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# NORTHERN IRELAND ASSEMBLY

Tuesday 22 September 2009

*The Assembly met at 10.30 am (Mr Speaker in the Chair).*

*Members observed two minutes' silence.*

## MINISTERIAL STATEMENT

### North/South Ministerial Council

#### Health and Food Safety Sectoral Format

**Mr Speaker:** I have received notice from the Minister of Health, Social Services and Public Safety that he wishes to make a statement on the North/South Ministerial Council (NSMC) meeting in health and food safety sectoral format.

**The Minister of Health, Social Services and Public Safety (Mr McGimpsey):** I wish to make the following statement on the eighth North/South Ministerial Council meeting in health and food safety sectoral format, which took place in Farnleigh House, Dublin, on Wednesday 10 June 2009. I represented the Executive as Minister of Health, Social Services and Public Safety, along with Michelle Gildernew MP MLA, Minister of Agriculture and Rural Development. Minister Gildernew has endorsed this statement.

The Irish Government were represented by Mary Harney TD, Minister for Health and Children, and Barry Andrews TD, Minister for Children and Youth Affairs, who, because Minister Harney was required to attend the Dáil for the latter part of the meeting, shared the chairing role.

Ministers discussed the priorities for health promotion on the basis of a paper prepared by the Institute of Public Health. Those priorities are likely to include programmes in school and/or workplace settings; prevention and management of chronic and preventable diseases; shared learning on population health and tackling health inequalities; and shared skills development. We also agreed that co-operation will take account of feasibility and sustainability, especially in the current economic climate.

We welcomed progress to date on the prevention of suicide and endorsed proposals for the Irish Association of Suicidology and the Samaritans, in association with

the two Health Departments, to issue revised media guidelines, incorporating advice on new technologies, including Internet-related suicides.

We also welcomed the progress that had been made on co-operation on child protection. That included a valuable exchange of information and ideas on issues such as Internet safety, the development of a protocol for the movement of vulnerable children and families across the border, and the development of advice and guidance material for parents, carers and employers, aimed at strengthening safeguarding arrangements on both sides of the border. The continuing collaborative work in both jurisdictions on the management of sex offenders was also welcomed.

The Ministers received a progress report on the work of Safefood, the food safety promotion board, since its last meeting in May 2008. The report was presented by the chairperson Mr John Dardis, the vice-chairperson Mr Campbell Tweedie and the chief executive Mr Martin Higgins. We noted the following points: progress made on the development of the obesity action forum, which the Council had endorsed at its meeting in May 2008; the range of promotional activities undertaken by Safefood, including a healthy-eating campaign targeted at parents, and various seasonal campaigns; and the completion of three consumer-focused reviews in 2008 on beef, milk and pork. Those reviews highlighted that consumer confidence in those products remains high.

Ministers also received a presentation on proposals for the development of an enteric reference service for the island of Ireland. They noted the work done to date by Safefood. The Council also discussed Safefood's business plan for 2009 and noted its annual report and accounts for 2007.

It was agreed in June to plan towards holding the next meeting in those sectors in the autumn of 2009. Both Departments are currently assessing progress across the ongoing areas of co-operation in health and food safety with a view to finalising an agenda and agreeing a date for the next meeting.

**Mr Wells:** I thank the Minister for his statement. I note that the issue of swine flu did not feature in that meeting, although I suspect that that was because concern about swine flu was only starting to emerge at the time of the meeting. I note that the Minister intends to call a second sectoral meeting in the autumn of 2009. Can he assure us that the issue of swine flu will be discussed at that meeting?

Can the Minister also assure us that he believes that the authorities in the Irish Republic are doing everything possible not only to control swine flu in their own country, but to ensure that there is no possible spread of the disease across the border? Is he

content that the authorities are doing everything they can to stop that happening?

**The Minister of Health, Social Services and Public Safety:** In relation to Mr Wells's first point, I did, in fact, have a discussion on swine flu with Mary Harney and her officials at Farmleigh House in June, prior to the meeting of the North/South Ministerial Council. That discussion included both of our Chief Medical Officers and was very wide-ranging. I was able to give her some of the information that I had received the previous day from COBRA. The two Departments keep in constant contact, and it is my intention that swine flu will be the main issue on the agenda at the next North/South Ministerial Council meeting, so Mr Wells has sensibly predicted what the main issue will be.

In relation to the performance of the Irish Republic, authorities there are following much the same steps as we are following. They are not part of the UK-wide response, but their response matches the national response in the UK, and we share progress as we go along. Citizens in the Irish Republic can also take confidence from the fact that their Government, as far as I can ascertain, are at the point where they should be as far as protecting the population is concerned. The Member mentioned crossing borders, but he will be aware that there will be no border as far as swine flu is concerned. It is the fastest-moving virus that we have seen for many generations, and when the surge comes it will engulf us all.

**Ms S Ramsey:** Go raibh maith agat, a Cheann Comhairle. It is great to hear the Minister say that there is no border in Ireland when dealing with health and health inequalities.

It is important that we welcome the statement, because many important issues were covered at the meeting. It is great to see both Health Departments on the island working together and being proactive on those issues.

The Minister mentioned the issues of suicide prevention and of child protection. It is important that the Committee for Health, Social Services and Public Safety receives, if possible, a copy of the papers that were provided on the issues that the Health Departments have endorsed. The Committee regularly deals with issues to do with children and vulnerable adults and with the issue of suicide.

The Minister is well aware that the Health Committee is due to sign off on its report on its inquiry into obesity. What progress has been made on the issue of obesity? Will the Minister assure us that the Committee's inquiry will be brought to the next meeting at which obesity is on the agenda? It is important not only that Departments and Ministers across the island work

together but that Committees across the island tackle the issue.

**The Minister of Health, Social Services and Public Safety:** Sue Ramsey will be aware of the Institute of Public Health in Ireland, which has provided an amount of salient advice on that ongoing work. Since that body was established, a Public Health Agency has been set up in Northern Ireland, which will take the lead on obesity and a number of other issues, although it has been somewhat ambushed by the swine flu pandemic.

I am happy to share information on obesity and suicide as the Health Departments work together on them. It is a shared experience and some issues are universal; for example, how new technologies such as the Internet impact on the well-being of children and, in turn, issues such as suicide. We are working on a number of areas and are developing protocols, particularly on child protection, that overlap with suicide prevention. When I next come to the Committee, which will be within the next month, I will be happy to share the information that I have.

**Mrs Hanna:** I welcome the Minister's statement, particularly his comments on co-operation on child protection. Has any discussion taken place on potential European funding for cross-border initiatives, perhaps through the Lisbon Treaty?

**The Minister of Health, Social Services and Public Safety:** I do not have to hand information on European funding for cross-border initiatives through routes such as the Lisbon Treaty. I can write to the Member with the information that she seeks. Funding is a serious issue and, as with other areas, the area of North/South initiatives is one that I look at carefully.

