories of potential victims who were currently excluded or who were afforded only limited protection, and that, whatever definition we arrived at, there might be scope for legal argument as to who came under it.

We agreed with the Family Law Association that

"it was the nature of the activity, not the relationship between the parties, that was the key issue",

that the focus of our work should therefore be to protect women who are being subjected to abuse, and that women should be entitled to that protection if they can demonstrate that they are at risk.

We then considered formulating the bill along the same lines as the Protection from Harassment Act 1997, under which a breach of a non-harassment order, whether made by a civil or criminal court, is itself a criminal offence. If an interdict granted under the proposed bill were to operate in the same way as a non-harassment order, breach of interdict would automatically be a criminal offence. That would mean that the applicant would not have to apply for powers of arrest to be attached to the interdict or decide whether to take civil proceedings for breach of interdict.

However, we quickly recognised that a possible disadvantage of the suggestion was that it would take the decision whether to prosecute for breach of interdict out of the hands of the victim. The underlying principle is that certain matters are deemed criminal because they offend against the values of society as a whole, and as such are prosecuted on behalf of society regardless of the attitude of the victim of the crime. We were uncertain whether that principle was appropriate in relation to domestic abuse.

Where breach of interdict involves behaviour that is already a criminal offence, such as assault, it is right that the decision to prosecute is one for the procurator fiscal. However, if the breach

involves merely turning up at particular place when doing so is prohibited by an interdict, the proposal might lead to a criminal prosecution that was disproportionate—unwanted by the victim and damaging to any prospects of reconciliation that might still exist. There is also a danger that because the consequences of a breach would be more serious, sheriffs might be more cautious about granting such interdicts in the first place.

The eventual solution at which we arrived was to seek to empower the courts to attach a power of arrest to a common-law interdict to protect individuals at risk of abuse. On the basis of our discussions and evidence taking, we believe that there is broad support for the general principle of that solution.

I will describe how the bill will work in practice. The scheme that will be set up by the bill will make use of an existing common-law power of the Scottish courts: the power to grant interdicts. An interdict is a flexible remedy that the Scottish courts are accustomed to granting to protect individuals from a wide variety of threatened wrongs, and in particular to individuals who consider themselves at risk of abuse from other individuals. Interdicts take many forms. For example, an interdict that is concerned with preventing abusive behaviour may order the alleged abuser to stay away from the applicant's home or place of work; or to stop making phone calls to the applicant; or not to approach the applicant.

The courts have the power to grant interdicts on an interim basis. In practice, an applicant for an interdict can receive a court order in their favour within days or even hours of applying for it. The problem with the present law is that the courts have no power to attach a power of arrest to a common-law interdict, even where the interdict is intended to protect an individual from the threatening behaviour of another person. That means that the police have no power to remove a threatening person who is in breach of interdict by arresting him, unless he has also committed a crime or they do so to prevent an apprehended crime.

The bill will allow individuals who consider themselves to be at risk of abuse to apply to a court to have a power of arrest attached to an interdict or interim interdict. It is then up to the court to grant the power of arrest if it is sufficiently satisfied that the applicant is at risk of abuse from the person against whom the interdict applies. The word "abuse" would include not only physical but psychological abuse. The applicant would be entitled to seek to have the power of arrest attached to an interim interdict. In practice, the applicant would be able to obtain a power of arrest within a short time.

Any individual at risk of abuse will be able to rely on the bill. There will be no requirement to prove that the person against whom the power of arrest is sought is a spouse or cohabitant, or a former spouse or cohabitant. The Parliament will note that one of the committee's main concerns during its investigation was to strengthen the law to protect women at risk of abuse from men with whom they had been in a personal relationship. The bill will address that specific concern, but it will assist others too, such as parents or grandparents of abusers, neighbours of abusive people, or any individual who has been in a same-sex relationship with an abusive person.

Under the bill, where an individual against whom a power of arrest has been obtained acts in breach of interdict, for example, by turning up at a former partner's home if that is the subject of the interdict, the police will have the power to arrest that individual.

Where an individual has been arrested for breach of interdict, but no criminal proceedings are to be taken against him, the next step for which the bill provides is that the alleged abuser is brought before the court. If the sheriff were then satisfied that there had been a breach of the interdict and also that there was a substantial risk of the arrestee again breaking the interdict and causing abuse, the sheriff would have the power to order the detention of the abuser for a further two days.

The person who obtained the power of arrest would in the meantime have the option of deciding whether to proceed with breach of interdict proceedings under existing law. Breach of interdict in itself is not a criminal offence; however, since it amounts to breach of a court order, a breach of interdict is treated seriously by the courts and is treated as similar to a contempt of court. The courts have the power to impose a penalty of imprisonment for that breach of interdict.

I will not describe the process that will follow in Parliament if Parliament agrees the motion. Members can find out about that process in standing orders.

The bill will not solve every problem related to domestic abuse. For example, access to legal aid should be improved and other legal points in other pieces of legislation should also be addressed. However, our proposal is a step in the right direction.

I move,

That the Parliament agrees to the proposal for a Committee Bill under Rule 9.15 contained in the Justice and Home Affairs Committee's 9th Report, 2000 (SP Paper 221).

15:31

The Deputy Minister for Justice (Iain Gray): I am delighted to be able to give the Executive's support to this important proposal from the Justice 1 Committee for a protection from abuse bill.

This debate is a testament to the flexibility and power of our new Parliament and its procedures. Standing orders enable committees to use their expertise to propose bills to the Parliament, as the Justice 1 Committee is doing today, and to develop legislation.

I will digress for a moment. The committee's proposal may not be as modern an idea as we think. Hundreds of years ago, in the previous Scottish Parliament, the Committee of the Articles had the power to frame legislation. However, that ended in tears. As the Crown controlled that committee, it also controlled the legislative programme and, as a result, it was abolished by the revolution settlement in 1690. Indeed, in the face of opposition from William and Mary, its abolition was the first act of the 1690 session of the Parliament.

History will not repeat itself in relation to committee bills. It is worth noting that, in our Parliament, the Justice 1 Committee is the first to start down the legislative road. The subject that it has chosen is important for the welfare of Scottish people, particularly women.

The Justice and Home Affairs Committee spent considerable time gathering evidence, which it considered with care. Maureen Macmillan made a particular contribution to that process as reporter to the committee. Constructive chairmanship was provided by Alasdair Morgan and, as the convener said, by his predecessor, Roseanna Cunningham. In preparation for today, the committee also liaised with the Executive and its officials, which is appreciated.

At the heart of the proposal for the bill lies the concern to help victims of recurring abuse. Alasdair Morgan is right to say that domestic abuse is an intolerable blot—a stain—on our society. This chamber and the Executive have demonstrated before that we will not tolerate it or its apologists.

In November last year, the First Minister and Jackie Baillie announced an £18 million package to provide 300 more refuge places, fund a prevention strategy and support local services. That must be matched by changes in the law.

Over the years, protective measures have been developed, from Lawburrows in 1429 through to the Protection from Harassment Act in 1997. The Matrimonial Homes (Family Protection) (Scotland) Act 1981, to which Alasdair Morgan referred, was quite forward looking in its day.

Each of those pieces of legislation addressed particular parts of the problem, but the gaps in provision have become clearer as society has changed and as our understanding of the problem of domestic abuse has become clearer.

In 1992, the Scottish Law Commission proposed amendments to the 1981 act. The Justice and Home Affairs Committee's report said, quite rightly, that no one disputes the need to amend that legislation. As the convener said, the Executive consulted on those proposals in "Improving Scottish Family Law".

Last September, in "Parents and Children", our white paper on family law, we reaffirmed what needed to be done. Interdicts with a power of arrest should be available to divorced partners and present and former cohabitants; they should therefore be renamed as domestic interdicts. The scope of matrimonial interdicts should be extended to cover the applicant's home and place of work, and the school attended by any child.

Those are important improvements. However, the committee concluded—I think quite rightly—that there are some people whom the 1981 act cannot reach, even with those amendments.

The committee has taken an innovative approach, and one that we applaud. It is right not to suggest trying tortuously to fit its proposals for interdict into the 1981 act. Its proposals will achieve more than reform of the 1981 act alone would ever have been able to do. That does not mean, however, that reform of the act is unnecessary. Our proposals to amend the act are complementary to the committee's proposed bill; they are not in competition with it. The committee's report recognised that. The Executive's proposals will provide an important protection in line with the needs of families in Scotland today.

We published our white paper while the committee was working up its report, but we were not able to indicate the timing of our legislation. That is still the case. Indeed, it is more than likely that, if the Parliament approves the committee's proposal, the committee's bill will reach the statute book earlier than any other way of amending the 1981 act. I think that all members would agree that it is crucial that we act with maximum speed to keep our laws against domestic abuse up to date.

The proposed amendments to the 1981 act and the proposed committee bill are further complemented by our proposals to strengthen the law on harassment, as announced in this chamber last week. That too requires a legislative vehicle to allow the attachment of a statutory power of arrest to a non-harassment order. In the debate on stalking and harassment, Jim Wallace suggested that, if the committee agreed, the protection from abuse bill might provide the most immediate

legislative vehicle.

For the same reason, we have, in correspondence, suggested to the committee that its bill might also be extended to amend the 1981 act along the lines that we suggested in "Parents and Children". I recognise that there may be procedural difficulties in that. The scope of the bill would have to be wide enough to accommodate the extra provisions. There might well have to be a supplementary or amended report from the committee, and the committee might feel the need to take further evidence—although I would hope that that might be minimised by the extent of its previous consultation, the Scottish Law Commission's consultation and the consultation on "Improving Scottish Family Law", which led, of course, to our white paper.

We appreciate that the extra provisions would mean extra work for the committee and its officials. However, the work would be to an important end, and could be based on much work that has already been done by the Executive and the Scottish Law Commission, whose report contained draft sections that should give a foundation to build on. We would, of course, be happy to provide whatever assistance we could to the Parliament and the committee, if they were willing to take that course.

It would have been more straightforward if we had been able to make this proposal while the committee was taking evidence. However, only recently has it become apparent that the quickest way forward on this is likely to be with the committee's bill rather than Executive legislation.

I hope that the committee will be prepared to widen its proposals to accommodate modernisation of the 1981 act, not as an alternative to but as an addition to the measures in the report. I look forward to further discussions with the committee on this issue, either in today's debate or on a later occasion.

In any event, I am very pleased to confirm the Executive's support for the report and to commend the excellent legislative proposals that it contains.

15:39

Michael Matheson (Central Scotland) (SNP): I, too, welcome this afternoon's debate—a debate that is historical in the short history of this Parliament. The Justice 1 Committee is the first of the Parliament's committees to introduce such a proposal in its own bill.

As a member of the former Justice and Home Affairs Committee, I know that the past year has placed considerable demands on its members and staff. It has had a large and varied legislative programme to deal with. That legislation included

the Adults with Incapacity (Scotland) Act 2000 and the act that caught everyone's imagination, the Regulation of Investigatory Powers (Scotland) Act 2000. Although that legislation is important, it had to compete with the committee's need to consider wider issues such as the issue that we are discussing today. It is all credit to the committee that it was able to consider some of those wider issues over the past year.

From its earliest meetings, the Justice and Home Affairs Committee recognised that there was a need to provide greater protection to women vulnerable to domestic abuse. The committee report and the evidence accompanying it shows the extent of consultation undertaken since September 1999 and that evidence was taken from a wide range of organisations. There were times when the committee became a little too preoccupied with other things and over-excited about the Regulation of Investigatory Powers (Scotland) Act 2000 and other bills, so that it lost focus on the issue. If it had not been for Maureen Macmillan's persistence in bringing the issue continually to committee members' attention we might not have got to the report and the debate today.

Initially, the Justice and Home Affairs Committee thought of amending the Matrimonial Homes (Family Protection) (Scotland) Act 1981 and that powers of arrest should be attached to matrimonial interdicts. However, that act is more concerned with conveyancing and occupancy rights than it is with family law, so, as others have said, it would have been very difficult to have introduced the changes needed by amending it. Additionally, that act excludes a large number of people because it defines the group to which it applies as cohabiting heterosexual couples who are joint owners of a property or have a joint tenancy.

Those concerns were highlighted in evidence by Louise Sharp of Scottish Women's Aid, who explained that women have no entitlement to occupancy rights under the 1981 act but must go to court to get a declarator of occupancy rights. That process can take 12 weeks and in that period that woman cannot receive protection under the present provisions. Given the level of domestic abuse in our society, there is a real need to ensure that the proper legal protection is given to individuals. Thankfully, it is a responsibility of the Scottish Parliament and, to date, the Parliament has shown willingness to listen and to act on domestic violence.

