



Northern Ireland
Assembly

**COMMITTEE FOR
AGRICULTURE AND
RURAL DEVELOPMENT**

OFFICIAL REPORT
(Hansard)

Dogs (Amendment) Bill

1 June 2010

NORTHERN IRELAND ASSEMBLY

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RURAL DEVELOPMENT**

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Members present for all or part of the proceedings:

Mr Ian Paisley Jnr (Chairperson)
Mr Tom Elliott (Deputy Chairperson)
Mr P J Bradley
Mr Willie Clarke
Mr Pat Doherty
Mr William Irwin
Dr William McCrea
Mr George Savage
Mr Jim Shannon

Witnesses:

Dr Mark Browne)	
Ms Colette McMaster)	Department of Agriculture and Rural Development
Mr Martin Mooney)	
Mr John Terrington)	

The Chairperson (Mr Paisley Jnr):

Good afternoon. I welcome Mark Browne, Colette McMaster, John Terrington and Martin Mooney. Today marks the formal introduction of the Dogs (Amendment) Bill to members. We will have a detailed session on the Bill next week or the week after.

The Committee Clerk:

The Bill's Second Stage is on 7 June. It will have its Committee Stage after that.

The Chairperson:

We will have a more detailed discussion then. Today, however, the departmental team have the opportunity to take us through the Bill's broad principles.

Dr Mark Browne (Department of Agriculture and Rural Development):

Thank you for the opportunity to address the Committee on the issue of dog control legislation. It is part of the process of continuing engagement with the Committee in advance of the formal scrutiny of the Bill.

I am accompanied by Colette McMaster, who is head of the Department's animal health and welfare division; John Terrington, who is head of the Dogs (Amendment) Bill team, and Martin Mooney, who is Mr Terrington's deputy.

As you are aware, the formal consultation on the proposals for the new legislation closed on 1 February. We received 129 responses, copies of which were provided to the Committee along with a summary of the responses to help members in their considerations. The comments of the stakeholders, along with those made by Committee members during our previous presentations, have been important in helping to shape the Bill, which was introduced in the Assembly on 24 May and which we provided to the Committee last week.

I will now give a brief outline of the content of the Bill. The Dogs (Northern Ireland) Order 1983 is the central plank of the dog control system here. It has brought many improvements in dog control since it came into operation more than 25 years ago. The number of stray dogs impounded by councils fell by more than 30% between 1999 and the end of 2008, and there was a further fall last year. Over the same period, the number of licensed dogs went up by more than 30%.

That said, the 1983 Order has not dealt with all the problems caused by irresponsible dog owners. Dog wardens here investigate about 700 dog attacks a year, and although there have been no fatalities here, there have been serious attacks. For that reason, the ban on dogs of a type

specifically bred for fighting will remain. In addition, the Minister will bring forward subordinate legislation to strengthen the conditions under which an exemption from the ban can be met, and that will be aimed primarily at protecting children.

As well as the danger of attacks, the number of stray dogs remains high. Almost 11,000 stray and unwanted dogs were impounded by councils in 2008, and the number of stray dogs per head of population remains much higher than in England, Scotland and Wales. Moreover, a large number of dogs are destroyed every year — almost 3,500 in 2008 and 2,300 in 2009. Livestock worrying is at a lower level than was reported in the 1970s, but it still remains high. Almost 300 reports were investigated by dog wardens in 2009.

The Bill aims to deal with those issues, and it will do three things: First, it will protect the public; secondly, it will promote responsible dog ownership; thirdly, it will penalise irresponsible owners. It aims to reduce the number of stray dogs, make it easier for dog wardens to identify stray and other problem dogs and allow dog wardens to respond more flexibly to any problems that emerge with a dog's behaviour.

The Bill has 18 clauses and two schedules, most of which amend the 1983 Order. In summary, it introduces compulsory microchipping of dogs and empowers dog wardens to attach control conditions to the licence of a dog whose behaviour has led to a breach of the 1983 Order. It increases the licence fee and the level of fixed penalties under the 1983 Order to a more realistic level, and, for the first time, allows district councils to retain the proceeds from fixed penalties to support their dog warden services.

The Bill also introduces a number of new offences, perhaps most notably the offence of allowing a dog to attack and injure a dog owned by another person. It also increases the maximum penalty where a dog attack occurs on private property.