**Mr McCallister:** I welcome the Minister's statement, which covered some important issues of mutual concern. Do the 3% efficiency savings, which the Department of Health, Social Services and Public Safety is required to make, apply to North/South bodies, such as Safefood?

**The Minister of Health, Social Services and Public Safety:** The 3% efficiency savings apply to all Health Service activities. As Members are aware, I am required to find some £700 million in efficiency savings over three years. That is on top of the fact that our budget is £600 million behind providing the same Health Service provision as that in England. Trusts are in financial distress. Efficiency savings are being considered throughout the Health Service and that, of course, includes North/South bodies. Health Service activity is constantly rising in a number of areas because birth rates, the number of older people, the number of people using accident and emergency and the number of inpatients as a result of that are all rising

extremely quickly. In some cases, the numbers are rising by 8% or 9%.

In 2009, the increase in real terms, which includes inflation and excludes GDP at 2.7%, is 0.9%. That sum is not difficult. In many areas, there are increases of around 9%.

10.45 am

**Mr McCarthy:** I, too, welcome the Minister's statement and the progress that has been made on various issues. As regards suicide prevention, can the Minister tell the House how information on new technologies, and so on, will be filtered down to all those important groups, particularly in Northern Ireland, who work continuously to improve suicide-prevention initiatives and, it is to be hoped, to prevent suicide in the first place.

**The Minister of Health, Social Services and Public Safety:** The groups to which Mr McCarthy refers are very much at the cutting edge of finding initiatives in the drive against suicide. A sizeable part of the North/South work on suicide involves sharing information, because a large number of groups in the South have equally valuable experience. We ensure that that information is shared. That is our initial step.

We also have an all-Ireland suicide action plan. Therefore, a number of initiatives is ongoing that concern sharing information, and ensuring that all groups get that information. That is what we aim to do.

**Mrs McGill:** Go raibh maith agat, a Cheann Comhairle. I thank the Minister for his statement. I welcome particularly, under the heading "Health Promotion", the reference to shared learning on population health and tackling health inequalities.

In order to tackle health inequalities, has a mapping exercise been carried out throughout the island to identify where those inequalities occur? If that exercise does not exist at present, can that information be obtained for the Committee for Health, Social Services and Public Safety? To assist the all-island agenda and information-sharing, it would be welcome.

**The Minister of Health, Social Services and Public Safety:** As far as Northern Ireland is concerned, that mapping exercise has existed for a number of years. We are well aware of where pockets of health inequalities are located. There is a considerable number of them. Similarly, Mary Harney has knowledge of where pockets of health inequalities are located in the Irish Republic. We are able to share information where necessary. Health inequality is a common problem on both sides of the border.

As Members are aware, health inequalities go hand in hand with social disadvantage, educational disadvantage and unemployment, as well as with misuse of alcohol, tobacco and drugs, with obesity, and

so on. That is very much the focus of the Public Health Agency that I set up, and a feature of shared experiences that are brought to the table at North/South meetings.

**Mrs D Kelly:** I thank the Minister for his report. Can he indicate when the results of the North/South Ministerial Council's review on health matters will be published or made available?

Moreover, I understand that the number of suicides in the North has increased in 2009. I am not entirely sure whether the pattern has been similar in the South. As we are all aware, health funding is under intense pressure on both sides of the border. Was bed sharing in acute admissions for people who are at risk of suicide discussed at the meeting? I understand that there is a shortage of such beds in the North.

**The Minister of Health, Social Services and Public Safety:** The Member has mentioned suicide numbers, which, in the past three years for which figures are available — 2006, 2007, and 2008 — have been 255, 242, and 282 respectively. There are underlying reasons for that, not least the increased likelihood of people to report and more accurate reporting of numbers. Nevertheless, it remains for me a consistent anxiety and worry and a consistent target, which we are taking steps to reach.

The Member asked about bed sharing. In fact, a new mental-health hospital is being completed near Forestside in south Belfast. That hospital will have a unit for children and adolescents, as well as a family unit, and it will create around 33 additional beds. In fact, I think that that number can be stretched a bit further. We seek to address — and are addressing — the issue of bed sharing to ensure that we have an adequate number of beds available and that they come on stream.

I have noticed that a new private mental-health hospital for adolescents is being built in Templepatrick. I have no knowledge of that hospital, except for the details that I have read in newspapers and seen on television. The hospital certainly has no contact whatever with the Health Service. The one thing that a recent report that I saw neglected to say about the hospital was that in order to be admitted, one must pay. However, the new mental-health hospital in south Belfast is provided by the Health Service, and access to it is controlled by a person's citizenship, not their ability to pay.

My Department and I, together with Minister Harney, are considering the results of the review on health matters that the North/South Ministerial Council in health and food safety sectoral format carried out.

## EXECUTIVE COMMITTEE BUSINESS

### Department of Justice Bill

#### Second Stage

**The First Minister (Mr P Robinson):** I beg to move.

That the Second Stage of the Department of Justice Bill [NIA 1/09] be agreed.

Last November, following our attendance at a meeting of the Assembly and Executive Review Committee, the deputy First Minister and I announced that we had reached agreement on a number of key issues relating to the devolution of policing and justice matters.

The arrangements that we proposed will apply on an interim basis until 2012 and will be subject to review before permanent arrangements are put in place. Following that meeting in November 2008, we made public a paper that set out the process by which devolution can be achieved and the clear steps that will need to be taken to achieve devolution without undue delay.

One of those steps was the drafting and introduction of Assembly legislation. That legislation is the Department of Justice Bill, which we are debating today. The Bill flows from the Assembly's approval on 20 January 2009 of the report of the Assembly and Executive Review Committee on the arrangements for devolution of policing and justice matters and is not the result of any subsequent negotiations. The report and the Assembly endorsed our view that there should be a single justice Department with a single Minister who is elected by the Assembly.

Earlier this year, legislation was enacted at Westminster to make the necessary legislative amendments that arose from the Assembly and Executive Review Committee's report and from our decisions, which were announced on 18 November 2008. That legislation was the Northern Ireland Act 2009, and it provides the essential framework for the present Bill. The Act includes a sunset clause that will dissolve the new Department of justice in 2012 if the Assembly has not extended the arrangements in the Bill or adopted new arrangements by that time.

The Secretary of State has also made an Order to increase the maximum permitted number of ministerial offices to accommodate a Minister of justice. That Westminster legislation was also among the steps that were identified in our November process paper.

Another step is now being taken with the introduction of this Bill. The Bill itself does not seek to give effect to devolution. That can happen only when the Assembly passes a specific resolution requesting that the Secretary of State transfer the relevant

responsibilities and when the necessary legislation has been passed at Westminster. However, the Bill makes preparations in advance of those final stages so that the process at that time is as straightforward as possible. It is, therefore, enabling legislation.

Its purpose is to facilitate the creation of a future Department of justice, which will assume most of the responsibilities that are planned to transfer. The Bill will also establish a legislative basis through which the Assembly can appoint a Minister of justice. The Bill reflects the arrangements that were proposed by the Assembly and Executive Review Committee, endorsed by the Assembly and legislated for at Westminster by the Northern Ireland Act 2009.