The figures on domestic abuse in Scotland are revealing. From February 1988 until August 2000, nearly 29,000 domestic disputes were dealt with by Strathclyde police. Those figures show the range of relationships that people may be involved in when abuse takes place. Of those cases, 25 per

cent concerned married couples, over 30 per cent those living with a partner, 18 per cent boyfriend-girlfriend relationships, 17 per cent ex-partners and nearly 9 per cent ex-spouses.

The protection afforded under the 1981 act does not extend beyond spouses and cohabiting couples who both have occupancy rights. That means that a woman in need of protection while a divorce is going through will lose the rights that she may have had under the 1981 act and become even more vulnerable once that divorce goes through. When she is at her most vulnerable the act fails to protect her. Domestic violence does not recognise relationship definitions, marriage certificates or the individual's location or gender. It is necessary therefore that the protection available to people in abusive, or potentially abusive, relationships does not recognise those distinctions.

However, the failings of the present 1981 act go yet further, as has been highlighted by the Scottish Law Commission, which said:

"If a woman who is the owner or tenant of a house cohabits there with a man who is not owner or tenant, and he begins to be violent towards her, she cannot obtain the protection of a matrimonial interdict unless he has applied successfully for occupancy rights",

which, in an abusive relationship, he is unlikely to do. The act as it stands also leaves out vulnerable groups that could be subject to abuse, such as single-sex couples or the extended family of grandparents.

Concern regarding the present limitations of the legislation as it stands has been expressed not only by those agencies that work with victims. It has been expressed by the police, the people who are responsible for dealing with what can be the front line of domestic violence incidents. They have highlighted that at present the legislation does not take into account the complexities of modern-day relationships.

The committee considered the possibility of amending the 1981 act and it is clear, from previous comments, that that is not a route to be taken. It was summed up by one individual who gave evidence and said that to try and amend the 1981 act would be a nightmare. The committee has come to the right conclusion, which is to bring forward its own bill.

However, we should recognise that the effectiveness of the bill will be achieved only when we also ensure that there is proper access to legal aid. The committee report highlighted the fact that there are many difficulties in accessing legal aid. When the Family Law Association gave evidence, it highlighted those cases where it had sought an order to protect someone who had been subject to domestic abuse, and had failed—often as a result

of not obtaining legal aid, rather than because of a weakness in the case.

In addition, the length of time that it can take for cases to be processed by the Scottish Legal Aid Board has acted as a deterrent to victims of abuse from pursuing their cases. I hope that the minister will seek to address that in considering the bill.

The SNP is pleased to support the Justice 1 Committee's proposal for a protection from abuse bill.

The Deputy Presiding Officer (Patricia Ferguson): I call Phil Gallie to open for the Conservatives.

Phil Gallie (South of Scotland) (Con) *indicated disagreement.*

The Deputy Presiding Officer: I am sorry. There has been a change. I call Lyndsay McIntosh to open for the Conservatives.

15:48

Mrs Lyndsay McIntosh (Central Scotland) (Con): Thank you, Presiding Officer, and my apologies for the confusion.

Although the proposal for a protection from abuse bill was the brainchild of Maureen Macmillan, she generously allowed the members of the Justice and Home Affairs Committee to adopt the baby—not via the internet or for a fee—because she believed that there was ample room for improvement or amendment to current legislation. The other members of the committee did not need much convincing. Early in the life of the Scottish Parliament, the marker was put down that domestic abuse was a subject in need of investigation. The name and membership of the committee may have changed, but the commitment has not. It is through Maureen Macmillan's dogged determination and conviction that the proposal is being debated today. Should the Parliament approve the proposal, it will be to Maureen's eternal credit. I am sure that Mr Morgan, the convener of the Justice 1 Committee, will welcome contributions from the members of the new Justice 2 Committee.

The subject of domestic abuse has been debated in the chamber on several occasions and I have participated in all those debates. Usually, the press gallery is either empty or sparsely populated.

Christine Grahame (South of Scotland) (SNP): It is empty today.

Mrs McIntosh: No, there are two people up there.

Why is the press gallery so empty? Is something happening elsewhere? Are we touching a raw

nerve or invading the comfort zone of the people who report our dealings in the chamber? It could be anything—I do not know.

However, we certainly generated enough heat to see unprecedented all-party support for action on domestic abuse. I do not propose to rehearse all the previous debates, but I wish to say at the outset that I felt a deep sense of satisfaction and achievement when I saw the television campaign highlighting domestic abuse that was screened over the festive season. The advert—if it can be described as such—was arresting, and I hope that it has encouraged women who are living under the threat of domestic abuse to come forward. More than that, it will have occasioned many to think about the figures that are portrayed in it—one in five women are affected by domestic abuse. Who are they? Are they friends or acquaintances? Are they people with whom we come into contact on a daily basis? None of us knows for sure, because as the song in the advert says,

“no one knows what goes on behind closed doors”.

It has been a great campaign, and I congratulate those who are responsible for it.

The anti-smoking Stinx campaign is another stunner of an advert. Who would have thought that a song for the Health Education Board for Scotland would have been released as a single? Hell, it could even pay for itself in a year or two. Is that what is meant by the new deal for the unemployed?

From its second meeting, the old Justice and Home Affairs Committee concentrated some of its time on considering the provisions and effects of the Matrimonial Homes (Family Protection) (Scotland) Act 1981, and focused on the right to occupy the home and the protection that the act afforded in the form of exclusion orders and matrimonial interdicts. Although the legislation was well intentioned, research and changes in domestic arrangements have shown that the act does not serve us well. There was too much differentiation between those who were married, divorced or cohabiting.

Now we tend to think less in terms of the position in law, and more in terms of human decency. The distinction has been blurred over the passage of time. What we do know is that women have suffered cruelly through the lack of protection. Matrimonial interdict with the power of arrest falls after divorce. Research shows that that is the time when women may be most at risk, with the degree and severity of abuse often escalating as hurt pride and vindictiveness increase.

Sadly, that violence can result in death, and like me, members will be shocked to learn that half the female homicides in Scotland are committed by former and current partners or spouses. Paul

Martin and Kay Ullrich highlighted the case of Marilyn McKenna in our debate on stalking and harassment on 11 January. To that example, Scottish Women's Aid, from which the Justice and Home Affairs Committee took evidence, added the names of Kerry Anne Thomson and Frances Walsh—three women in the space of a year, and all because we could not provide adequate protection.

One of the greatest difficulties has been accessing civil legal aid. It has proved to be too expensive for the majority, at a time when they are struggling hardest to survive. I can say this with a fair degree of knowledge, that I have heard many a two-cop BOP—two-cop breach of the peace—or theft trial in my capacity as a justice of the peace, and it is fair to say that most of the accused were defended with the assistance of legal aid. It is also fair to say that most, following a guilty verdict, were found to have been serial offenders, so it grates with me that women who are abused have found it so difficult to access civil legal aid. Loss of liberty against loss of life—there is no contest.

It would be iniquitous to concentrate solely on the evidence of Scottish Women's Aid, compelling though it was. The evidence of the Association of Scottish Police Superintendents highlighted the difficulties with the existing legislation for those who are in the front line.

Dr Winnie Ewing (Highlands and Islands) (SNP): On the question of legal aid, of which I had a lot of experience at one time, when the Scottish Legal Aid Board came before the Justice and Home Affairs Committee, did anyone suggest to it that it might solve the problem if in such cases it was required to give a decision within a particular period?

Mrs McIntosh: No, I do not believe that that question was asked, but I am sure that others would wish to consider it.

Our police officers usually are first on the scene at incidents of domestic violence, and it is they who are left to explain the deficiencies to victims and pick up the pieces. The Association of Scottish Police Superintendents strongly supports the proposal, which would make the job of protecting women from abuse and deterring others from committing it considerably easier.

The Family Law Association also supports the proposed bill. Experienced practitioners often encounter difficulties in obtaining instructions from their clients, particularly for proceedings for breach of interdict. Time is critical, and in the legal profession, time is money. At present, solicitors may be reluctant to provide emergency legal aid cover, in case the applicant receives nothing beyond interim interdict and does not apply for legal aid. The arrangements for emergency legal

aid may involve a contribution from the applicant, which the solicitor requests before he or she acts.

Time precludes me from saying much more. I hope that other members will highlight the evidence that the Justice and Home Affairs Committee heard about the cost of domestic violence, the research in greater London and Glasgow and the experience of other nations.

The Scottish Conservatives think that there is a definite need for the proposed bill. We would like victims to be treated more coherently, so that they are not forced to remain in an abusive situation. The proposal is an enormous responsibility that could impact on hundreds, if not thousands, of lives. We must bear it in mind that children were present at 42 per cent of the 4,549 domestic incidents that police attended in the first year of a women's safety initiative.

We must rise to the challenge and introduce a bill that fully addresses the issues that have been identified. Equality of access to the system of protection is fundamental, and an element of consistency in penalties is essential. I hope that Parliament sees fit to support the proposal.

15:57

Euan Robson (Roxburgh and Berwickshire) (LD): Today's debate is a milestone for the Scottish Parliament, because it is the first occasion on which the chamber has discussed a proposal for a committee bill. That is a new constitutional development, as there is no such power at Westminster.

Twenty years ago, I visited the late First Minister in his somewhat crowded office in a well-known law firm in Glasgow. We discussed the newly established select committees at Westminster. Donald Dewar told me that he wanted the committees to scrutinise policy as well as performance and that they might initiate legislation in the longer term. As far as I am aware, that has not yet happened at Westminster. Here, we realise that aspiration today. I am sad that Donald Dewar is not among us to witness that moment in the Parliament.

I thank the witnesses who appeared before the Justice and Home Affairs Committee and I thank the clerks to that committee, who did much work. Michael Matheson paid appropriate tribute to them, and I support his comments. I also thank Maureen Macmillan, whose efforts Lyndsay McIntosh mentioned. I congratulate Maureen on her persistence in raising the issue when, as Michael said, the Justice and Home Affairs Committee was perhaps distracted in the midst of legislation.

It would be more than surprising if I did not

welcome the proposal, as I was a member of the Justice and Home Affairs Committee. I am pleased to commit my support and that of my party to the proposed measure. Those of us who heard the evidence about the problems of domestic abuse were determined that something should be done to start to remove those terrible stains on our national life.

The evidence that Scottish Women's Aid gave on 8 September has stuck with me. I will quote a passage in our report, which sets the context for today's proposal:

"One in four women experience domestic abuse".

That figure is not from Scottish Women's Aid, but from the British Medical Association.

Twenty-five per cent of all reported violent crime is related to domestic violence. In 1995, 27 per cent of incidents of wounding and common assault were defined as domestic violence. In the past 10 years, almost half the female homicides in Scotland were committed by the woman's partner or spouse—both current and former. Those figures inform today's proceedings.

As was masterfully explained by Alasdair Morgan, the committee considered three possibilities for enhancing the protection of those who suffer abuse.

Phil Gallie: I am interested in the statistic that half the women who have been murdered in Scotland have died at the hands of a close acquaintance. Can Mr Robson say what percentage of all murder victims are women?

Euan Robson: I do not have that figure to hand. I was simply alluding to the fact that of female homicides, almost half were committed by a close relative. I see that Mr Gallie has some statistics with him.

To return to the theme, three proposed routes were considered. Alasdair Morgan masterfully described why we chose the route that we did. Paragraphs 25 to 40—and especially 30—of the report set out the reasons cogently. What is perhaps not reported in the committee's deliberations is that the police welcome the committee's proposals and would like, on occasion, the power to be able to remove from the scene a person causing a disturbance.

The Executive has proposed valid amendments, which could well be incorporated in the bill. We are minded to support a supplementary report to the Parliament at a later date so that that can happen. The delay in assisting sufferers of domestic abuse in the form that the committee has recommended would be more than compensated for by the speedier introduction of the other measures that the Executive commends.

I reiterate points that have been made on legal aid. It is extremely important that the provisions of the committee's bill—whatever shape it finally takes—must not be thwarted by difficulties with legal aid. It was made clear to the Justice and Home Affairs Committee that primary legislation is not required to make changes that would bring about and facilitate an easier application process and a redefinition and simplification of the rules, to allow the development of greater access to civil legal aid. It is important that the Executive acts on those proposals in due course.

I welcome the proposal and signal our acceptance of Executive amendments, if any are lodged at a later date.