I will now take a few minutes to set out the Bill's key clauses. Clause 1 extends the exemption from the requirement to have a dog licence beyond guide dogs to all assistance dogs, defined as dogs:

“kept and used by a disabled person ... wholly or mainly for the purpose of assisting that person to carry out normal day-to-day activities”.

Clause 2 introduces a requirement to have a dog implanted with a microchip before it can be licensed. Rather than setting out in detail the technical issues around microchipping, the Bill empowers the Department to make subordinate legislation to regulate those matters. The introduction of compulsory microchipping is one of the Bill's most important features. Microchipping makes it quicker and easier to identify lost or straying dogs and return them to their owner. It will reinforce the licensing system and make it easier to identify problem dogs. It will also make it easier to trace stolen dogs.

Clause 4 provides for an increase in the dog licence fee to an inflation-linked level of £12.50, which we believe is reasonable and affordable. To meet the needs of the most vulnerable, the Bill introduces free licences for older people and concessionary rates for owners on benefits. At the same time, it will provide additional resource to councils in carrying out their duties under the 1983 Order.

The Bill recognises the concern that an owner who lets an aggressive dog run wild to the point where another person's pet is injured or even killed faces no penalty for that offence. Therefore, clause 7 makes it an offence to allow a dog to attack and injure a dog owned by another person.

The 1983 Order makes a distinction between attacks in public and attacks in a dog's own home, with the latter carrying a less serious penalty. However, the deaths of Ellie Lawrenson, John Paul Massey and Jaden Mack in Great Britain followed from attacks on private property where the dogs concerned had permission to be, however responsible and misguided that was. Therefore, we need to strengthen the deterrent penalties available to the courts. Clause 7 deals with that by amending the 1983 Order to provide that an attack on a person that results in injury shall be considered an aggravated offence, whether it happens in a public or private place.

In the event of minor breaches of the 1983 Order, dog wardens have no alternative but to warn the owner, issue a fixed penalty notice or prosecute. Those measures are all reactive and do little to protect the public from further behavioural problems with the dog. They do little to prevent more serious breaches of the law, and they do nothing to force an irresponsible owner to manage his or her dog more responsibly. Therefore, clause 8 will allow council dog wardens to protect the public and help prevent further, more serious breaches of the law by attaching one or more control conditions to a dog licence where owners have failed to keep a dog under proper control.

Such controls make it a condition of the dog's licence that the animal be muzzled and leashed when in public, kept in a secure place when not leashed, kept away from certain specified places or, in extreme cases of aggressive behaviour, neutered. The availability of the control conditions that I have outlined will shift the focus to the behaviour and management of individual problem dogs. In other words, the controls will deal with the deed rather than the breed, which is widely accepted as the best way for enforcers to deal with problem dogs and owners. Similar proposals have already passed the Scottish Parliament's scrutiny and also form part of a consultation undertaken earlier this year by the Department for Environment, Food and Rural Affairs.

In the Department's view, the fixed penalties established in the 1983 Order do not send the right message. Therefore, the Bill will increase those penalties to a more acceptable level. Clause 14 raises the fixed penalty for offences under the 1983 Order to £50. Clauses 12 and 13 of the Bill allow councils to retain the revenues from fixed penalties for the enforcement of the 1983 Order, rather than those resources being directed to central government funds.

In summary, the Bill will build on the framework for the control of dogs set out in the 1983 Order and seek to encourage responsible dog ownership. Compulsory microchipping will help owners should their dogs be lost or stolen, and will help enforcers to identify stray and other problem dogs, thus reducing the number of stray dogs destroyed and the time that strays spend in council pounds. Retaining the licence system, with licence fees at a realistic level, not only maintains a unique registration system but ensures that it meets more of the cost of the dog warden service. Concessions built into the licensing system will protect dog owners suffering from economic hardship and will promote neutering. Increasing the level of fixed penalties under the 1983 Order and allowing district councils to retain the proceeds to support dog warden services will also help to support the work of those councils. Dog wardens will be protected from irresponsible owners by the introduction of the offence of allowing a dog to attack and injure another person's dog — a unique recognition of the potentially severe impact of such actions.