The Bill is quite succinct. Clause 1 establishes the Department of justice, and clause 2 sets out a process for the appointment of a Minister of justice by vote of the Assembly, requiring that not only a majority of Members vote on the resolution, but that a majority of designated nationalists and designated unionists vote.

That condition ensures cross-community support for the new Minister. The deputy First Minister and I have already stated that, initially, neither of our parties would nominate one of its own members for the post of Minister of justice.

Significantly, the third clause ensures that the preceding clauses, which are the operative parts of the Bill, will not come into operation until the deputy First Minister and I jointly make a commencement order. That would take place in the final stages before devolution and, as I said, would happen only after a cross-community vote in the Assembly.

There is also a technical schedule to the Bill, which will tidy up a number of references to the future Department in existing legislation by amending them to use the new title of Department of justice. The content of the Bill and its introduction have been agreed by the Executive. The OFMDFM Committee has been briefed on the Bill's contents, and I look forward to its further engagement during the Committee Stage.

This enabling Bill gives legislative authority to put in place the arrangements that the Assembly has already agreed are necessary for the future devolution of policing and justice. The Bill's passage will enable us to act decisively, once the Assembly resolves that the time is right to request the transfer of those powers. I commend the Bill to the Assembly.

**The Chairperson of the Committee for the Office of the First Minister and deputy First Minister (Mr Kennedy):** As the Chairperson of the OFMDFM Committee, I am grateful for the opportunity to talk about the Bill. I will then add my own party-political views.

At its meeting on Wednesday 9 September, the Committee received a briefing from departmental officials. A number of questions was asked and answers given; officials undertook to send further information to the Committee, which was provided in a reply dated 21 September and circulated to all members of the Committee.

It was proposed in the Committee that the Bill should not proceed in the Assembly until the publication of the next report of the Assembly and Executive Review Committee. That proposal was defeated, and the Committee agreed to place a public notice in newspapers after the First Stage of the Bill to advertise a closing date — a fortnight later — for receipt of submissions. I can confirm that that notice was published on Friday 18 September, and it indicates a closing date of 12 noon on 2 October. At its meeting on 7 October, the OFMDFM Committee will consider likely oral evidence sessions and whether to extend the Committee Stage of the Bill. That is an accurate reflection of how the OFMDFM Committee has dealt with the Bill in its statutory role.

As a member of the Ulster Unionist Party, I will now address some issues raised by the potential devolution of policing and justice to the Assembly. I declare an interest as a member of the Assembly and Executive Review Committee.

In principle, the Ulster Unionist Party is not opposed to the devolution of policing and justice at a proper point in time. However, that point has not yet been reached, so we will oppose the Bill's passage today.

11.00 am

We are consistently told that we are part of a four-party mandatory coalition. However, the Ulster Unionist Party has not been consulted on, or involved in any way in, the ongoing negotiations at Downing Street and with senior Treasury figures. We are not, therefore, involved in briefings and meetings with officials.

**The First Minister:** Are you sure about that?

**The Chairperson of the Committee for the Office of the First Minister and deputy First Minister:** We believe that we have no ownership —

**The First Minister:** Your leader has not had any discussions?

**The Chairperson of the Committee for the Office of the First Minister and deputy First Minister:** The Ulster Unionist Party believes that it has no ownership of the process.

**Mr Speaker:** Order.

**The Chairperson of the Committee for the Office of the First Minister and deputy First Minister:** If

the First Minister wishes to say something, I am happy to give way.

**The First Minister:** That would be useful. Is the Member telling the House that his party leader has not had any discussions with the Northern Ireland Office on the devolution of policing and justice powers?

**The Chairperson of the Committee for the Office of the First Minister and deputy First Minister:** That is altogether different. There may well have been discussions and conversations with the Secretary of State and others; however, we have not been involved in the ongoing, detailed negotiations, and, therefore, our fingers are not in this pie. The First Minister will have to explain to his own party, and to the wider community, how and when decisions are to be made.

**Mr Poots:** Will the Member give way?

**The Chairperson of the Committee for the Office of the First Minister and deputy First Minister:** Sorry, I have progress to make.

I simply reiterate that we feel that we have no ownership of the process. It is a bit rich for the First Minister, who often reminds us that this is allegedly a four-party mandatory coalition, to expect the blind support of other parties, particularly the Ulster Unionist Party, for the early devolution of policing and justice powers.

**Dr Farry:** Will the Member give way?

**The Chairperson of the Committee for the Office of the First Minister and deputy First Minister:** I am sorry, but I will not give way.

We need to consider community confidence. In the wider community, the prevailing view is that the Assembly and Executive have not yet substantially proved themselves before the people of Northern Ireland. Devolution is not all that it was cracked up to be or what was promised, and we see that in the business of the Assembly. For example, the issue of education is in deadlock.

**Mr Speaker:** Order. I remind the House that, at Second Stage, Members must speak to the principles of the Bill. If Members decide to wander outside the principles of the Bill, I will very quickly bring them back. In Committee and at Consideration Stage, Members will have an opportunity to discuss all the issues. However, today's debate concerns the principles of the Bill, and only the principles of the Bill.

**The Chairperson of the Committee for the Office of the First Minister and deputy First Minister:** I am happy to bear that in mind, Mr Speaker. I was attempting to allude to the wider perceptions that affect the conditions under which this enabling legislation could be progressed. I am striving to make the point that there is no community confidence in the Assembly

or the Executive to permit the early enactment and realisation of the devolution of policing and justice powers.

Community confidence has been shaken by recent events, and by the ongoing serious threat from republican dissidents. That is a matter that concerns us all and, in the context of devolving policing and justice powers, is surely an important consideration. I detect a very strong concern in the unionist community, which believes that republicans, even those in the House who are directly involved in the negotiations for the possible devolution of policing and justice powers, are not doing enough to bring the necessary information to the PSNI so that it can deal with those republican dissidents, as they are called. We need to see information that details the activities of some of the erstwhile colleagues of those in the mainstream republican movement.

**Mr Poots:** Will the Member give way? I hear what the Member says —

**Mr O'Dowd:** Will the Member give way?

**Mr Poots:** Mr O'Dowd will get his chance to speak later.

I hear what the Member says, and I am at somewhat of a loss to understand him. In 2005, when republicans had not signed up to policing and justice, the Member's party wanted to rush headlong into the devolution of those powers. Now that republicans have signed up to the devolution of policing and justice powers, he wants to delay the process. I am somewhat confused by his stance.

**The Chairperson of the Committee for the Office of the First Minister and deputy First Minister:** I am happy to confirm that the Member seems to be confused permanently. The situation that he described was not the case; therefore, his comments are not relevant to today's debate.