The Deputy Presiding Officer (Mr George Reid): The earlier statement ran on by 15 minutes; we have to conclude the open part of the debate by 16:29, so speeches must be under four minutes.

16:04

Maureen Macmillan (Highlands and Islands) (Lab): The committee first accepted my proposal way back in September 1999. In retrospect, it is a bit like a soldier going off to the first world war—I thought that it would all be over by Christmas. Here we are, 18 months later, and we have got the matter into the chamber at last.

I wish to speak about the importance of the proposed legislation and the difference that I believe it will make to the lives of the many people who are being abused and intimidated, and have no real redress. Today's proposal could save lives.

The Matrimonial Homes (Family Protection) (Scotland) Act 1981, which was widely welcomed by those who worked with women who had experienced domestic violence, was landmark legislation because it gave abused women the power to have a violent husband excluded from the matrimonial home. The power of arrest that was attached to the interdict gave teeth to the exclusion.

Why, then, are not all abused partners sitting safe in the family home while the abuser is kept at bay by the law? Unfortunately, the act did not anticipate that, in the course of time, many couples would choose to cohabit rather than marry. The last thing that couples think about in that situation is their occupancy rights to the home in which they live. Because at present occupancy rights determine whether a person can have the full protection of the law, both parties must have occupancy rights to activate an interdict with powers of arrest.

Too many people who do not have occupancy rights find themselves abused. Divorcees find that

their abusive partner, who no longer has a right to live in the former marital home, can continue to harass, but cannot be arrested for breach of interdict. That time is one of the most dangerous for a woman who has divorced an abusive husband, because she has no sanction to keep her ex-partner away. Unfortunately, there are cases where women have lost their lives in such circumstances. The police can make an arrest only once a crime is committed, but that crime is too often serious assault or even murder. As Lyndsay McIntosh said, the police made it clear in their evidence that they would welcome an extension of powers of arrest to keep women safe.

Abused women, married or not, often leave home as the result of a crisis, sometimes running for their lives. They do not want to return to the marital home. They want protection from abuse, not occupancy rights. That is also a dangerous time for them.

It is not, by the way, my experience that the abusive partner will harass a woman at a women's refuge. Rather, he will seek her out at the local shops, outside the school or wherever she is rehoused, and that can go on for years. We need legislation that will protect women in those situations.

I am well aware that it is not always men who are the abusers and women who are abused, nor do I think that abuse occurs only in a married or cohabiting situation. A woman can abuse a male partner. A woman can abuse her mother. A partner in a same-sex relationship can be abusive. A grandson can abuse his grandfather. A couple who do not live under the same roof, each having their own home, can contain an abuser. The permutations might be infinite. We need legislation to cover all such situations.

I thank the clerks, who have given me enormous support in my role as reporter. I also thank the bodies and individuals that gave evidence to the committee and to me, and helped me through the legal maze. I am proud to have played a part in this first committee bill, and I thank the other members of the committee, past and present, for their support. I commend the proposal to Parliament.

16:08

Mr Gil Paterson (Central Scotland) (SNP): Like every member in the chamber today, I welcome the work of the Justice and Home Affairs Committee, and Maureen Macmillan's and the Executive's persistence in giving such a high profile to domestic abuse.

One in five women suffer from domestic abuse and it is estimated that they will suffer an average of 35 attacks before seeking help. It is at that

point—the point at which they have found the strength to do something about their situation—that we must give them the support and protection that they need and deserve. We have all come to realise that the law as it stands is inadequate. It is based on a society in which marriage is the norm, and it fails to provide continuing protection after separation or divorce. We need to change the law so that it will offer protection to victims.

I echo what Michael Matheson said: domestic violence has no boundaries and no protocols and it reaches outside marriage. Domestic violence is not stopped by divorce or separation. At the moment, the interdict ceases to be valid after the couple have divorced. However, between 40 and 60 per cent of women continue to be abused by their former partner after divorce or separation. More than a third of women who have been abused by their partner were no longer living with their partner when the abuse occurred.

The law as it stands is outdated and inadequate. I am glad that, in its consideration of the options for a protection from abuse bill, the Justice 1 Committee has chosen to go down the path of a new, more general bill, rather than choosing to amend the Matrimonial Homes (Family Protection) (Scotland) Act 1981.

The groups that gave evidence to the Justice and Home Affairs Committee have been, on the whole, positive about the move to a more general, encompassing law. However, I want to raise a couple of points. Perhaps the Justice 1 Committee or the minister will comment on whether they could be considered within the bill.

First, I seek an assurance on the time that the process will take. A protection from abuse bill would mean that victims of abuse would have to apply once for an interdict and again to have the power of arrest attached to it. I would like the time between the two, when the victim is most at risk, to be reduced, or it might even be possible to work the two in together—I am not sure about that. Secondly, as always, we are on the first step of the ladder. We should not become complacent in any way. The matter should be dealt with.

Tackling domestic abuse is an on-going process. I encourage the Executive again to go the distance.

16:11

Pauline McNeill (Glasgow Kelvin) (Lab): Congratulations are due to the architects of the committee structure on creating standing orders that allow the committees of the Parliament to initiate legislation. Credit for the subject matter is due to Maureen Macmillan, who first brought the matter to the attention of the Justice and Home Affairs Committee and the public.

I still remember the moment in the evidence-taking session in committee when we all felt that an idea was in the making. It was like a blinding flash of the obvious. As other members have said, we began by trying to amend the Matrimonial Homes (Family Protection) (Scotland) Act 1981, which is a general civil act. However, under it, the police have no role except if a crime is committed. The act deals in the main with occupancy rights for married persons and has an interdict with power of arrest. That power of arrest, which gives the interdict its teeth, simply falls on divorce. It is therefore a narrow provision.

The committee wanted to find a way to give a power of arrest for women on divorce and attach it to the interdict. As Maureen Macmillan said, that created the opportunity to widen the scope of the provision to other people—cohabitees, gay couples, children and so on. I think that we all agree that the status of a relationship cannot determine the strength of the protection in the law.

The key difficulty was trying to define cohabitees, whom we wanted to protect without having to define cohabitation, as many cohabitees do not want to be bound by the obligations of marriage. Wading through the evidence on that led us to believe that it would be too difficult. We slowly began to wonder whether it would be possible to consider a completely different section of the law so as to avoid having to define relationships, to allow the facts of a case involving abuse where there is a relationship to be brought before a sheriff, and to allow for the provision of a power of arrest.

We also examined the Protection from Harassment Act 1997, which has a provision to apply for interdict but, crucially, does not have the power of arrest. One of the problems with the act is that it is fairly new. I have dealt with at least one case in which the police had no record of the interdict. Furthermore, the woman concerned paid £500 for the interdict, yet had no protection.

We must consider how our law will look as a whole in future. The 1981 act will still be there, as amended, possibly by the Executive. The 1997 act will exist as it is, or might also be amended to include the power of arrest. There might also be a domestic abuse bill, which has been talked about today, and, of course, a breach of the peace bill. If we get all that right, there will be quite a lot of protection in the law and the Parliament will have achieved a great deal.

The work that the Scottish Executive has done on domestic abuse is commendable. This is a crucial moment—we are saying publicly that we are no longer allowed to refer to domestic abuse as a “domestic”; it is a serious situation that we will deal with.

I want to raise two practical issues. First, we are asking sheriffs in the criminal justice system, and in the justice system in general, to consider the circumstances in cases that are brought before the courts. We need to ensure that we get that right. We do not want to weaken the legislation at the point when the sheriff is deciding whether or not he or she will attach the power of arrest. We might need to do some preliminary work with sheriffs to ensure that they know what is expected and what the parameters are. The issue was raised by Lyndsay McIntosh.

The same goes for the police, who have been supportive of the measures. They must ensure that response times are quick enough, because the bill's aim is to ensure that people get protection, and they need the power of the police.

Finally, we must examine legal aid. Women who are the victims of crime cannot be asked to pay an unaffordable price.

16:15

Bill Aitken (Glasgow) (Con): There are two general approaches to dealing with the problem. One is criminal, the other civil. It is worth pointing out that if the criminal justice system was working properly, people involved in this sort of conduct would have long since been locked up or otherwise prevented from behaving in an outrageous manner—bearing in mind Gil Paterson's point that such people are often repeat, if not habitual offenders.

At present, the Matrimonial Homes (Family Protection) (Scotland) Act 1981 deals with the civil approach to domestic abuse by providing the opportunity to apply for exclusion orders or interdict. That act is, obviously, fatally flawed and very weak because of the absence of a provision for powers of arrest. The advantage of the bill presented today is that it would enable powers of arrest to be attached to a specific order once it was made.

I will raise a number of points for consideration in the months ahead. I recognise that the appropriate committee has done a lot of work already, but there is much more to be done.

There must be consideration as to whether the powers of arrest attachment should be automatic. There are compelling reasons why it should be, but on balance, my recommendation is that it should not be automatic because each case must be considered on its individual merits.

Christine Grahame: Power of arrest being attached is a serious thing. Perhaps, in the interests of justice, the new bill should allow the defender, through his agent, an opportunity to be heard before a power of arrest is attached. Does

the member agree?

Bill Aitken: I am just coming to that. At present the system provides for two hearings: first, an application on an ex parte basis for the granting of a general order. Thereafter, there is the secondary aspect of the powers of arrest. At that stage, after having heard the opposing arguments from the other side, the sheriff will grant a cause shown.

I submit that there is a difficulty. Usually, it is women who are involved, and at a vulnerable stage in their lives. I wonder whether there is a way in which the system can be accelerated and the two hearings dealt with simultaneously. I put that idea into the pot.

The advantage of the integrated information system is considerable. A complainer will no longer have to telephone the local police office to tell the police that she has obtained an order. They will know because the clerk of the court will have informed them.

There must some flexibility in respect of time limits. The Conservative party suggests three years, subject to increase on application. One must recognise that human relationships are many and varied and there must be some recognition that reconciliation is possible, although how that can be achieved when one party is specifically prohibited from contacting the other is not clear.

At present, legal aid applications in all matters take an inordinate length of time. Something must be done to expedite the process. I suggest that it should be possible for legal aid to be granted at the bar of the court when an application for powers of arrest is urgent. That would be similar to what was available in criminal courts until comparatively recently.

I put those ideas to the Justice 1 Committee for consideration.

16:19

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): As has been pointed out, this is the first formal proposal for a committee bill to come before the Scottish Parliament. It is fitting that the measure aims in a meaningful way to extend the protection of the law to people who are victims of domestic abuse and violence. I congratulate committee members on the decision to proceed with the bill as a committee bill.

I decided to speak today not only because I wanted to congratulate the committee on a much-needed reforming measure, but because I wanted to raise an issue that is too often neglected when we examine domestic violence.

I am pleased by the way in which both the Parliament and the Scottish Executive have given

priority to social justice. Social justice is not only about eradicating poverty; it is about ensuring that no one from our society is excluded, or feels excluded, from our economic, political or judicial systems.

The Scottish Executive's social justice annual report, which we debated in the chamber, proclaims on its front cover

"a Scotland where everyone matters".

How right that is. I labour the point because we must be careful that, in trying to put right injustice or to break down social exclusion, we do not inadvertently create a new injustice or an atmosphere in which others feel excluded.

I am referring to the language that is used in much of the Justice and Home Affairs Committee report. No one can doubt that the people who suffer most from domestic abuse are women. The proposals will do a great deal to alleviate the suffering and distress of many women in Scotland. However, that is part of the problem, if I may put it in that way—women are not the only section of society who suffer from domestic violence. We must be careful—especially in a Parliament so dedicated to the practices of equal opportunities and equal treatment for all our citizens—not to create, however inadvertently, an atmosphere in which a section of our community feels excluded.

I was dismayed to see that, in the first six pages of the report, discriminatory and sexist language is used on 12 occasions—only on three occasions is non-discriminatory language used in those pages. It is easy to use non-discriminatory and inclusive language, if we try. Indeed, such discriminatory language almost disappears in the proposals on pages 6 to 11 of the report. I wonder out loud whether that is due to the drafting abilities of the clerks—if it is, I congratulate them. However, I say "almost disappears" because we find such language even in the proposals. Paragraph 34 of the report quotes the evidence that Anne Smith gave to the committee. It says:

"It may be effective for legislation to specify that the court has the power to say that the man cannot go into certain areas other than the home' (col 174)."