Finally, the introduction of control conditions, giving dog wardens the option of placing conditions on the licence of a dog whose behaviour or management has led to a breach of the 1983 Order, will mean that we will have a system here that can intervene flexibly and in a targeted and considered way in the control of individual dogs. I have gone through that presentation fairly quickly, but I hope that it was helpful to the Committee in outlining the content of the Bill. We are happy to take members' questions.

Mr Elliott:

Thanks for the presentation. If the dog is not licensed or microchipped, how will you penalise the owner if you cannot find out who it is?

Dr M Browne:

Identifying individual dogs is always an issue, and part of the actions will be that, if a dog's owner can be identified, he or she has committed an offence by not having that dog licensed. In that way, the owner can be made amenable. However, there is no question that there is a difficulty in tracing the owner of a dog which is not microchipped or licensed.

Mr Elliott:

Has the Department given any thought to whether the Bill will reduce the number of strays in Northern Ireland and the number of dogs put down every year?

Dr M Browne:

We believe that it will. The evidence shows that the number of strays has come down by some 30% over the past decade. During the same time, licensing has gone up by broadly the same percentage. Therefore, the evidence suggests that the increase in licensing is helping to bring down the number of strays. Along with the microchipping of dogs, that will provide councils with a more direct way of identifying an owner and returning the dog more speedily, so we believe that microchipping will help, particularly when allied to the licensing system.

Mr W Clarke:

Who will be microchipping dogs? Will it be local councils, first and foremost? Will the cost of microchipping be included in the licence fee? Will it all be done on the one day? That is my first point. I agree with microchipping; it is a great idea. In relation to owners obtaining a dog licence for a pet, is there any onus on councils to provide some sort of charter for responsible dog ownership? At the same time as they receive their licence, will owners be asked to sign a charter or receive literature on how to behave responsibly — even in relation to the basics of what is required of them?

Dr M Browne:

We are not specifying who has to carry out microchipping. It can be done by a vet, but that can

be reasonably expensive. It is also done by a number of the dog charities — for instance, the Dogs Trust. They have campaigns, usually about this time of year, where they offer microchipping either free to certain groups or at a reduced rate.

Moving forward, we envisage that councils may wish to microchip. They already microchip dogs that come into their pounds; they often microchip them before they are returned to their owners or re-homed. They could also take on the process of microchipping. Microchips are quite inexpensive. They cost about £5, so provided that there is someone who is trained to administer the microchip, which requires a two-hour course, it is a fairly easy process that could be done by councils. That is another opportunity for councils to encourage the microchipping of dogs.

People who own kennels or whatever may want to get one of their members trained so that they can microchip all of their dogs. Also, many breeders microchip their dogs before selling them. We do not envisage one particular way in which microchipping has to be delivered; there will be a range of ways in which it can be done. We would like it to happen in the most inexpensive way. Councils are one route; the Dogs Trust is another. There is always the option of going to a vet, but that is likely to be a bit more expensive.

Mr W Clarke:

I would like to have clarity early about who will carry out that function. It is OK saying that charities will do it, but they may not. I would like to see clarity, particularly where the councils do it themselves or bring in expertise to do it. I worry because the cost may be just a fiver, but after adding vet fees, it could cost £20-odd. I can envisage that happening. I would like to guard against that because it would defeat the whole purpose of what you are trying to achieve.

Dr M Browne:

Absolutely. We will not require a microchip to be implanted by a vet. That opens it for other agencies to do it, and it leaves the option for charities, such as the Dogs Trust and so forth, or the councils, to have that facility available.

The Chairperson:

Is there a central database of all microchipped dogs?

Dr M Browne:

A database is maintained by the chip providers. There are a number of different providers. The information is made available to those who are authorised to get access to it, including district councils.

The Chairperson:

Say you buy a dog and get it microchipped, and, a few years later, you sell it to Ms McMaster. Is the onus on you to update the register, or is it on Ms McMaster, as the new owner of the dog, to do that? Is it the case that once a dog is chipped, that is it?

Dr M Browne:

As I understand it, the onus is on the new owner to update the register. The microchip suppliers provide various cards so that people can update their details.

Mr John Terrington (Department of Agriculture and Rural Development):

The microchip companies work with data protection in mind. The person whose name is on the database can change details, but it is usually done by the new owner filling in a form and having a signature of the person from whom they have bought the dog.

The Chairperson:

And that goes back to the central database?