Given past performance, serious questions must be asked about the ability of DUP/Sinn Féin to negotiate a proper financial package to support the devolution of policing and justice. Any financial package for the transfer of policing and justice powers needs to be tested rigorously for financial sustainability, risk management and contingency planning against potential shortfalls. Only then, and only after a period of time, should powers be transferred fully. Clear, robust guarantees must be given that Westminster will not allow the Northern Ireland Budget to suffer in the event of additional demands being made on policing, such as those that are created by civil disorder. Only on that basis can we consider the devolution of policing and justice powers responsibly.

For well over a year, my party has been saying that the time is not right to devolve those powers unless and until this place steps up to the mark on other issues. A year later, there has been no movement; we

have had only more paralysis from the DUP/Sinn Féin axis. Simply adding the Alliance Party to that axis is hardly a recipe that inspires confidence. Therefore, we oppose the Bill, not because we oppose the principle of the Northern Ireland Assembly having charge of the powers, as is the plan, but because we do not believe that the community has confidence in devolution at this point. Moreover, given that the Executive cannot sort out the mess in education and other areas, how on earth can they be expected to deal effectively and efficiently with policing and justice? The Ulster Unionist Party will, therefore, oppose the motion.

*(Mr Deputy Speaker [Mr McClarty] in the Chair)*

**Mr Spratt:** I am pleased to have the opportunity to speak during today's debate. I declare an interest as Chairperson of the Assembly and Executive Review Committee and as a member of the Northern Ireland Policing Board. I clarify that I am not speaking in my capacity as Chairperson of the Assembly and Executive Review Committee.

As Members are aware, the issue of the devolution of policing and justice has been in the political arena for some time. I support the Bill, the creation of a Department of justice and the appointment of a justice Minister when the necessary conditions are met. However, as Members are aware, the purpose of the Bill is merely to create a Department of justice and to enable the appointment of a justice Minister. It does not state when devolution will happen or, indeed, what powers will be devolved. It is simply a stepping stone along the way. However, we are making progress and are moving in the right direction.

Before policing and justice functions can be devolved, two things need to happen. First, we need to ensure that appropriate funding is in place, and I know that the First Minister and the deputy First Minister have been lobbying the Prime Minister and the Treasury to ensure that that happens. Secondly, we need to safeguard the continuity of the justice Department beyond 2012. To do so, we must ensure that community confidence exists. If devolution is to be sustainable, all sections of the community must have confidence in it.

The Assembly and Executive Review Committee has made a number of practical recommendations about devolution, which begin with suggesting that there should, in fact, be an additional and separate Department for policing and justice, which should be known as the Department of justice. Following on from that, the Committee recommended a number of control measures for the removal and replacement of a Minister, which would apply until 2012. Those measures would be contained in what is known as a sunset clause, which means that the Department would dissolve in 2012 if the Assembly did not agree on a

more permanent arrangement. In the interim, it was also agreed that neither the DUP nor Sinn Féin will nominate a Member from their respective parties to be justice Minister.

Bearing in mind what I said about community confidence, it is important that any future justice Minister ultimately be appointed by a majority of unionists and a majority of nationalists, as well as an overall majority of Members. To those Members who are concerned that that is a departure from d'Hondt, and it is, I can say that the Assembly will have an opportunity to revisit the proposal before 2012.

The Assembly and Executive Review Committee —

**Mrs D Kelly:** In confirming that that measure is a departure from d'Hondt, and, therefore, a departure from the principles of the Good Friday Agreement, does the Member agree that Sinn Féin has conceded that veto to the DUP?

**Mr Poots:** Does the Member agree that that measure would be part of the dismantling of the “ugly scaffolding” of the Good Friday Agreement, a phrase which was used by the soon-to-be former leader of the lady's party?

**Mr Spratt:** I am happy to agree with that. *[Laughter.]* I am also happy to hear what Mrs Kelly said; I have heard it many times before, not only from her, but from her colleague Mr Attwood, who is sitting beside her.

The Assembly and Executive Review Committee still has work to do before the devolution of policing and justice can take place. I mentioned earlier that finance is key; I want to commend the work of the First Minister and the deputy First Minister in their negotiations with the Prime Minister and the Treasury. Those talks have taken place against the background of particularly difficult economic times, and it is certainly not an easy task.

The Assembly and Executive Review Committee will continue to consider the non-modality issues, and will finalise its second report soon. There was some discussion about that in the Committee's meeting earlier this morning. The Committee aims to present its second report to the Assembly before the end of 2009. I commend the Bill to the House.

**Mr A Maskey:** Go raibh maith agat, a LeasCheann Comhairle. Obviously, on behalf of Sinn Féin, I support the Bill. As the First Minister said, it is a succinct Bill, which contains three clauses that simply provide for the establishment of a justice Department and the appointment of a justice Minister. The Bill, in my view, ably and simply speaks for itself.

I heard some of the comments that Danny Kennedy made when he was speaking as a member of the Ulster Unionist Party. Although I wish it were different, the

Bill does not specify when the Department will be established. That is something that we are working on. I welcome the fact that Jimmy Spratt mentioned that the First Minister and the deputy First Minister are engaged in ongoing discussions with the British Government and others to try to ensure that we make the necessary progress on issues such as the budget, and that we can move speedily towards the establishment of a justice Department in the near future.

Members will have become familiar with the phrase “revolving justice”. We have all heard members of the public, particularly victims' families and others, who have regularly and routinely complained to us about the revolving nature of the justice system, whereby repeat offenders are in and out of the courts. Most members of the public feel that the levels of justice that are meted out are inappropriate or not balanced.

What we have heard from Danny Kennedy this morning is an example not only of a revolving policy, but of the UUP going round in circles. He finished his remarks by saying that the UUP would oppose the Bill, not because it is against the principle of the transfer of policing and justice powers, but because it does not think that the time is right. That is a familiar unionist phrase; we often hear that the time is not right or that the Assembly has not stepped up to the mark.

11.15 am

Although I wish that it did, the Bill does not provide a date for the transfer of powers. Therefore, there is no reason —

**Mr Kennedy:** Does the Member accept that the Bill's passage through the various Stages in the Assembly raises an expectation that the date for the devolution of policing and justice is not far off and is not a political lifetime away, as some people once predicted?

**Mr A Maskey:** The Member needs to make up his mind whether he wishes to be mischievous or whether he wishes to contribute to the debate. In my view, much of what he said this morning has done neither.

The fact is that the Ulster Unionist Party signed up to the Good Friday Agreement. The St Andrews Agreement was an add-on to that. Further discussions took place; some of the topics we supported and some we were not so happy about. Nevertheless, the Ulster Unionist Party has two Ministers in the Executive as a result of the Good Friday and St Andrews Agreements.

**Mr Cobain:** As the Ulster Unionist Party is represented on the Executive, has it been in detailed discussions with the First Minister and deputy First Minister about the devolution of policing and justice?