Christine Grahame: I am sorry that Mr Rumbles has got that flavour from the report. If I may say something for my happy old committee, the Justice and Home Affairs Committee did not consider matters in a sexist fashion. What Mr Rumbles has read out is a quotation from someone who gave evidence to the committee; it is not our view. He is using Anne Smith's words, not the words of the committee.

Mr Rumbles: I do not want to get into the detail, but paragraphs 4, 11, 12, 13, 16, 17, 19 and 24—and I could go on—contain such language.

I am not making a debating point; the issue is deadly serious. How we use language in the legislative process is crucial in the drive to create a socially just and inclusive society. A socially just and inclusive Scotland is an important Liberal objective and the committee bill proposal is a good step towards achieving that objective.

I ask committee members to ensure that, in their good work on the bill, the language that they use in the legislative process is clearly inclusive and not exclusive. Only then can we help to create, in the words of the social justice annual report,

"a Scotland where everyone matters".

16:24

Trish Godman (West Renfrewshire) (Lab): I, too, welcome this first committee bill. I hope—and I am sure—that it will not be the last.

I speak not as a member of the Justice and Home Affairs Committee—or, indeed, the Justice 1 Committee—but as someone who has worked with women who have been abused and as an ex-justice of the peace on Glasgow District Council. It is not easy to seek an interdict. The person is usually seeking an interdict on the father of their children, or their partner, and it is hard to take that first legal step. Women who seek an interdict rightly face stringent tests if they want to exclude their partner, because they are seeking to exclude someone from what is perceived to be their own home. The process must be reasonable and just.

I am sure that many members who were not on the committee were unaware that some interdicts do not include the power of arrest for any breach of the interdict. That was news to a lot of the abused women who came to me. They took out interdicts and, when the abuser turned up and the interdicts were breached, they phoned the police only to discover that there was no power of arrest. All that the police said was that the man had to be removed. The women felt that that was unhelpful and that the policeman—and it usually was a man—was being unhelpful because he was man. The proposed bill will change that situation by providing a power of arrest that is an enforceable and effective part of an interdict. To me, that is common sense.

However, I have a wee question about the definition of abuse. A footnote in the report says that the definition should include psychological as well as physical abuse. I understand and support the inclusion of physical abuse; however, although I understand and agree with the inclusion of psychological abuse, I have a slight problem with how the courts will interpret the phrase. Perhaps I will receive some guidance on that matter.

The first step is that the power of arrest will be

extended to include former spouses of divorced people; the extension of occupancy rights will allow cohabiting women to have that power if they ask for it.

I have found that 28 days is not long enough for a full application for legal aid. Some women are under too much stress and strain to go through the process, especially given the number of forms that must be filled in when an application is made. That whole situation must be re-examined. As for costs, I agree that women should not pay if they do not have the money upfront when they first visit a solicitor.

We should also consider the reform of enforcement. Although the police have the discretion to arrest, that discretion rests on a police officer's subjective view.

Finally, and most important, the ethos behind the bill must be protection for its own sake, and not because of property ownership or the kind of relationship that someone is in. It is of paramount importance for society to protect people who are being abused. I urge members to support the bill.

The Deputy Presiding Officer: We have two minutes left in this part of the debate. If Sandra White wants them, she can have them.

16:27

Ms Sandra White (Glasgow) (SNP): Thank you kindly, Presiding Officer; I will do my best to keep to two minutes.

I congratulate Maureen Macmillan on her tenacity and the committee on listening to her and seeing the matter through. Although I had comments on various parts of the bill, I will confine my remarks to interdicts, which form the fairest and most important way of proceeding with the proposals.

Members have welcomed the fact that the proposed bill will mean that more people will have protection from abuse. However, unless the bill includes provision for interdicts, it will not have any teeth and will not reach the people whom it is supposed to reach.

Trish Godman mentioned the powers of the police. I ask the minister and the committee to examine that issue carefully in connection with interdicts. If the bill allows the introduction of interdicts, it will proceed more positively.

The Deputy Presiding Officer: That ends the period of open debate. I apologise to Elaine Thomson, for whom time ran out, and I call Nora Radcliffe to close for the Liberal Democrats.

16:29

Nora Radcliffe (Gordon) (LD): This very welcome bill will plug the gap in legislative protection between actual assault or breach of the peace and provisions under the Matrimonial Homes (Family Protection) (Scotland) Act 1981. Although that act could have been extended to cover couples that it excludes, such as separated, divorced, unmarried or same-sex couples, that would have given no protection to members of the extended family such as parents, cousins or siblings.

The bill comes at the problem from a different angle and focuses on the violence or threat of violence to the person, not on the nature of any relationship that the victim has or has had with the person threatening violence. That represents an welcome and important leap; it is the crux of the bill.

Allowing a sheriff to attach the power of arrest to a common-law interdict based on an assessment of the risk of violence to the applicant gives a degree of flexibility downstream, which is important in fragile, difficult and sensitive circumstances. It also allows the proportionate response that is required for compliance with the European convention on human rights, as the Lord Advocate noted. Use of the Matrimonial Homes (Family Protection) (Scotland) Act 1981 will still be more appropriate in some circumstances, although I hope that, to meet equality requirements, the Executive will redefine what in law constitutes a couple. Without having to legislate, the Executive could also ensure that legal aid was more accessible. I hope that the bill will provide for the Minister for Justice's proposals on non-harassment orders, which would mean that the orders are enacted much sooner than they would otherwise have been.

The fact that Maureen Macmillan and the committee have been able to produce the proposed bill and bring it to the chamber relatively quickly demonstrates how effectively the Scottish Parliament can work. Speed is important, as each day is measured in misery. I am glad that progress is being made with the bill and, on behalf of the Parliament and all the people who will have good cause to bless her in time to come, I congratulate Maureen Macmillan on the effectiveness of her hard work and thank her and all who have helped her.

16:32

Phil Gallie (South of Scotland) (Con): This is the fourth or fifth debate that we have had on domestic abuse. Perhaps that demonstrates the importance of the issue. I believe that this debate is the most important of the ones that we have had on the subject, because something positive will

happen at the end of it.

The support for the bill is merited, given Maureen Macmillan's directness on the issue. She has set out clear aims and objectives. The fact that they are fairly simple is one of the attractive features of the bill.

Alasdair Morgan said that one in four women experience domestic abuse. Jackie Baillie said that one in five do. More important, she said that one in 10 women who experience domestic abuse suffer death. I find those figures hard to explain, but I take her word for them and assume that she can back them up. It is strange, however, that a Home Office report suggests that, south of the border, 4.2 per cent of both men and women suffer domestic abuse—that is one in 25. If all those figures are correct, that suggests that Scotland has a greater problem than England and Wales do. That must give us all cause for concern and it is an indictment of our society.

Mike Rumbles made his points bravely—I know the dangers, particularly in committee, of pointing out the fact that this issue embraces both sexes. I take his comments on board, as I am sure the committee will when the bill is in its final version.

Alasdair Morgan: Does Mr Gallie accept that the references that were made earlier from the first part of the report were quotations from evidence that was given to the committee?

Phil Gallie: I accept that and well recall comments that were made in committee. Indeed, we could pick up on some of the comments that have been made today. Trish Godman's comments were heavily oriented towards the impact of domestic abuse on women. We have to take note of Mike Rumbles's words—we ignore them at our peril.

Trish Godman: Will the member give way?

Phil Gallie: I do not have time.

Iain Gray gave us a lesson in history and I welcome the fact that he said that the Matrimonial Homes (Family Protection) (Scotland) Act 1981 was forward looking. I must point out that the act was Tory legislation and that most of the bills that were passed during the 18 years of the Tory Government were forward looking.

The minister suggested that we could amend the bill so that it covered harassment. I am totally opposed to such an amendment, because the bill's simplicity is important. We should stick with that and get the bill through. However, although the harassment issue is different from the matter that the bill deals with, if something simple could be done to include harassment in the bill, I would be inclined to give some support to it. When the Justice and Home Affairs Committee considered the Protection of Wild Mammals (Scotland) Bill, it

had reservations about some of the provisions for licensing. If it is easy to take those provisions out of that bill, it might be easy to add a section on harassment to this bill.

Lyndsay McIntosh gave full reasons why the Conservatives will back the bill. She and Pauline McNeill referred to Strathclyde police, whose change in attitude I welcome. Pauline McNeill referred to the old idea whereby people said, "It's just another domestic." That attitude no longer exists among the police.

The bill will be a powerful weapon for the police. It will also be a powerful tool for the courts, if they have the opportunity to implement the eventual act. I would like them to implement it, even if that has the negative effect of increasing the prison population.

16:35

Christine Grahame (South of Scotland) (SNP): I practised obtaining and resisting matrimonial interdicts as a civil legal aid lawyer. I congratulate Maureen Macmillan on her efforts. I do not want to steal her thunder but, at the very first meeting of the Justice and Home Affairs Committee, I raised the prospect of a committee bill on domestic violence. She, however, has the hearty backing of many women in the Parliament in her attempts to deal with domestic violence.

It was high time that something was done. The Matrimonial Homes (Family Protection) (Scotland) Act 1981 is more than 19 years old; it is way past its sell-by date and is no longer effective in dealing with the changing relationships within families. Its main aim was to protect occupancy of the matrimonial home, whether that was rented or bought. Trish Godman was right to say that the act focused on property rather than on people, although the aim was indeed to prevent the man from throwing the woman out.

Johann Lamont (Glasgow Pollok) (Lab): Will the member inform us how many times she pursued such interdicts on behalf of men? Does she agree that society does not acknowledge the pattern that it is largely women who are being abused in the circumstances that we are discussing? This is not just about people not being very nice to each other in a house. Should we not try to change people's attitudes?

Christine Grahame: I cannot give Johann Lamont a categorical answer to her first question; it was just to do with how the instructions arrived. I would act on behalf of a client without taking into account whether they were a man or a woman. I represented mostly women, but that simply reflects the proportion of people who came into my office.

Pauline McNeill raised a point about harassment legislation. I am not clear about this, so perhaps the minister can tell us how often the legislation has been used. I suspect that it has not been used very much for parties who have been harassed, which is why we need to create other legislation.

I mentioned the importance of changing domestic situations. It was Maureen Macmillan, I think, who pointed out that the abuse or harassment does not always take place in the home, but can happen at school, at a supermarket or when a woman or man is visiting friends—it can happen anywhere. We have to be careful and ensure that, when someone obtains a common-law interdict, the terms of that interdict are extremely specific. The subject of that interdict must know what they are prevented from doing.

The current problem with the common-law interdict, which is available to people who are not married, is that, if there is a breach, a separate action has to be raised. That is cumbersome; it takes a long time and does not resolve the problem. That is why bringing the power of arrest to ordinary interdicts is so important.

I say to Bill Aitken that interim interdicts are granted before the service of the writ—that is the whole point. There is no hearing, except that the pursuer's solicitors seek the interdict from the sheriff on cause shown. The interdict is then served and it is effective from that moment. As quickly as possible thereafter, a second hearing is offered to obtain an interim order for continuing the interdict and to get a power of arrest attached. That takes care of the requirement under the ECHR—an issue that was raised by Nora Radcliffe—for the defender to have a hearing, as would also be the case under the proposed bill.

I am rushing, as I have only a couple of minutes left, but I have a number of ancillary issues to raise. Legal aid is a nightmare both for the practitioner and for the victim who comes into a solicitor's office. The last thing that the victim wants to speak to their solicitor about is getting statements from the Scottish Legal Aid Board within the 28-day deadline following the granting of emergency cover. They do not want to be asked about their finances when, first, that will be the last thing on their minds and, secondly, they may not be aware of the state of their finances. In the middle of the chaotic mess that their lives may be in at the time, money may not be coming their way from a partner or spouse and they may not even be receiving social security benefits. They might be living from hand to mouth, yet they still have to fill in a form that has to be signed. The system is chaotic and has to be examined. People used to receive emergency legal aid and pursue it on cause shown without having to do everything within a deadline. Perhaps we should turn back

the clock.

In my experience, the police, certainly in Edinburgh, try to do their best when someone has an interlocutor—an order of the court—with a power of arrest attached. However, there have been occasions on which, even though the power of arrest has been properly intimated at police headquarters and to the local police, the police have turned up at my client's house to ask what the court order said. It hardly gave my client comfort to learn that the police did not know what the order said, even though the agent had taken all the proper steps.

We have to examine response times—10 minutes can be too long if someone has a violent partner outside the house. In such circumstances, people simply do not call the police, because 10 minutes is too long.