Mr Terrington:

Yes; that is updated. All that is held on the microchip is the number that is linked to an address on the database.

Dr M Browne:

The other point that was raised was about literature.

Mr Terrington:

The idea that breeders etc could microchip dogs would obviously mean that dogs were bought microchipped, which might improve the situation of trying to identify who owns them. The more dogs are microchipped when they are first bought, the easier it will be to find the owners and, therefore, make sure that they license the dog.

As regards a charter, I think that most councils already publish on their websites material about responsible ownership, as do the charities that Dr Browne has been talking about, such as the Dogs Trust and the Kennel Club. I do not know whether there is an intention to put a requirement on the councils to do that. There is a lot of information out there. The licences tell people what they need to do to maintain them and when they are updated. Most councils send reminders to make sure that people stay within the law. That is another impetus to updating, and, if a person were to move house and did not update immediately, the council's sending out of the reminder would allow that to happen.

Mr W Clarke:

It is something to look at later.

Dr W McCrea:

Recently, I heard on a radio programme that we put down more dogs in a week than some parts of the rest of the UK put down in a year. That was a startling report, and we must ensure that that is stopped.

If we are to encourage microchipping, the expense must be as small as possible. Therefore, we have to ensure that people can be directed somewhere to have it done as cheaply as possible. In addition, we want to ensure that microchipping is done as humanely as possible. It should not be a botch job; it should be done with sensitivity. Has that been taken into consideration?

Is it the responsibility of the registered owner to inform the council when a dog passes away? When it comes to renewal time, will they get these constant letters saying that they have not renewed their licence? How are you going to deal with that?

You talked about councils and kennels — that is, the places where they will lift the dog. Are you sure that the places that dogs are taken to are always fit for purpose? Who examines them? During my years in public life, a number of folks from across the Province have contacted me about the standards of some of the places to which dogs have been taken. We must be sure that those are appropriate and proper.

Dr M Browne:

As I mentioned earlier, we are keen that a number of routes be available for microchipping and that it be as cheaply available as possible. The charities do it on a regular basis, and the Dogs Trust has indicated that it will make quite a number of microchips available to councils free of charge to help them. We envisage that councils, which already provide microchipping for some of the dogs that are brought into their pounds, will consider extending that. We meet a forum of officials from councils, and we can encourage those officials to take forward microchipping. It is a fairly straightforward process, and we have seen that done on the basis of a fairly short course. People can be trained up to administer the microchip appropriately. It does not cause any distress or pain to the dog, and the microchip is only the size of a grain of rice. The training can be made available at a range of outlets.

When a dog dies, the licence is not renewed. I am not sure that there is any obligation —

Dr W McCrea:

As you know, when a licence is not renewed, everyone seems to have these letters arriving: “You have not renewed.” Those letters will plague the owners.

Mr Terrington:

I suspect that the current procedure will not change. The council sends out a reminder annually, which is a positive thing to do for most people. I am not sure that any more reminders are sent out after that, and I do not think that that will change. It becomes an issue only when a dog is picked up and still alive having not been licensed because the owner ignored the reminder. If the dog is microchipped in the owner’s name, the owner can be identified. If the dog has died, it will not come to the council’s attention again. The legislation does not change that.

Under the 1983 Order, councils are required to maintain dog pounds, to which dogs are taken when seized.

The Chairperson:

I apologise for interrupting you, but I remind everyone, including people in the Public Gallery, to turn off their mobile phones, because they interfere with the recording equipment.

Mr Terrington:

If councils do not have pounds, they can use pounds that the Department has approved as meeting the standards for boarding establishments that are equivalent to those under the Animal Welfare Act 2006. Other dogs that are picked up may be given to the likes of non-governmental organisations (NGOs), and that may be where — *[Interruption.]*

Dr W McCrea:

I am talking not about those pounds but about pounds that somebody has passed as fit for councils to use. Over the years, members of the public have expressed concerns to me that the standard of pounds is not very high.

My first question was on the number of dogs that have been put down.

Dr M Browne:

Some 2,300 dogs have been put down in 2009. The numbers have been reducing in the past number of years, but you are correct to say that they remain high, and that is a real issue. Issues arise concerning the attitude towards dog ownership and the various charities' capacity to rehome unwanted dogs. You heard a presentation from Assisi Animal Sanctuary about rehoming dogs in which the charity said that it rehomes dogs from here over in England.