**Mr A Maskey:** I think if the Member — *[Interruption.]*

**Mr Deputy Speaker:** Order.

**Mr A Maskey:** Had the Member been in the House earlier, he would have heard reference to the fact that his party leader has already been part of a number of discussions. *[Interruption.]* I must also point out that members of his party sit on the Assembly and Executive Review Committee. In fact, Danny Kennedy chairs the relevant scrutiny Committee, so the UUP has had ample opportunities to be involved in discussions.

The difficulty for the Ulster Unionist Party — and Mr Kennedy alluded to it earlier, possibly inadvertently — is that it did not get the mandate to be among the leadership of those negotiations. That is a problem that the party has to square in its own mind. I do not believe that it has squared that circle just yet. Other parties suffer from the same problem. As a result of the choice of the electorate, the DUP and Sinn Féin are the two lead parties, in that they are the holders of the Office of the First Minister and deputy First Minister. They are mandated and obligated to take those discussions and negotiations forward.

**Mr Kennedy:** Will the Member give way?

**Mr A Maskey:** No, I am sorry, but I have already done so. The Member will have plenty of time to speak later on if he wishes to. He has stated that he will deal with that in the later stages of the Bill, and I look forward to that.

The reality for the Ulster Unionist Party is that it did not get that mandate. It is free to seek a new mandate later on, but, for the time being, the current First Minister and deputy First Minister are leading the discussions with the British Government on a budget. They are not doing that in isolation. Members of all parties, with the exception of the Alliance Party, sit on the Policing Board, which has also been routinely involved in discussions on the necessary budget for policing — and I should declare an interest as a member of the Assembly and Executive Review Committee and as a member of the Policing Board. I am sure that members of Mr Kennedy's party have made representations directly to the NIO on budgetary and other matters. Indeed, I think that that has already been acknowledged.

The Ulster Unionist Party still has ample opportunity to input into this very important debate. What it has not shown, in my opinion, is any sense of leadership whatsoever. I am not a unionist, but I can tell the Member that Policing Board members who are here today would acknowledge that the board frequently meets people from every community across the North who routinely complain that the system is not joined up and that good aspects of police work fall foul of the Magistrate's Court or the Public Prosecution Service (PPS). Those disputes are taking place. People from all communities want a justice system that is joined up, effective and solves problems collectively. They, and

members of all parties, including the Ulster Unionist Party, routinely make representations to the Policing Board about the need to ensure that the system is joined up more effectively so that the general public, whom we serve collectively, get the justice system that they are entitled to, that they want and, more importantly, that they can shape in the future.

The only real opportunities for many people to have an input into important justice matters are through current affairs programmes or the letters pages of newspapers. Everyone here will acknowledge and accept that it is simply not good enough that the public have no real input into how the criminal justice system works. Some people want to have legislation introduced on a whole range of matters, others want to change Government policies. However, they do not have a local Minister whom they can hold to account for the rights and wrongs of the system or to whom they can suggest changes that would benefit the community.

The legislation is necessary simply to ensure the realisation of the agreement that I hope is imminent. The vast majority of the public welcome that and, indeed, want it to happen sooner rather than later. Considerable community confidence will be built if members of the parties represented in the Chamber today come together to establish the justice Department and to appoint a Minister and a scrutiny Committee. That will also help the budget process. I do not accept that there is not widespread community support. However, other parties have made that argument, and so be it. Along with the vast majority of the public, a LeasCheann Comhairle, I look forward to the transfer of power on justice matters: that is very important to all the people whom we serve collectively from the Chamber.

Mr Spratt referred to the fact that the appointment will be made outside of the d'Hondt procedures, and I accept that. However, I make it clear on the record yet again that the arrangements are temporary. The DUP and Sinn Féin have generously abstained from taking the post for the first period.

**Mr P Ramsey:** Why is Sinn Féin so spooked by the prospect of an SDLP justice Minister? Will the Member and his party support an SDLP nomination?

**Mr A Maskey:** The Member might want to refer to the former leader of his party, or is he still the leader? I am not quite sure of the leadership situation in that party. Nevertheless, the former, or current, or putative in/out leader, has had discussions on the matter. We are on public record as saying that our preference is for an SDLP Minister of justice, although I must say that I would not have a lot of confidence in many of the SDLP Members on the Benches to be competent Ministers.

**Mr P Ramsey:** Would you support an SDLP nomination?



**Mr A Maskey:** Our preference is an SDLP Minister of justice, and we would support that nomination. I am not sure what part of that the Member cannot understand. We have said that repeatedly, and I repeat it again today.

The Good Friday Agreement and the St Andrews Agreement contain an absolute requirement that we establish the institutions and maximise devolution and the transfer of powers. It is not a cherry-picking exercise: it is an absolute requirement. Policing and justice is an essential element of what was agreed in both the Good Friday Agreement and the subsequent St Andrews talks.

The purpose of the Bill, a *LeasCheann Comhairle*, is to ensure that a Department will be established as soon as possible. I have already said that the DUP and Sinn Féin have generously abstained from nominating a Minister of justice at this point. Given the difficult circumstances in which we all find ourselves, we have made an accommodation to ensure that a Department of justice will be established and that a Member of the House will be appointed as Minister of justice. That will also ensure that the general public are given a sense of the justice system's twin pillars of accountability and independence. The people whom we represent collectively will have a say over how those matters are delivered in the time ahead.

As Mr Jimmy Spratt said, the Bill contains a sunset clause that means that the interim arrangements have to come to an end by May 2012. There is no fallback position. If we wish to continue with the devolution of policing and justice powers after 1 May 2012, it is up to any Member or any party to make alternative proposals prior to that date. As I said, the current arrangements are temporary and are merely an accommodation.

If policing and justice powers are transferred in the near future, I imagine that the practical outworkings and the experience that will be gained by the parties between that time and May 2012 will be important. Danny Kennedy said that power sharing is not working. However, that practical experience, along with other work, will inform us by May 2012 of whether it is appropriate to continue with the arrangements beyond that time. If it is not appropriate to do so, we will make other arrangements. Any such alternative arrangements will be discussed and will have to be in place by 1 May 2012. That is important.

**Mr Durkan:** Will the Member take a question?

**Mr A Maskey:** I will, as long as it is a question. Please keep it brief.

**Mr Durkan:** I thank the Member for giving way. He said that arrangements will have to be in place before May 2012. If arrangements are not in place before then, what will happen?

**Mr A Maskey:** The Member has been involved in politics for a few years — he did say, though, that he is only 49, so I will take that as an indication of his political experience — and as he has said in the past, we do not know what will happen. His former deputy leader, Séamus Mallon, was on record as saying that we can only legislate for what we can legislate for ourselves. We cannot legislate into the future. I do not know what the situation will be in 2012. I do not know what the situation will be next week; I have a fair idea, and I am working on that basis, but who knows?