I congratulate Maureen Macmillan and my former committee on the proposed bill. It shows the Parliament at its best—it shows how we can respond to concerns that have been raised outside the Parliament. It also shows that the committees are the future of the Parliament.

16:41

The Deputy Minister for Social Justice (Ms Margaret Curran): This has been a significant debate. To start where Christine Grahame finished, I say that it marks a milestone in the development of the Parliament. It is to the credit of the entire Parliament that committees can introduce such bills in an atmosphere of innovation. We have great hopes for the committees. In my previous role, I was very committed to the efforts of the committees. I know the kind of work and commitment that lies behind the proposed bill and I know the contribution that committees can make. Committees can affect not just the process but the outcome; they can have a direct impact on Scottish lives.

I pay tribute to Alasdair Morgan and Roseanna Cunningham for their efforts and for the direction that they gave to the Justice and Home Affairs Committee; indeed, I pay tribute to all the members of the committee. Although I was not a member of that committee, the energy and passion that there has been for this subject among all committee members is apparent. However, I am sure that no one will complain if I, like everyone else who has spoken, single out Maureen Macmillan. I have known her for many years, during which time we have participated in the debate on domestic abuse. She is tenacious and courageous—I look forward to her discussions with Mike Rumbles. The proposed bill is a tribute to her dedication and commitment. I do not make a party political point, as I know that many other

members have shown similar commitment, but it is to her enormous credit that she has delivered.

There is cross-party agreement that there should be no occasions on which help is denied simply because the threat comes from someone who is not a spouse or cohabitant or because the threat has not been repeated often enough. The case for the bill has been well made, and I congratulate all committee members on their work.

The Executive would like to take the opportunity to amend parts of the proposed bill, if the committee will allow us to do so. I welcome the position that Euan Robson, who I see is no longer in the chamber, has taken, and I am sure that we can persuade others of the case for amendment. The process would be reasonably effective and speedy. Our aim is to speed up the enactment of certain measures and make lives better, rather than to delay the committee process.

I hope that it is a sign of open government that we are indicating that our bill would take longer than anticipated. As there is an opportunity to improve and offer protection to important people, I hope that the committee will afford us that opportunity. Obviously, that is a matter for the committee. We hope that we can negotiate with it and assist it in this matter. We know the changes to the law that the bill can introduce. We believe that, if we are given the opportunity, we can make the bill respond appropriately to the needs of many women.

I return to my original point on parliamentary process. The creation of the Parliament had wide support throughout Scotland. Many organisations that were not particularly animated politically saw the Parliament as a vehicle for the delivery of real change. Certainly, many of the women's organisations with which I worked were very committed to the Parliament for that reason. I urge members of the committee to look sympathetically on our proposals, which I think will meet the needs of those individuals and organisations that would like us to take every opportunity to maximise change to the law as speedily as possible.

I want to reply to two points in particular. The first was made by Gil Paterson. As I understand it, one of the advantages of the 1981 act is that a woman who gets an exclusion order can have a power of arrest attached to an interdict without having to attend a second hearing. Indeed, the court must attach a power of arrest where it makes an exclusion order. Where there is no exclusion order, there is a special procedure under rules of court for a hearing within seven days of the interdict. That issue is perhaps a matter for the committee, which could seek a similar time limit in the bill or in the rules of court. I understand that the latter would involve liaison with the Sheriff Court Rules Council.

Secondly, I will deal with what Mike Rumbles said. I am not one to duck an argument if an argument is going on, as he well knows. We have had a reasonable exchange of views, although those views are different. In fairness, I think that he has done the committee an injustice, as all committee members made it abundantly clear that the proposed bill would be de facto gender neutral and would assist all sorts of people in different relationships and in different settings. His comments were unfair to the committee.

Mr Rumbles: I would be absolutely delighted if that were the case. My point is that the proposed bill should be gender neutral. I did not participate in the Justice and Home Affairs Committee's meetings, but I read its report thoroughly—it is on that that I based my comments. I talked about the impression that the report gives.

Ms Curran: I understood that Mike Rumbles's argument was that the committee used sexist language—that is his definition—by referring to women rather than to people. I understand why the committee got the evidence that it did—we must all make an attempt to understand that. The point to which Johann Lamont alluded was that the vast majority of people who work in this area work with women; I say to Mike Rumbles categorically that that is why they described the experiences of women.

Mr Rumbles rose—

Ms Curran: I ask Mike Rumbles to bear with me and allow me to finish my point. In 93 per cent of the cases in which the sex of the victim was recorded, the victim was female. [*Interruption.*] I ask Mike Rumbles please to bear with me. Equally, in those cases in which the perpetrator's sex was recorded, 93 per cent of the perpetrators were male. Incidents involving a female victim and a male perpetrator represented 92 per cent of all incidents of domestic abuse where that information was recorded.

Mr Rumbles rose—

Ms Curran: I ask Mike Rumbles to bear with me and to listen to my point. Then I will let him back in.

The Deputy Presiding Officer: No, minister—you are on your last minute.

Ms Curran: I was about to tell Mike Rumbles that the Scottish Executive has commissioned research to examine male abuse. If there is a problem that we are not understanding, I would be the first—[*Interruption.*] We have commissioned research to look into that issue and we will give Mike Rumbles the results of that research. However, he cannot deny the gender-based nature of domestic violence in Britain. I am sure that the debate will continue, but we must pay

attention to that point.

I want to address the broader questions. Domestic abuse is on all our agendas. We have the “National Strategy to Address Domestic Abuse in Scotland” and an action plan, which we are already implementing. As Lyndsay McIntosh said, we have already announced the £18 million of extra funding, part of which funds the “Behind Closed Doors” campaign. I am pleased to note that that campaign is having some effect.

We are considering how to develop effective and affordable ways of getting advice to victims and of enabling victims to access the courts where necessary. I understand that the Justice 1 Committee is considering legal aid; the Executive will respond to that inquiry, and to the many points about legal aid that have been made, when the committee produces its report.

We must be vigilant and protect all victims, but we must also be careful that the breadth of coverage of the proposed bill is not used oppressively. We can restrict a defender’s liberty no more than is necessary for the protection of the victim.

We earnestly hope that the legal system and the courts will do their best to assess threats accurately and to play their proper part in deterring abusive behaviour.

The problems that have been raised in the debate are not straightforward. During the recent debate on stalking and harassment, Jim Wallace promised that the Executive would work with the police and the director of judicial studies to ensure that all those who deal with those problems have proper training and advice.

Across the Parliament and across all parties—from individual members and cross-party groups to committees and the Executive—there is a commitment to tackle domestic abuse. We know that the issue is varied and complex and that it demands varied and complex responses. I hope that the Executive proposals will assist the committee, whose members I congratulate.

Lyndsay McIntosh said that she was depressed by the fact that members of the press never attend such debates, which never get the attention that is due to them, despite the real commitment of all members of the Parliament. Maureen Macmillan said that the proposed bill will save lives: that is a better target than attracting headlines. The committee and Maureen should take the credit that they deserve for today’s debate.

16:50

Gordon Jackson (Glasgow Govan) (Lab): I would like to thank all members who have taken part in this debate. This is an issue on which there

is great consensus. As Phil Gallie will agree, the Justice and Home Affairs Committee was the home of consensus.

We have been working on this issue for a long time now. On 31 August 1999 Maureen Macmillan introduced the proposal to extend the scope of interdicts under the Matrimonial Homes (Family Protection) (Scotland) Act 1981. We were concerned to increase protection from abuse and, ever since, we have been conducting inquiries, taking evidence and writing reports. It would be wrong of me not to add my voice of thanks to the tributes to Maureen for what she has done.

Alasdair Morgan has already told the chamber that we are considering a number of options. In the context of what the Executive wants us to do, I want to emphasise that point. It is worth repeating that we began our investigation by considering whether to amend the 1981 act. We wanted the legislation to provide protection for a greater number of people. At the moment, spouses and people who are defined as cohabitants can apply for an exclusion order to do with the home. They can get an interdict to prevent their former partner from engaging in abusive or offensive conduct. To that can be attached the power of arrest, so that, if there is a breach, action can be taken.

The committee agreed on the necessity of the power of arrest as a remedy against threatened abuse. We immediately thought, “Let us widen the 1981 act.” We considered widening the definition of cohabitant. However, we became conscious that doing so would not be without complications. I think that it was Anne Smith who, in her well-thought-out evidence, used the word “nightmare”. We concluded that we were missing the fundamental point. Protection should be for anyone, man or woman. It should not be just for partners, but should be for anyone who is at risk. It should not be dependent on providing evidence of a particular kind of relationship.

As Alasdair Morgan described, we then considered working along the same lines as the Protection from Harassment Act 1997, so that a breach of a court order would be a criminal offence. We decided not to go along those lines. Doing so would put the decision into the procurator fiscal system, rather than into the hands of the person who is being abused. On balance, we thought that that was wrong. Not every situation ends with parties separating. Sometimes, happily, there is reconciliation. We did not want to do anything that could hinder that.

We therefore decided that the simple thing to do would be to add the power of arrest to any common-law interdict. As long as a test, which will be carefully formulated, can be satisfied, the power of arrest can be attached.

I have been looking back over the evidence that we took to find out how we came to make that decision, and it seemed to come as we floated ideas to witnesses almost like a stream of consciousness.

Christine Grahame: The blinding flash that Pauline McNeill referred to came from Sheriff Wilkinson of the Sheriffs Association, who put us on the simple path that Gordon Jackson is talking about. I can remember the moment.

Gordon Jackson: I am sure that that is right. Every time that the idea was suggested, everyone went, "Hey, that's a good idea." Whether it came from the sheriffs, or Anne Smith, or the chief police officers, it was well received. We thought that a committee bill could achieve what we wanted to achieve.

The proposal is simple. A common-law interdict of any kind can, in theory, providing a test is satisfied, have a power of arrest. The sheriff will decide on the likelihood of abuse or danger and, if satisfied of risk, will put the power of arrest in place.

In that context, I would like to mention two things that have been said in the debate. Gil Paterson spoke about time gaps. In reality, some time gap before the power of arrest is granted is absolutely unavoidable. However, the interim interdict will be granted immediately, so there is some protection from the first moment. It will normally take a week before a power of arrest can be put in place. Perhaps that could be shortened, but some time gap is legally impossible to avoid.

I am certainly not going to fight with Mike Rumbles about gender—we have had that argument before and we have had enough of it. I emphasise that the bill will be gender neutral, so we can put minds at rest on that.

I have only four more minutes in which to deal with the difficulty that we now have, which is what to do about the Executive's proposal to add amendments to the Matrimonial Homes (Family Protection) (Scotland) Act 1981 to the bill. I am not unsympathetic to that and I think no one in the Parliament would have difficulty with the content of the proposed amendments. However, adding them to the bill raises two questions. The first is about delay. We cannot ignore that problem. I am the last man to be melodramatic, but delay in bringing the proposed act into force could be a matter of life and death for someone. Having said that, there might not be a huge problem of delay. Looking quickly through the evidence to the Justice and Home Affairs Committee I see that the issues were very largely dealt with in it, so we would not have to start from the beginning in looking at the Executive's proposals. Shona Smith of the Family Law Association dealt with widening the provision

to other cohabiting couples and said that that should be done as a matter of urgency.

The second question is whether the amendments are necessary. The 1981 act is not the answer; it never could provide the solution that the bill we are discussing would. If I may boast on the committee's behalf, the great value of what we have done is that we have found a very simple solution to a very complex problem. It is a lesson that often the best solution to complex difficulties can be a very simple one.

On the other hand, I accept that we are not superseding the 1981 act and that there will be occasions when it will still be the appropriate means to prevent abuse, particularly when there are other matters of matrimonial property to be dealt with. There is a great deal of good and no harm in amending that act, but it is less clear that amending it is necessary and that it is worth delaying the bill to do so. Even as a lawyer, it is not clear to me what a person in danger of abuse could do using an amended 1981 act that they could not do using the existing legislation plus the bill we are now proposing. I have been racking my brains all afternoon to think of one benefit that amending the 1981 act would give, over and above what we are proposing.

Although I have no committee mandate to suggest it, I think that the Justice 1 Committee should look at what the ministers want but that the Executive should not take our response for granted. Margaret Curran said that what is being suggested will "improve and offer protection"—I suppose she meant greater protection. The Executive will have to make a case for that. I do not think that we are unfair to ask for that—it is for the Executive to show what advantage is gained by amending the 1981 act, over and above what we are now proposing. I am open to an answer to that question but I do not yet see it.