It seems to be a historical issue, which arose in the late 1970s and led to the Dogs (Northern Ireland) Order 1983. It appears to be culturally ingrained that more dogs are owned here. Consequently, there are more strays and more abandoned dogs. The good thing is that the number of dogs being put down here is falling, albeit not far or fast enough. That is why we have new legislation coming forward. Interestingly, such problems are increasing in some other parts of the UK, and councils are starting to look at what extra measures they need to take. However, I agree that it is a problem, and that is part of what we are trying to address in the Bill.

Dr W McCrea:

I found it strange that the programme stated that dogs were being taken to England. A gentleman and his wife, who have kept dogs all their lives and who love dogs, were not given a dog because they work. It was felt that the dog needed affection during the day, so the couple was not allowed to have a dog. It seems to be a step too far that a dog will be put down because people who want a dog have to go out to work.

The automatic putting-down of dogs is another issue. In my locality lived a well-known man — I will put it like that — whose only friend in life was his dog. People kept taunting the dog until one day the dog turned on one of those taunting it, and the court automatically put that dog down. I thought that it was an absolute disgrace that a person's only friend in the world was put down because people had taunted it. People have no right to taunt a dog. Any animal that is taunted for long enough will turn on its taunter.

The Chairperson:

Including the Chairman.

Dr W McCrea:

Humans will, so will they be put down as well? No suggestions please, Chairman.

We have to be careful.

The Chairperson:

I have a list.

The Chairperson:

I welcome P J Bradley to the meeting. You are very welcome, P J. We are talking about you.

[Laughter.]

Dr W McCrea:

There is a serious point to be made. As I said, the dog was automatically put down because it had turned on an individual. We must be careful about how we legislate, because I have genuine concerns in this particular case.

The Chairperson:

We have had a good discussion about the general principles. When we first discussed the Bill with the Minister and the Department, the impetus behind it was to prevent an attack on a child. The Department was hoping to introduce legislation that would protect children from attacks by vicious dogs and prevent dogfighting, which is an absolute scourge. Those two major issues were to provide the impetus that drove the Bill. We now have the Bill in front of us, but it contains

very little on those issues. They may be consequences of our dealing with the Bill, but the Bill contains very little related content.

We are left to deal with the bureaucracy of how councils manage the future microchipping of all animals and whether microchipping is sufficient to encourage dog owners to be more responsible. I am a wee bit fearful that, as we discuss its general principles, the Bill does not do what it says on the tin. I am worried that we will end up legislating for the sake of legislating.

Dr M Browne:

To pick up on the specific point about children, there are wider issues that we are concerned about and wish to deal with. I mentioned the number of strays, the number of dogs that have been destroyed and attacks by dogs that have irresponsible owners. The Bill contains a number of provisions that will help to address those issues.

In my presentation, I said that a dog attack that takes place on private property is not currently considered to be an aggravated offence, whereas an attack that takes place on public property is considered as such. The three children whom I mentioned who were killed by dogs were attacked on private property. The Bill will make a dog attack on private property an aggravated offence. To that extent, it will provide a deterrent.

Furthermore, there is an opportunity to apply control conditions at an early stage. Where a dog exhibits worrying behavioural traits but has not yet made an attack for which its owner might be taken to court or given a fixed penalty, an intervention can be made at an early stage to ensure that the dog is muzzled and leashed when it is out in public. That will protect everyone, but it will particularly protect vulnerable people, including children. The Bill will also bar a dog that has exhibited worrying behaviour from specified places, which could include schools and their environs, and parks.

Children will also be protected through subordinate legislation. Such legislation will apply where a dog that belongs to a banned breed is exempted from a destruction order. The Minister is minded to apply an additional condition, which is that the dog in question will not be allowed to be around children unless it is muzzled and appropriately secured.

The Chairperson:

If the initial impetus of the Bill was that it would protect children, why would you introduce that provision in a subordinate piece of legislation? I am not saying that I agree with you, but why should that not be the main thrust of the Bill?

Dr M Browne:

The subordinate legislation is the most appropriate vehicle for doing that. Provision already exists that can be extended, and the most appropriate way in which to make that happen is through subordinate legislation.