The fact is that the arrangements are in place, and I hope that they will get the support of the parties in the Assembly, because those arrangements provide for the establishment of a Department of justice and the appointment of a Minister of justice. By 1 May 2012, alternative arrangements will have to be in place. The Bill does not provide for a fallback position. Therefore, if such arrangements are not in place, there will not be a Department of justice. If an impasse —  
[*Interruption.*]

Mr Durkan may wish to hear himself talking, but I do not want to hear him. I want to get on with the debate.

If we reach an impasse at that time, one would presume that there are other political difficulties, and we will have to deal with those in the round.

I will make one simple point in response to Mr Durkan: at no time during his leadership of his party, or during Seamus Mallon's leadership in the Assembly, did they make any specific proposals to the House for the delivery of policing and justice powers, nor indeed, if I recall correctly, did they even publicly put forward such a strategy. It is all very well to say that it was in the Good Friday Agreement. Sinn Féin supported the Good Friday Agreement, and I remind the Member, although he does not like to acknowledge it very often, that we were involved in the negotiations that led to the Good Friday Agreement. It was not solely the SDLP that tidied up that bit of business; a number of people, including those from Sinn Féin, were involved in those talks. At no time did the SDLP put forward any strategy for the delivery of policing and justice powers. Its members can criticise Sinn Féin —

**Mrs D Kelly:** Will the Member give way?

**Mr A Maskey:** I have already given way a number of times. The Member will have ample opportunity to state her case.

People can state that they want something to happen; however, the general public want their political leaders to deliver. How can we do that? This Bill, as an accommodation between Sinn Féin, the Democratic Unionist Party and OFMDFM, sets out the means for the establishment of a Department of justice.

11.30 am

I want the SDLP to tell people whether it supports the Bill. When Mark Durkan spoke against the Westminster Bill on the matter, he got his party into quite a kerfuffle by leaving — he did not stay for the vote. Therefore, we must be clear about our positions. The SDLP must tell the general public whether it supports the transfer of policing and justice powers and whether it will support the current legislation to enable that transfer.

Earlier, in answer to Pat Ramsey, I stated that Sinn Féin would prefer a member of the SDLP to be the justice Minister; that may or not happen. However, our priority is to facilitate the transfer of powers on policing and justice to ensure that the general public whom we represent receive the best policing and criminal justice system that we can deliver.

That means putting our shoulder to the wheel, establishing the Department and taking responsibility for delivering those matters into the hands of locally elected people who are accountable to the public and who will be able to answer those families who ask why they have not received justice. Instead of people having to run headline campaigns in the ‘Belfast Telegraph’ or having to appear on ‘The Stephen Nolan Show’, perhaps the Assembly will take responsibility by passing the relevant and appropriate laws and by developing a policy for the wider criminal justice system that will help to prevent crime and enable the police to detect more crime. That would enable the judicial system to deal appropriately with offenders while being respectful of, and responsive to, the victims.

I conclude by reiterating that the arrangement is temporary, based on an accommodation reached by the DUP and Sinn Féin through OFMDFM. I have no difficulty with that because as part of the ongoing negotiations on the budget and other matters, Sinn Féin is determined that a Department be established. Sinn Féin and the DUP have absented themselves from consideration for the ministerial post. That demonstrates that Sinn Féin’s priority, through the establishment of the Department, is to meet not our narrower party political interests, important as those may be, but the wider public interest, whoever the Minister may be and to whichever party he or she belongs.

Others who want to contest the Bill must tell the public how they intend to meet their need. Communities are experiencing problems with crime, and there is a lack of confidence in the criminal justice system and in many aspects of its delivery. Other parties may criticise Sinn Féin and the DUP as much as they wish. However, they must tell the public how they intend to achieve the establishment of the

Department and the appointment of a Minister, so that, collectively, we can get on with the job of delivering and servicing the needs of the people whom we are all supposed to represent. Go raibh mile maith agat.

**Mr A Maginness:** I am interested in what Mr Maskey said about the “temporary” arrangement with the DUP. I recall that Lloyd George described partition as temporary; the term, therefore, has some historical resonance.

I want to make it clear that the SDLP supports fully the devolution of justice and policing powers to the House and to Northern Ireland. However, we do not support it on the basis of the Bill. The Bill is defective and flawed because it does not permit a stable and inclusive method by which justice and policing powers can be transferred.

Let us take an example —

**Mr Hamilton:** Will the Member give way?

**Mr A Maginness:** No; the Member may intervene all he wants after allowing me to develop my argument.

All Members should be aware that a sunset clause builds into any transfer of justice and policing powers a continuous instability in the Department and in its future. The temporary arrangement to which Mr Alex Maskey referred will create all sorts of political difficulties throughout the life of the Department, if it comes about. Therefore, the Bill is defective at least on that basis. That is a fundamental flaw in relation to this legislation.

Another point, which was made very openly by Mr Spratt in his observations of the Bill, is that the process is a departure from the d’Hondt mechanism. Mr Alex Maskey endorsed that and openly admitted that it was a departure from d’Hondt. Of course, the d’Hondt system is central to the Good Friday Agreement. Once one starts to chip away at a fundamental aspect of the agreement, one undermines the entire agreement.

**Dr W McCrea:** Hear, hear.

**Mr A Maginness:** I hear some echoes from the DUP Benches that are in support of that proposition. Of course, Sinn Féin has sold the pass in relation to the Good Friday Agreement. By accepting that there should be a departure from d’Hondt in relation to the justice and policing Ministry, the party is accepting that the principle of d’Hondt is expendable. That is what Sinn Féin is doing by accepting the departure that the DUP has welcomed. Of course, this is a DUP agenda and not a Sinn Féin agenda. It is an agenda to which Sinn Féin has acquiesced. In fact, the party has betrayed a basic principle of the Good Friday Agreement.

The leader of the Ulster Unionist Party called —

**Mr Kennedy:** He is not here. *[Laughter.]*

**Mr Deputy Speaker:** Order.

**Mr A Maginness:** I thought that Mr Kennedy was a little confused. *[Interruption.]*

**Mr Deputy Speaker:** Order.

**Mr A Maginness:** The leader of the Ulster Unionist Party, outside this House, is on record as referring to the arrangement as a gerrymander. It is a gerrymander by the DUP and Sinn Féin. They have agreed to all sorts of carve-ups, but they cannot agree on this one. They are implacably deadlocked in relation to this issue, so the alternative that they have used is a gerrymander of the office. It is a crucial office in government; one that is very contentious and is very important for the future of justice and security here in Northern Ireland. Their agreement is quite wrong indeed.

What is required is to adhere to the method of selecting Ministers, which is a basic principle of the Good Friday Agreement. The d'Hondt mechanism is to be preferred because it is fair. It allows parties, in a fair manner, to select the Departments in which they wish to involve themselves.

**Mr M McGuinness:** For the purposes of this debate, will the Member outline for the Assembly one occasion when the SDLP proposed that policing and justice powers should be transferred to the Assembly and the Executive under the d'Hondt mechanism during the time when Séamus Mallon and Mark Durkan were in the lead in regard to the nationalist community and respectively held the position of deputy First Minister alongside David Trimble?