The Justice and Home Affairs Committee worked very hard during the inquiry and so did its staff. I pay tribute not only to the members of the committee for the way we dealt with it, but to the committee staff and clerks for the tremendous help that they gave.

We examined all the possibilities and we have come up with something that will really help victims of abuse. In doing so we have shown what the committee system of the Parliament can do. We have come up with a very simple but wonderfully effective solution. I commend the report and the proposed bill to the chamber.

Parliamentary Bureau Motion

The Deputy Presiding Officer (Mr George Reid): We come now to consideration of Parliamentary Bureau motion S1M-1582, in the name of Tom McCabe, on the designation of lead committees.

Motion moved,

That the Parliament agrees the following designations of Lead Committee—

the Justice 1 Committee to consider the draft Legal Aid (Scotland) Act 1986 Amendment Regulations 2001;

the Justice 1 Committee to consider the draft Advice and Assistance (Assistance by Way of Representation) (Scotland) Amendment (No 2) Regulations 2001; and

the Justice 2 Committee to consider the draft Number of Inner House Judges (Variation) Order 2001.—[*Tavish Scott.*]

Decision Time

17:00

The Deputy Presiding Officer (Mr George Reid): There are two questions to be put as a result of today's business.

The first question is, that motion S1M-1392, in the name of Alasdair Morgan, on the Justice 1 Committee's proposal for a protection from abuse bill, be agreed to.

Motion agreed to.

That the Parliament agrees to the proposal for a Committee Bill under Rule 9.15 contained in the Justice and Home Affairs Committee's 9th Report, 2000 (SP Paper 221).

The Deputy Presiding Officer: The second question is, that motion S1M-1582, in the name of Tom McCabe, on the designation of lead committees, be agreed to.

Motion agreed to.

That the Parliament agrees the following designations of Lead Committee—

the Justice 1 Committee to consider the draft Legal Aid (Scotland) Act 1986 Amendment Regulations 2001;

the Justice 1 Committee to consider the draft Advice and Assistance (Assistance by Way of Representation) (Scotland) Amendment (No 2) Regulations 2001; and

the Justice 2 Committee to consider the draft Number of Inner House Judges (Variation) Order 2001.

The Deputy Presiding Officer: That concludes decision time at a remarkably early hour.

Points of Order

17:01

The Deputy Presiding Officer (Mr George Reid): There is a point of order and, strangely, it comes from the Presiding Officer.

The Presiding Officer (Sir David Steel): It is unusual for me to raise a point of order, but members should be made aware that one of the parties gave me notice, a very short time ago, of a change of the motion for the second debate tomorrow. I am not obliged to tell members of that change, but I think it is only courteous to do so, as otherwise members will see the change for the first time in tomorrow's business bulletin.

Under standing orders 8.6 and 8.7, I have no option but to select that motion for debate and it will be on the Sutherland report. If I understand it correctly, the change is to the second motion to be debated tomorrow. I am looking at the SNP business manager and he is nodding agreement. I confirm that that is correct.

Bill Aitken (Glasgow) (Con): On a point of order, Presiding Officer. Could you share the wording of the motion with the chamber?

The Presiding Officer: I do not have the motion in front of me.

The problem is that the motion that the Parliament approved for tomorrow's business simply said "Scottish National Party Business". The choice of the business is therefore a matter for the SNP.

The Minister for Parliament (Mr Tom McCabe): On a point of order, Presiding Officer.

The Presiding Officer: I will finish my point before I take your point of order, Mr McCabe.

The first motion that was lodged has been withdrawn. Therefore, I cannot select it and there is a gap in the programme. A second motion has been lodged. That is in order. Under standing orders I must select the second motion. It would be helpful if someone could provide me with a copy of the motion. I am looking hopefully at the SNP members. Perhaps someone will fetch a copy of the motion while I listen to Mr McCabe's point of order.

I ask members who want to hear the points of order to sit down and listen.

Mr McCabe: On a point of order. Presiding Officer, I recognise that you are bound by the terms of the standing orders; however, there are two substantial points that I am duty-bound to make, on behalf of—I hope—the majority of the

Parliament.

First, the SNP has not attempted to convey to me or to other parties its intention to change the business to be discussed in Parliament tomorrow. Secondly, the SNP would be the first to complain if Labour or another party behaved in such a manner. To say the least, it is a severe discourtesy to the Parliament. If the Executive parties decided to behave in such a way and to take advantage of standing orders, the Parliament would be thrown into chaos daily. We have no intention of doing that. However, I should make it clear that if members are interested in the orderly conduct of the Parliament's business, such behaviour is entirely unacceptable.

Michael Russell (South of Scotland) (SNP): On a point of order, Presiding Officer. Although I am no longer the Scottish National Party's business manager, I am sure that the motion is winging its way to the Presiding Officer. Sir David, you are correct to say that the change to the motion is within standing orders. Nothing that has been done is contrary to standing orders. Mr McCabe, of all people, should recognise that politics is a fast-moving business.

The Presiding Officer: I will respond to Mr McCabe's comments first. In my capacity as chair of the Parliamentary Bureau, let me say that I would like the bureau to discuss the matter on Tuesday at our next meeting.

I now have a copy of the motion, which reads:

"To move that this Parliament, while welcoming the further package of proposals to improve care for the elderly announced by the Minister for Health on 24 January 2001, notes that it is the policy of the Liberal Democrats, SNP, Conservatives and others to introduce free personal care for the elderly as proposed in the Sutherland Committee Report and calls on the Scottish Executive to make a similar clear, firm and unequivocal commitment together with a definite timetable for its implementation."

That is the wording of the motion that has been substituted for the previous motion.

Dennis Canavan (Falkirk West): On a related point of order, Presiding Officer. Is there anything that you can do to stop the Minister for Parliament trying to bully the Presiding Officer of the Parliament and challenging his decisions?

The Presiding Officer: That remark was unfair and, anyway, Mr McCabe does not bully me.

Karen Gillon (Clydesdale) (Lab): On a point of order, Presiding Officer. I seek clarification on how, on behalf of their constituents, democratically elected members of this Parliament will be able to lodge amendments to the motion.

The Presiding Officer: Amendments can be lodged in the normal way. I think that you have until 5.30 pm to lodge amendments. I am sorry, I

correct what I said. Amendments can be lodged up to the point of the debate. Can we now proceed?

David McLetchie (Lothians) (Con): On a point of order, Presiding Officer. In response to Mr McCabe, you said that you wish this matter to be discussed by the Parliamentary Bureau. I point out that we have seen two examples—today and last week—of instances where what people understood to be informal conventions in the operation of the Parliament no longer apply. We need to examine in the wider sense some aspects of standing orders to ensure fairness to all parties in the chamber, including the Executive.

The Presiding Officer: That is absolutely correct, and it is in that spirit that the Parliamentary Bureau ought to consider this matter.

Museums and Galleries (Glasgow)

The Presiding Officer (Sir David Steel): The members' business debate is on motion S1M-1334, in the name of Pauline McNeill, on funding Glasgow's museums and galleries.

Motion debated,

That the Parliament is disappointed that Glasgow's museums and galleries were left out of the new funding for the arts announced on 2 November 2000; considers that the omission of support for Glasgow in arts funding disregards Glasgow museums' "special circumstances" as outlined in the Scottish Executive's National Cultural Strategy; believes that Glasgow City Council's cultural, social inclusion and educational strategy is second to none in Scotland; notes that the city's museums are the most visited in the UK outside London and that Glasgow holds the greatest civic collection in Europe, all of this being funded by the council tax payers of Glasgow, and calls for the inequity in funding of museums in Scotland to be redressed and the east-west divide in arts funding to be ended.

17:07

Pauline McNeill (Glasgow Kelvin) (Lab): First, I thank the Parliamentary Bureau for selecting this motion. It could not be more timely, as there have been lively discussions on this subject recently. Secondly, I am sure that I speak for many Labour Glasgow MSPs on this subject. I am grateful for their support and that of others who signed this motion.

What is the motion all about? Glasgow has 14 museums and galleries, eight of which are in my constituency: Kelvingrove Art Gallery, which has the highest number of visitors to any gallery outside London; the Gallery of Modern Art, or GOMA; the Museum of Transport, which has the highest number of visitors to any museum outside London; St Mungo's Museum; Fossil Grove; the McClellan Galleries; and the Lighthouse. Members will see why I feel obligated to raise this issue tonight.

It is incredible that Glasgow's collections and exhibitions have attracted more interest than those in Manchester, Birmingham, Liverpool and all the major English cities. That says something about the history of Glasgow as a centre of culture throughout the ages and the commitment of consecutive council administrations that have continued to preserve and invest in our city.

The director of the National Gallery in London has rated Glasgow's collections as one of the greatest civic collections in Europe. Surprisingly, none of Glasgow's galleries is designated a national gallery, so they do not attract the type of funding that goes with that status. Edinburgh, on

the other hand, has three national galleries with the status that attracts national funding and recognition and they are part of the UK national galleries network. On the face of it, that is not fair.

Glasgow's 10 museums, which attract more than 3 million visitors, hold works of great national importance. They are funded with more than £16 million from Glasgow City Council, some of which comes from hard-pressed council tax payers. Anyone can see why there is a need for Glasgow MSPs to raise this matter directly with the Executive. It was disappointing to hear November's announcement that Glasgow had been left out of the new funding arrangements, despite the evidence of its need and popularity.

On national status—I am addressing Allan Wilson, the Deputy Minister for Sport and Culture—Glasgow is simply making the case to the Executive that there are special circumstances, which are accepted by the Executive and referred to in the national cultural strategy. We implore the minister to act soon to give Glasgow the special status it deserves.

Glasgow would prefer to continue to manage its galleries and museums—it has successfully done so—but it is unfair that Glasgow's council tax payers should continue to fund the most visited galleries in Scotland without any commitment from the centre.

I am sure that when the minister replies he will say that there will be new expectations of those who manage galleries and museums in Glasgow, but that is to be welcomed. We should examine in depth how our museums and galleries can more imaginatively sell our assets abroad, to schools and to others. Glasgow School of Art is a major European attraction and contributor to world art. There is no escaping the fact that Glasgow is the unofficial centre of art in the UK.

What are we doing all the work for? A Government that believes in social justice—as we do—is nothing if it does not recognise that we have much work to do in arts and culture. The approach taken by Glasgow's director of cultural and leisure services, Bridget McConnell, has a most refreshing attitude to our goals in local government, where we manage the country's arts and treasures. The strategy should involve not simply selling our investments abroad, but creating in our own back yard the conditions that encourage more people to enjoy the facilities. Art is not only for the professional classes, but for everyone.

Admission remains free. I hope that it stays that way. Liz Cameron, the convener of the cultural and leisure services committee of Glasgow City Council, is to be commended for the work that she has done. I know that there have been positive

discussions with the Executive recently and that progress has been made.

Some of the buildings and priceless collections are crumbling. Staff numbers are shrinking in the jobs that need them most, especially those in education. I know that the Executive is aware of that.

Glasgow's assets are to be audited as part of the museums audit. That is to be welcomed. A wider review of all museum funding will be undertaken. We all support that. Progress is being made already, but we will not go away until the unfairness is truly addressed.

17:12

Michael Russell (South of Scotland) (SNP): I congratulate Pauline McNeill on securing the debate. She raises an issue of considerable importance to Glasgow and Scotland. The Glasgow collections are some of the finest in Europe. They have usually been well managed and they are eclectic. Much material has been drawn together, most importantly in the Burrell collection, which is the most extraordinary magpie collection that one could want to see.

The museum sector in Scotland has enormous difficulties. As the minister will no doubt say, Glasgow museums must be considered in that context. We have not developed the right structures to preserve the artefacts and the items that are held in a range of collections.

How do we safeguard and support the collections in Scotland? That question is not primarily about buildings. Sometimes, we get hung up on buildings and do not look far enough into the collections they hold. From the day it was announced, I supported the idea of developing a national audit. I do not think that that has moved far enough or fast enough. A national audit implies that there is a national collection. A range of items exists that it is probably the responsibility of the Scottish Government, in partnership with many bodies, to protect, preserve, exhibit and share with the communities in Scotland.

Pauline McNeill is right to say that the items are not hidden away or there because they are there. They should live and be accessible. People should learn from them and celebrate and enjoy them. We must move towards having a national collection that is held in partnership. In Glasgow, the partnership is skewed against the local authority and the people of Glasgow, who meet a disproportionate part of the cost. The cost-sharing arrangements must involve a better partnership. Relationships are skewed in other places, as several museums must meet high costs and hold items that are of national significance, because they exist in Scotland, as well as international

significance.