The Chairperson:

Some of the owners of allegedly — I say “allegedly” because I have some knowledge of the subject — dangerous dogs will say that they are among the most docile, friendly animals that one can have as a pet. The owners take great offence at the suggestion that their pets, which they believe to be affectionate, should have to be muzzled in their home among their children. We are starting to open up those sorts of issues, and if they are to be included in subordinate legislation, I do not want the Department to consider the Committee as a passenger in that regard.

Dr M Browne:

The current position is that a number of breeds are banned. Those include the pit bull terrier, the dogo Argentino, the fila Brasileiro and the Japanese tosa. Those breeds of dog are bred in such a way that the risk of an exhibition of aggressive behaviour is severe, as is the likely outcome of an attack. They are currently banned breeds, and the Minister has no plans to change their status. I was referring to circumstances in which a dog of that sort can be exempted. That can happen: an individual can inadvertently purchase a puppy without realising that it belongs to one of those breeds, and when it grows up —

The Chairperson:

The legislation does not affect crosses of those breeds, does it?

Dr M Browne:

It affects any dogs that are considered to be of that type.

The Chairperson:

That is an incredibly difficult judgement call to make. I know experts who could not make that judgement call.

Dr M Browne:

It can be difficult. However, where it can be demonstrated, a court can issue a contingent destruction order. There can be an exemption from such an order, providing that certain conditions are met, and those conditions are set out in existing legislation. The Minister is proposing to add a condition as part of the secondary legislation so that those dogs cannot be kept anywhere near children.

Furthermore, when breeds are not defined as dangerous dogs, but a dog exhibits dangerous behaviour, the control condition would come into play. That can apply to any dog of any breed that exhibits aggressive behaviour, and that will provide protection for children and adults alike.

Mr Terrington:

The exemption already exists under the 1983 Order, as amended by the Dangerous Dogs (Northern Ireland) Order 1991. The Department has the ability to propose amendments to that secondary legislation — as opposed to introducing new secondary legislation — in advance of the Bill's becoming law.

The Chairperson:

I am concerned that we will not do what we believed we had set out to do. However, that will form part of the discussions when the Bill reaches its Committee Stage.

Mr Savage:

How many dogs can be included on a block licence?

Mr Terrington:

A minimum of three dogs must be kept for the purposes of breeding, or be registered with the Kennel Club or other organisations for gun dogs or sheepdogs. There is no maximum number of dogs that can be kept under those licences, and there is no intention to set a maximum number.

Mr Savage:

Do those licences apply to each holding?

Mr Terrington:

Yes.

The Chairperson:

An issue has arisen with the timetabling of the Bill, and a motion must be tabled in the House to extend the period in which the Committee will consult on the Bill. The Bill's Committee Stage should be completed by 29 November 2010, and if Committee members are in agreement, the Committee will table a motion to say that the Bill's Committee Stage will be completed by that date. It may be a long Committee Stage that covers many issues, and that will make that date for completion impossible. However, the Committee needs to flag that issue now. There is a chart in members' packs that details the process.

Mr Elliott:

Groups have given evidence on the issue without directly referring to the legislation. Will those groups be invited back before the Committee again?

The Chairperson:

The Committee will agree in the first week of September which witnesses will be called to give evidence.

The Committee Clerk:

The Committee will issue a public notice when the Bill reaches Committee Stage to seek new or additional evidence from those who have already submitted evidence to the Department. The Committee has already been copied into the consultation responses, and people will have an opportunity to express their thoughts and opinions on the Bill itself.

Dr W McCrea:

The matter of dangerous dogs causes genuine concern, and we must protect the community from dangerous dogs. Anyone who knows a person who has been attacked by a dog —

The Chairperson:

It is absolutely awful.

Dr W McCrea:

I am sad to say that children have lost their lives as a result of dog attacks.

The Chairperson:

Horrific.

Dr W McCrea:

Therefore, we cannot accept a delay in the Bill's being implemented. The Committee must conduct a rigorous and in-depth study of the Bill, but it is important that it be progressed as quickly as possible.

The Chairperson:

I would hate it if the Committee and the public were to believe that we were introducing legislation to protect them that then failed to do so. That is something that the Committee will delve into in detail as the Bill progresses.

I thank the witnesses for appearing before the Committee. Committee members appreciate the time you that have given us today.