**Mr A Maginness:** The SDLP has never departed from the principle of d'Hondt, because —

**Mr M McGuinness:** Will the Member give way? I have asked a simple question.

**Mr A Maginness:** I am answering that question. The principle of d'Hondt is central to the Good Friday Agreement, because it is a fair system by which to appoint Ministers and distribute offices — *[Interruption.]*

Just listen to me: d'Hondt establishes a reasonable and fair pecking order, and that is why that system was adopted. What Mr McGuinness is doing — *[Interruption.]*

**Mr Deputy Speaker:** Order. Members must not make references or statements from a sedentary position.

**Mr A Maginness:** The deputy First Minister, Martin McGuinness, in leading his party in the Assembly, has departed from a fundamental principle of the Good Friday Agreement. Therefore, he has undermined that principle itself. The next time we form an Administration, the DUP may decide to get rid of

d'Hondt altogether and have Ministers based — *[Interruption.]*

That is the response that one gets. They have sold the pass in relation to d'Hondt, and I emphasise that.

**Mr M McGuinness:** Will the Member give way?

**Mr A Maginness:** I have already given way to the deputy First Minister. I will not give way again. Let me develop my argument. The point — *[Interruption.]*

Mr Deputy Speaker, the deputy First Minister is very exercised by this issue, because he realises that he has sold the pass in relation to d'Hondt and that that is a betrayal — *[Interruption.]*

**Mr Deputy Speaker:** Order. Which part of not making comments from a sedentary position does the deputy First Minister not understand?

**Mr Durkan:** The record shows that when I was deputy First Minister, I advocated beginning to work towards the devolution of justice and policing powers. The record also shows that the First Minister at that time did not agree with that position. The record further shows that Sinn Féin was completely opposed to the Policing Board at that time and was attacking and criticising those of us who were on it and who were trying to make the Patten Commission's reforms work.

**Mr A Maginness:** I thank the Member for his intervention. I go back to the point about the cross-community election of a Minister, which, in reality, in contrast with d'Hondt, allows a veto over the appointment. That is reflected in the statement of the Ulster Unionist leader, Sir Reg Empey, who said that the process would be a gerrymander because it would permit a veto.

Sinn Féin and Alex Maskey in particular have generously decided not to seek the justice Ministry: some generosity. Sinn Féin also said, very disingenuously, that it would support an SDLP appointment to the justice Ministry. That is so generous — *[Interruption.]*

**Mr Deputy Speaker:** Order.

**Mr A Maskey:** On a point of order, Mr Deputy Speaker. How can the Member refer to the fact that we "disingenuously" said that we would support an SDLP Member being appointed Minister of justice? That is a negative implication, which I reject absolutely. My party put it clearly on the record, and I have repeated during the debate, that Sinn Féin's preference was for an SDLP Member to be appointed Minister for justice. I resent Alban Maginness describing that offer as disingenuous; it was far from it.

**Mr Deputy Speaker:** Mr Maskey, you have adequately clarified your position.

11.45 am

**Mr A Maginness:** I am not sure whether that was, in fact, a point of order. It was more of an intervention. Nonetheless, Sinn Féin has professed support for the SDLP taking the justice Ministry, but that is a disingenuous position to adopt because it knows well that, some months ago, outside 10 Downing Street, the First Minister said that he would veto any SDLP nomination for the justice Ministry. So, Sinn Féin claimed to be supporting the SDLP, knowing quite well that there would be a veto from the First Minister. Of course, that is the veto to which Sinn Féin agreed by openly departing from d'Hondt.

**Mrs D Kelly:** Will the Member give way?

**Mr A Maginness:** In one moment. If d'Hondt had remained in place, the SDLP would certainly have had a claim on that Department, except in circumstances in which d'Hondt were rerun completely. If there were a topping-up according to d'Hondt, the SDLP would certainly have that position. However, whether or not the SDLP gets the justice Ministry is immaterial. The important thing is to preserve d'Hondt, because it guarantees fairness to everyone in the House, and that is central to the Good Friday Agreement. I am sure that most parties, apart from the DUP and Sinn Féin, would agree.

**Mrs D Kelly:** On the question of whether Sinn Féin was being disingenuous, it is a matter of public record that Martina Anderson said that the Alliance Party would be entitled to the justice Ministry. In fact, in the Assembly and Executive Review Committee, did it not fall to Alex Attwood to point out to Sinn Féin what, in a letter from the OFMDFM to the Committee, "at all times" meant in relation to a cross-community vote for the justice Ministry?

**Mr A Maginness:** I am grateful to my friend for raising that issue because when Martina Anderson said that she was accepting the position "at all times", she certainly sold the pass on this issue. Of course, Sinn Féin hastily unscrambled that position, by which it was deeply embarrassed, and from which it had to resile as quickly as possible.

However, my point is that once one departs from d'Hondt for exceptional reasons — and Mr Maskey has attempted to make the best of a bad case — one undermines the basic principle and the mandate of everyone in the House.

**Mr Paisley Jnr:** Does the Member recognise that the spectacle between nationalism and republicanism that we are witnessing from this side of the House is the clearest possible manifestation of the fact that, no matter which party is in the lead position in this place for nationalism, those parties have collectively failed to deliver their republican agenda on policing and justice? That is what we are witnessing today.

**Mr A Maginness:** If the Member wants me to go through the SDLP's history with respect to policing and justice and the way in which it brought about a new departure on policing by creating a new Police Service in Northern Ireland, I will do so. However, the Deputy Speaker would probably stop me. In answer to the Member's intervention, the SDLP has a proud record on policing, justice and human rights, and it will stand by that record and commit itself to justice, policing and human rights, which have been ignored by the party to my right.

I was interrupted while speaking about mandates. Mr Maskey has a peculiar attitude to them. He maintains that there are superior and inferior mandates. He does not accept that mandates are equal in this House. He does not accept that my mandate is equal to his. He maintains that, as he is a Sinn Féin member, he has a mandate plus; DUP members have a mandate plus; and, perhaps, SDLP members have a mandate minus.

In fact, all Members of the House have an equal mandate. We all have a right to be consulted and a right to inclusive decision-making in relation to important and contentious matters such as justice and policing. The SDLP has been excluded from that process, and it is excluded from consideration of which party should head that Department.

**Mrs M Bradley:** I remind Mr Paisley Jnr of the 'Hearts and Minds' programme in February 2009, on which he stated:

"I do believe that, if the SDLP had more people here, we certainly would not have been able to get away with some of the things that we have been able to get away with."

That means that the nationalists on these Benches did not fail, and I thank him for his words. *[Interruption.]*

**Mr Paisley Jnr:** Collectively, you have failed.

**Mr Deputy Speaker:** Order, Mr Paisley.

**Mr McNarry:** What planet are you on, Ian?

**Mr Deputy Speaker:** You are in this Chamber and on this planet, so please, Mr Paisley. Mr Maginness may continue.

**Mr A Maginness:** I find it strange that Mr Paisley should talk about failure, because there have been certain failures in respect of Mr Paisley and his party in recent days.