The long-term solution is to establish a national collection that is held by a range of partners. Some precious items can be in only one place. For example, Brownsbank—Hugh MacDiarmid's cottage near Biggar—holds a valuable collection of the items with which MacDiarmid surrounded himself in the last years of his life. It would make no sense to hold the collection anywhere else in Scotland because its particular significance is that it is in the cottage in which he and his wife lived in their declining years. There are items like that in the Glasgow collection; there are other items that, from time to time, it might be wise to share more widely round Scotland and the world.

The difficulty with the national cultural strategy is that we are not moving fast enough or far enough. There are good parts of the museum sector that are falling out of national significance because they are not being supported. There is a risk in Glasgow—a risk that I am sure will be avoided, but which it is wise to point out—of damage to collections, of access closures and of a decay in the value it can put on its collections and its museums because it cannot support them financially.

I hope that the minister will say what the vision is of the national collection, of the partnerships that he hopes will take place and of the finance—regrettable but essential—that will be necessary to sustain, build and develop the national collection. The funding of museums in Scotland is historically low. We have the problem in the Royal Museum of Scotland that neither the exhibits nor the exhibitions are being renewed quickly enough. Museums are a big challenge—a challenge that I enter into in the spirit of supporting what is being done and perhaps speeding it up a little. I am sure that that is what we all feel, because there would be nothing worse than finding that what we hold precious is dying and decaying before our eyes.

17:16

Robert Brown (Glasgow) (LD): As Pauline McNeill said, this is a timely and useful debate—she is to be congratulated on securing it. The first thing to say is that Glasgow is not just another Scottish city; it is Scotland's largest city and central to Scotland's image. Along with Edinburgh and other places, it is a major magnet that attracts visitors to the country. Glasgow's museums and art galleries have a unique ethos that reflect the social and political history and the milieu—that is a good word—of the city.

Glasgow's museums and galleries are well patronised. They offer free access to local people and the millions who are so important to our economy. That is reflected in the council's cultural

and leisure service's key objectives, which include

“enhancing and promoting the City's national and international image as a creative, cosmopolitan city—a centre for arts and sporting and cultural excellence.”

Such objectives are easy to spew out and they appear in many documents, but nobody can deny that Glasgow's collections—in Kelvingrove and the Burrell, for example—are of national importance. As Mike Russell said, they are based on the city, on the council and on how they have been collected.

An interesting aspect of the collections is that although there are items of importance throughout the country, they cannot be divorced from their local context. I have some qualms about the idea of a national collection as opposed to collections. It would be almost impossible to distinguish a definitive list of items that are national, as opposed to regional or local.

Glasgow supports its art collections from a financial base that is inadequate for the job. The city is pressed by the extent of its social problems and by the need to provide regional—and in this instance national—services. While that is reflected to some degree in the level of Glasgow's central Government grant, the national museums, which are primarily located in Edinburgh, receive £14 million in direct financial support. Glasgow receives more support for leisure and recreation through its grant-aided expenditure, but that is broadly proportional to the population base it has to support. In effect, Glasgow's collections do not receive specific support for their national status.

As Pauline McNeill and Mike Russell said, the audit is a mechanism for making progress. We could consider the idea of recognising the national significance of certain collections and designating them appropriately. In that way, we could open access to central funding. I have heard it said of Glasgow that there are more items of importance in basements and stores than are exhibited in the museums. I think that that is correct. This issue has an air of elitism and being above the level of the average person, but it is important and reflects the aspirations of the city and the spirit of the Scotland we are trying to promote.

It is important that the city is given proper support. Its collections must be seen in a national context. I hope that the Executive is able to respond positively to an issue that, by the end of today's debate, will have attracted wide-ranging, cross-party support. I hope that there will be some action on this problem. I support Pauline McNeill's motion.

17:20

Bill Aitken (Glasgow) (Con): Pauline McNeill is quite correct to highlight the status of Glasgow's

museums and to lodge the motion so that we can debate this issue. There can be no doubt that Glasgow's museums bear favourable comparison with those of any comparable city in Europe.

I am not above making some criticism of my former colleagues in Glasgow City Council—

Michael Russell: Nor they you.

Bill Aitken: Nor they me, I am sure, but I am not above making some criticism of how my former colleagues have run the museums. They have at times shown a tendency towards the esoteric. Glasgow's Gallery of Modern Art was, I think, a gallery too far by any standard.

Glasgow is entitled to look to the Scottish Executive for some assistance for a number of reasons. Glasgow's metropolitan status has never been recognised in the level of grants. Those of us who come from Glasgow know that the vast majority of the visitors who cross the thresholds of our museums are not Glasgow citizens and are not committed to paying council tax in Glasgow. Glasgow's museums are also a tremendous tourist attraction. We could see that even before 1990, which was Glasgow's year as city of culture. Year in, year out, the museums attract a lot of tourists and a lot of revenue to Scotland as a whole. That should and must be recognised.

I have no wish to stir up any east-west divide, but there can be no doubt that specially favoured status with regard to grants in cultural directions appears to apply to the east coast of the country. The Executive should look at Glasgow's situation with some sympathy.

In summing up the debate, the Deputy Minister for Sport and Culture may criticise Glasgow City Council for being one of the few that does not charge for entry to its museums and he might suggest that that could be a way of remedying the lack of revenue. He may or may not take that line; it will be interesting to hear what he says. It would certainly be a tragedy if there were any withdrawal of access to those worthwhile museums.

Glasgow needs some help in this respect. The people of Glasgow, and indeed Glasgow City Council, need a leg up. They are supporting, with few resources, a museum service that would be the envy of anywhere else in the United Kingdom and doing so against a backdrop of considerable economic disadvantages. I appeal to the minister as candidly as I can, and as calmly as one must in a debate of this type, to examine the situation and see whether any assistance can be forthcoming.

The Deputy Presiding Officer (Patricia Ferguson): Several members still wish to speak. I can accommodate all of them if they limit their comments to just under four minutes.

17:23

Janis Hughes (Glasgow Rutherglen) (Lab): I congratulate Pauline McNeill on securing this topical debate, which allows us to express views on an important matter. It is easy to approach the debate by wondering just why the funding of Glasgow's museums matters; surely Glasgow has more pressing priorities. Well, yes, it has. We have spent many hours in this chamber and during our time in Glasgow discussing such matters and I hope that we spend many more hours in future doing just that. The Parliament has demonstrated a commitment to the national cultural strategy, which is demonstrated nowhere better than in the museums of Glasgow.

It is crucial that Glasgow does not lose out on funding for its museums. As we have already heard, they are among the best in this country, if not Europe or the world. As a Glaswegian, I hate to say this, but I have to admit that the three national museums in Edinburgh are very impressive and are well worthy of public funding. However, perhaps the Executive should look more at providing funding for local museums in the way that countries such as Denmark do. Glasgow's museums are far more than municipal facilities that attract only local interest. Their collections are of national importance and should be recognised as such.

It is interesting to note that, in launching the national cultural strategy, Rhona Brankin, then Deputy Minister for Culture and Sport, said that the

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

I am sure that no MSP in the chamber disagrees with that, but by failing to give Glasgow the funding it deserves and needs, the Executive is selling the citizens of Glasgow short.

As recently as yesterday, the UK Government announced that entrance fees to all national museums in England will be scrapped. That is recognition of Labour's commitment to the arts in Britain. Why, therefore, do Glasgow's museums, which attract more visitors than those of any other city outside London, have to be funded solely by council tax payers? The burden on Glasgow's council tax payers is already significant. It seems grossly unfair that they should pay £17 million towards the city's museums when so many other museums and galleries throughout Britain receive national funding. The situation is, I believe, discriminatory and, unfortunately, it has engendered a feeling among people throughout Glasgow that, as the motion suggests, there is an east-west divide in arts funding.

We are not arguing for Glasgow's museums to become national museums. As others have said,

we are arguing for Glasgow, with its wonderful collections and diversity of exhibits, to be designated as a special case. There is a specific case for that. The city provides much of Scotland's arts and culture and so should be adequately assisted. At the moment, it is not.

This is an important issue for those of us who represent Glasgow constituencies. The people of Glasgow are being short-changed by the Executive. As their representatives, we ask that the Executive address the blatant inequalities that exist and give Glasgow's museums the funding that they deserve.

17:26

Mr Kenneth Gibson (Glasgow) (SNP): I add my congratulations to those of colleagues across the party divide to Pauline McNeill on securing this debate.

I first raised this issue with Allan Wilson's predecessor some 18 months ago when the Parliament and most of us were a lot younger. When the Parliament met in Glasgow, I raised the matter directly with the then acting First Minister, Jim Wallace. I did that because it is an important issue.

Glasgow is extremely lucky in that, over the past couple of hundred years, not only the city council but members of Glasgow's population have contributed significantly to enhancing the city's collection of arts. That is why we have such a wonderful variety of museums and such rich and varied collections in our galleries. Glasgow is also lucky in that its city council has, in Bridget McConnell, a director who is extremely energetic and enthusiastic about enhancing the collection and, where possible, presenting and retaining the best of the works that Glasgow has.

A lot of work has been undertaken by elected representatives in Glasgow City Council, such as Liz Cameron, who has led very much from the front and is another great enthusiast for the city—I see Bill Aitken smiling; we all know why. Liz is a wonderful person and a great character who has done a tremendous job in her role as convener. Other individuals, such as Chris Mason of the Liberal Democrats, have also contributed, as has my mother, who has played a significant part in Glasgow City Council's best value review.

Just over a decade ago, Glasgow was European city of culture. That was partly because of the superb collections that we have in our museums. Without those wonderful collections and the way the city council has presented them over many years, we may not have been able to win city of culture status. However, much more money is needed. If we are to attract exhibitions such as the recent Dead sea scrolls exhibition, which broke all

records, it is important that we get funding from the Scottish Executive.

Other colleagues have spoken about the money that Edinburgh museums get. There is concern in the west of Scotland that Edinburgh appears to be favoured over the west coast. I do not want to go down that line, as it has already been touched on.

If Glasgow is to make the most of its museums—if it is to display some of the treasures that are at present in its basements, if it is to have the money in coming months and years to restore some of the works that have fallen into a state of dilapidation and if it is to attract more tourists and enrich the lives of Glaswegians young and old—it needs more money from the Scottish Executive. I urge the minister to consider the matter sympathetically.

17:29

Mike Watson (Glasgow Cathcart) (Lab): I wonder why Bill Aitken smiled when Kenny Gibson was going through his litany of good wishes and back-slapping of Labour politicians. I am sure it was because it is not usual to see so much unanimity in the chamber. It is, however, good for the city of Glasgow that all members are speaking in the same tongue and pulling in the same direction.

I echo the comments of members who said that although they are concerned that Glasgow is ostensibly losing out on funding compared with other cities, they do not want to make this a Glasgow/Edinburgh thing. That would not necessarily be productive. I want simply to ensure that all the good work that is done and the impressive exhibitions that are shown in Glasgow museums and art galleries are recognised and adequately funded.

Liz Cameron, the convener of the leisure services committee of Glasgow City Council, and her staff met Sam Galbraith last week. I have seen no official report of that meeting, but the matters that we are discussing are being raised elsewhere. It is important that Pauline McNeill has supplemented that work by securing today's debate.

Liz Cameron has been mentioned. I should also mention John Lynch, her deputy. Bridget McConnell has also been mentioned. They and Martin O'Neill—director of museums—are all working tirelessly on behalf of Glasgow. They are working for the diversity of Glasgow's collections and for the good of the people of the city.

The civic value of Glasgow's museums and art galleries has been mentioned, but that is often under-appreciated by the citizens of Glasgow. I remember speaking not so long ago about the city

chambers to an elderly resident of the city. In a sense the city chambers is a museum—if anybody has visited the building to see its design, they will know that it is extremely impressive. I asked whether that elderly resident had ever been to visit the building. She said, “That’s no for me—I can’t go in there.” I said, “It’s the city chambers. It’s open to any visitor to Glasgow or any citizen of Glasgow.” Neither had she ever been in any of the city’s museums. “They’re for visitors and tourists,” she said.

We must dispel that sort of idea. Extra money can be generated not only by asking the Scottish Executive for additional support. One of the main ways in which that can be done is by encouraging more people to go to the museums. We must not raise the money through charging—that must be avoided at all costs and no member has advocated it. If we increase the number of people who go through the doors, we can raise money through the sale of various artefacts and books and through catering facilities. Additional money can be raised through the small but not unimportant contribution of those means. Many of the publications that are available for sale in the various museums are extremely impressive, such as books on the Burrell collection.

Not only the national and international collections of the museums are important. Many aspects of the museums are particularly about Glasgow’s history, Glasgow’s culture, the city’s development and the various influxes of people from different cultures over generations—I am thinking especially about the People’s Palace and St Mungo’s Museum of Religious Life and Art. Those are very much Glasgow museums in a parochial sense, but they are strengthened by that parochialism and it is not in any sense pejorative to describe them in that way. We want to see that extended if possible.

The point that we often miss—as Janis Hughes said—is that there are, of course, more important priorities, which have been mentioned in the chamber many times. However, the many museums and galleries contribute to the general quality of life of people who live in the city. They act as a magnet for many visitors and they are not going to go away. They will be strengthened and I know that the Executive will play its part in that.

The city council—as anybody will acknowledge—contributes disproportionately to the upkeep of the museums and galleries. I am hopeful that some of that burden will be lifted and that because of that, the value of the museums and galleries to the city, to Scotland and—indeed—to the wider world will become more fully appreciated.

17:34

Ms Sandra White (Glasgow) (SNP): I congratulate Pauline McNeill on lodging the motion for debate tonight. It shows the true strength of the Parliament that an exclusively Glasgow matter can be debated—that would never happen in Westminster.

I would like to reminisce a little. Perhaps folk who are near my age will remember this. I remember getting the ferry from Govan to go on school trips to Kelvingrove Art Gallery and Museum. I wonder how many people know that the only place they can see the inside of a honeycomb is at that museum. I am not talking about an artsy-fartsy museum and art gallery—it is a good old-fashioned museum and gallery in which school kids can participate.

The beauty of Glasgow’s museums is that they are diverse. As Mike Watson said, there is the People’s Palace and the Kelvingrove, but there is also the Burrell collection; there is something for everyone.

I will take up Pauline McNeill’s point—what exactly do we want to get from this motion? I think that we want fairness and equity. Edinburgh has three nationally funded galleries. Galleries in the south of England, such as the Tate Gallery, are nationally funded. In Glasgow, none is nationally funded; that is the crux of the problem. I hope that the Executive can give us some answers on this.

People talk about Glasgow having problems, but what city does not have problems and what city does not have museums? Dundee has problems, but it also has excellent museums; the McManus Galleries in Dundee is excellent. As far as I am concerned, Glasgow is the first city—not the second—in Scotland, so its museums should be nationally funded. In Glasgow, we cannot afford to continue to charge council tax payers to keep the museums running. I do not usually praise the council, but it does a marvellous job with the museums. As Robert Brown mentioned, artefacts sometimes languish because there is not time to find out exactly what is in storage—and an audit has not been done—and to exhibit them.

On the whole, the museums have moved with the times. For example, the Kelvingrove moved with the times by introducing a cafeteria area in which new pictures are put up every so often. The public can tick off which picture they would like to be hung in that area. The picture that gets the most ticks is hung there: it is a people’s museum.

Glasgow deserves better, so I hope that the minister will tell us that Glasgow should and will get national status for its museums. In Glasgow, we have never charged for people to enter museums. As Janis Hughes rightly said, the Government in Westminster announced yesterday

that 17—not all of them, but 17—national galleries in the greater London area and Manchester will no longer charge, yet Glasgow museums get more visitors than the science museum in Manchester. It is only fair that Glasgow should get national status for its museums.

17:37

Gordon Jackson (Glasgow Govan) (Lab): I do not always agree with Glasgow City Council; indeed, I do not always agree with the leisure services department. I suspect that Liz Cameron crosses the road when she sees me coming, unlike her response to Bill Aitken.

However, on this occasion I am totally persuaded by the case that Glasgow has made. I was interested in Mike Russell's speech; I do not pretend to have that expertise and I certainly do not pretend to know the answer to how we deal with the situation. I do not understand the nuts and bolts of that. However, I have a commonsense and simple approach. If Glasgow has a civic collection that is one of the greatest in Europe—and who am I to disagree with the expert who said that; if it is not a Glasgow resource but a national resource—and it is that; if it is for the whole of the United Kingdom and attracts valuable international tourism, it cannot simply be funded by the local council. It is all of those things. I recently examined visitor figures for Glaswegians, people from the rest of the UK and those from overseas—it is a resource for all those people. If that is true, it seems obvious that the collection cannot simply be funded by the local council.

It is worth mentioning what will happen if we continue in this way. The Burrell collection is in the Govan constituency—"Think Govan, think Burrell" might be a new slogan. It is a marvellous place to walk, a marvellous building and a quirky collection—if I am allowed to say that—in that it has all kinds of odd things that a visitor would never expect. I am told that any day now the roof is going to let in. We need about £1.7 million to keep the roof in a good state of repair. It beggars belief that the roof at a resource such as the Burrell is letting in.

I also recently saw a comparison of staffing levels with museums and galleries in Liverpool, which, one might say, is broadly comparable. I forgot to bring it, but it is worth looking at. If one looks at the varying staffing levels of people whom good art collections need, such as curators or researchers, Glasgow is falling miles behind a city such as Liverpool.

How we solve that, I do not know. Mike Russell had ideas about the national audit of the national collections, all of which I found interesting. I am interested in what Allan Wilson will say about what

the Government will do. I do not know the answer, but Bill Aitken is definitely right in saying simply that Glasgow is entitled to help.

How will Glasgow get that help? The minister will tell us. Like Pauline McNeill, I hope that he will come up with an answer.

17:40

Dorothy-Grace Elder (Glasgow) (SNP): My colleague Mike Russell talked about widening the debate into the Scottish context. Smaller museums are being threatened all the time. For example, Balnain House in Inverness is dedicated to Scottish music; it receives some money from Canada but no national funding and is about to close this very month. Furthermore, the small Springburn museum is due to close in March. The museum is one of the area's very few public attractions left and commemorates the greatness of its railway history—the great engines were produced in Springburn. I draw the minister's attention to that museum, which is staffed partly by gallant volunteers. Surely to goodness some rescue package is possible that might save it.

A newspaper cutting last year sums up Glasgow's plight compared with other cities:

"The Scottish National Gallery of Modern Art in Edinburgh and the Tate Gallery in London have jointly acquired, at a cost of £2.1 million, a Surrealist masterpiece by Spanish painter Joan Miro."

Liz Cameron is begging and pleading for very little more than £2.1 million to save Glasgow's museums and galleries. Those two galleries—one in Edinburgh and the other in London—can afford to make such a bid because they are national galleries. Meanwhile, the Kelvingrove museum cannot even afford to repair its roof. That is a shameful situation.

I must confess that, as a Glasgow MSP, I have a chip on both shoulders—it helps to keep one's remarks balanced—and feel the same way about this matter. It is pretty shameful that there is no proper national funding. We—and everyone else—call Glasgow a European or an international city. However, when the chips are down—which means blue chips, as far as money is concerned—it is a question of, "Hail, Edina, Scotia's darling seat." London is currently weighed down with a glut of money for galleries such as the Tate Modern, the Victoria and Albert Museum and Somerset House, which jointly receive hundreds and hundreds of millions of pounds. In fact, because it is saturated with such galleries and museums, the funding that London receives is far out of proportion to the size of her population.

I urge the minister to consider not just the great and the good—and the ultra-famous—of Glasgow's galleries, but the smaller museums and

galleries that local people love and which are among the few attractions in certain areas. If anyone asks, "What do museums and galleries matter nowadays?" I say to this Parliament, "If you don't know where you've come from, you don't know where you're going."

17:44

The Deputy Minister for Sport and Culture (Allan Wilson): In response to Dorothy-Grace Elder's final point, I know where I come from—I was born in Glasgow.

Michael Russell: But where is the minister going?

Allan Wilson: I am just about to tell the chamber that. Mike Russell should be patient—it is a virtue.

I join my colleagues in congratulating my good friend and colleague Pauline McNeill on securing this debate on Glasgow's museums and art galleries. I have been interested to hear members' views and I welcome their interest. Mike Russell's point is significant and I hope that we are all engaged in pushing sport and culture up our respective political agendas—I certainly need all the help I can get.

I go along with much of what has been said about the city's museums and their collections and pay tribute to the successive city councils that have added to and cared for those collections for the benefit of citizen and visitor. Their legacy is a number of splendid buildings housing comprehensive, important and—dare I say it—exciting collections. The success of Glasgow's museums and galleries is not in question, as the figure of 3 million visitors a year testifies. The council deserves great credit for that and I want to emphasise that that is how it should be. Glasgow has statutory responsibility for funding and operating its museums and galleries.

I understand the point that has been made about the east-west issue and I agree with Bill Aitken and disagree with Mike Watson—I do not think that there is an east-west issue. All local authorities have the same responsibility and all of them receive substantial support for their museums and galleries from the Executive through standard local authority grants.

The motion misunderstands the Executive's announcement of 2 November, which was clearly about funding for the national bodies for which the Executive has direct statutory responsibility. As Minister for Finance, Jack McConnell had announced on 20 September an overall increase in funding for local authorities of 10.5 per cent in real terms over the next three years. Any expectation of additional funding for local

museums in the announcement of 2 November was misplaced. I think that that is now understood.

That does not mean, however, that we do not value local museums. As Mike Russell conceded, the national cultural strategy fully recognises the central role of local authorities as providers of cultural services, and the objectives could not be met without their major contribution. This morning, Sam Galbraith and I had a productive meeting with representatives of the Convention of Scottish Local Authorities to discuss how best we might work in partnership with local authorities to secure the joint objectives in the cultural strategy. That strategy identifies the need to protect and preserve museum collections that are important to the nation and acknowledges for the first time that the present framework lacks consistency and strategic direction. We and COSLA are committed to addressing those issues across Scotland.

I welcome the pragmatic support of the Opposition for the national audit of museums and their collections to establish their relative importance. We are providing £3 million over the next three years to help restructure the non-national sector and place it on a sounder footing. I stress that that is new money for local museums and galleries and that the initiatives have been widely welcomed across the sector, as they have been in Glasgow.

The strategy recognises Glasgow's particular position, and we undertook to work with Glasgow City Council to examine the circumstances of the museums and galleries in Glasgow. As members may know, as there has been some press comment on the matter, we made a start on that last Friday when Sam Galbraith met Bailie Cameron, the convener of Glasgow's cultural and leisure services. I can assure Pauline McNeill and any other interested member that the meeting was constructive and positive. I emphasise, however, that no substantive decisions or agreements were reached at that stage.

There can be no quick fixes in these circumstances, and Mike Russell's point about the timetable of the national audit is important. No one, least of all the citizens of Glasgow, would be served by a quick and shoddy national audit. The national audit must be well planned and soundly prepared and it must be robust, not least because the museums have to rely on its outcome.

Michael Russell: I entirely endorse what the minister says about the nature of proceeding with the national audit, but I am sure that he is aware of the surprise of many in the museum sector who know of the work done by John Compton and others to undertake essentially a national audit; the work has already been substantially done. That work can be enhanced, but our going back to basics and redrawing the national audit will slow

things down. Does the minister recognise that it might be possible to speed things up by taking advantage of the work already done in the national museums?

Allan Wilson: I can confirm that a preparatory audit is under way, and there is a timetable to which we are operating.

I do not think that Glasgow's museums are in crisis, but the service has clearly become overstretched in recent years. It is equally clear that Glasgow City Council has recognised that itself—it has already undertaken a great deal of important work and firm action to address the problems, not least through a robust best value review.

More work requires to be done, and, to answer Sandra White's point, the Executive is committed to co-operating with the council. We have agreed to get down to the work and to further discussions at official level, and I am confident that that will offer a productive way forward for both the council and the Executive.

We fully recognise local authorities' major role in Scotland's cultural life, including their provision of museums and galleries. Responsibility for funding them lies with the authorities themselves. We have acknowledged the fact that there are difficulties in the museum sector in general, and we are already addressing them through our national cultural strategy commitments. I referred to the national audit, and to the £3 million that is available for restructuring.

Critically, we also recognise that Glasgow faces particular problems, which we are committed to addressing. I hope that, during the short time that I have held my current post, we have made a sound and positive start to addressing those problems. We look forward to working with Glasgow City Council to establish the way ahead for Glasgow's museums and galleries, and I thank all the members who have spoken in the debate for their contribution towards achieving that.

Meeting closed at 17:52.

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