I return to the subject of mandates. Mandates are equal in this House. The Assembly is inclusive, not exclusive. However, the two major parties have adopted a position of exclusion. They are inclusive to one another, but they exclude other parties. They exclude the Ulster Unionist Party and the SDLP, and they would exclude anyone who does not suit their purposes.

My party believes that every Member has a mandate and a right to be included in decision-making. The Assembly was established on a power-sharing basis. Every Assembly Committee is constructed proportionately. That is the spirit of partnership, and the DUP and Sinn Féin are forgetting that. Partnership involves a coming together of all parties. That is reflected in the d'Hondt system but not in the Bill.

The Sinn Féin attitude to the SDLP is difficult to fathom. During the long argument over decommissioning, when there was great pressure on the SDLP in relation to the exclusion of Sinn Féin, the SDLP remained firm to the principle of inclusion in Government, because it wanted everyone to be involved in decision-making. This fractured society demands that everyone be included in decision-making. That spirit of partnership and inclusivity is important. I hope —

**Mr A Maskey:** Will the Member give way?

**Mr A Maginness:** I have already given way, but if the Member wants to speak, I will do so again.

**Mr A Maskey:** I respond to Mr Alban Maginness's last point. It is not that long since the SDLP joined unionist parties on Belfast City Council to exclude Bobby Lavery from the chairmanship of a relatively minor council committee. Mr Maginness knows that his colleague Alex Attwood has tried to defend that publicly. Bobby Lavery was an elected member of the council who had secured exactly the same mandate as Mr Maginness. Mr Lavery's brother and son had been shot dead by loyalists. Yet the SDLP unseated Mr Lavery from the chairmanship of a silly committee in Belfast City Council. That is an example of the SDLP's inclusivity.

**Mr A Maginness:** If that is Mr Maskey's strongest point, it is not really a point at all.

The SDLP's involvement in Government has been to include people, not to exclude them, and we are committed to that process, which is based and founded on the Good Friday Agreement.

I wish to refer to the financing of the Department. There are indications that progress has been made on the financing of policing, in particular, and justice, which is to be welcomed. However, I warn the House that the prospect of a Labour or Conservative Government taking power over the next months means that very firm guarantees are needed. Either of those parties, individually, or in a coalition with the Liberal Democrats, could bring about severe public sector cuts that could affect policing and justice in Northern Ireland. There must be guarantees to prevent that happening.

In conclusion, I am pleased to see that there is a better attitude towards the whole issue of devolution. At some stages, it was felt in the House that the DUP

was not intrinsically in favour of the devolution of justice and policing. I remind Members that the last Prime Minister of Northern Ireland, Brian Faulkner, resigned over the taking away of policing and justice powers from the Northern Ireland Parliament and Government, so serious did he view that. Therefore, I sometimes have difficulty with unionists being reluctant to see the transfer of justice and policing. Clearly, it is an important power and something that all of us want to see happening sooner rather than later.

**Dr Farry:** The Alliance Party will be supporting the second reading of this important legislation, and —  
[*Interruption.*]

**Mr Kennedy:** Does the Member have any more revelations?

**Dr Farry:** As I hear the heckling coming from both my left and my right, I will express my extreme disappointment that two parties in the Chamber are intent on opposing the legislation. Mr Maginness has just praised the DUP for getting us this far down the road to devolution, and yet the SDLP will vote against the Second Stage of the Bill today: that is a very confused message.

I am under no illusions: this is not the perfect way to deliver the devolution of policing and justice. However, we have to be realistic about where we are coming from. We do not have devolution of policing and justice at present. The history of the Northern Ireland peace process over the past years has been about making arrangements that may seem to be unusual, but that is what we have had to do to get over the various humps in the road and to ensure that we keep the journey going. Clearly, devolution is at a critical stage, and it is a critical step that has to be taken for confidence in the wider political process. Let us not make the perfect the enemy of the good. Let us accept what is before us in a pragmatic manner and recognise that this is a means to an end, and that that end is the devolution of policing and justice.

Devolution is important for three reasons. First, it is a critical step in our peace process. Policing and justice have been held back; they should be part of the devolution settlement. Secondly, it brings important accountability in relation to control over policymaking and resource considerations, which is something that the House should have. Thirdly, and perhaps most critically, it gives us opportunities for joined-up government. Policing and justice do not sit by themselves in a silo. The issues that they deal with cut across boundaries. For instance, levels of offending involves the areas of health, education and housing, and requires co-operation by different Departments. Devolution provides opportunities for enhanced joined-up government and better solutions for the people of Northern Ireland.

A lot of reference has been made to the issue of confidence. I want to say a few words on that.

The confidence needed for the devolution of policing and justice does exist. When I go round the doors, I do not hear people say that we should hold it back; they are ready for it to happen. Reference has been made to the problems in the Executive. Let me be clear: the devolution of policing and justice is part of the solution for overcoming those difficulties in the Executive, given that the lack of progress on devolution until now has been a source of discontent. Therefore, the logic follows that if policing and justice is devolved and there is agreement between the main parties in the Executive, we will be in a much better position.

12.00 noon

Developing confidence has to be seen as a process; it will not be achieved by devolution happening on a certain day. It will be an ongoing process, even after devolution happens, and it is about showing the people of Northern Ireland that the devolution of policing and justice can make a real difference to people's lives and will result in tangible differences.

**Mrs D Kelly:** Some 53 papers are being held up in the Executive by the two main parties. How does that inspire confidence in the public?

**Dr Farry:** The Member is aware of what the Alliance Party has been saying about its frustrations with the performance of the Executive, but devolution will help overcome the existing problems rather than add to them. I thought that the SDLP was in favour of devolution and not against it, as its members seem to be arguing today.

Wider points have been made about confidence. At the outset, Danny Kennedy stressed that his party is opposed to the devolution of policing and justice at this stage. In particular, he raised the spectre of the problems of dissident republicans and said that it would be unwise to devolve policing and justice at the moment. Holding back the devolution of policing and justice plays into the hands of dissident republicans. The Ulster Unionists need to reflect seriously on why they find themselves in common cause with the dissident republicans on that agenda. That is a sobering reality that they have to face up to. Dissident republicans will feed propaganda about devolution not being in local hands and being under the control of the British state. It is important that we undermine any arguments that are being used by dissident republicans and allow the security forces to deal with the continued threat that they pose.

**Mr Kennedy:** In an earlier media broadcast, Dr Farry described the Ulster Unionist Party as a "can't do" party. It seems that the Alliance Party cannot do enough to please the DUP and Sinn Féin in order to get the feet of one of its Members — not necessarily Dr

Farry's — under the ministerial table. Any linkage, or suggestion of there being common cause, between us and republican dissidents or paramilitaries is offensive. The Member has made a foolish and regrettable statement against the Ulster Unionist Party on his own behalf and on behalf of his party. He should be ashamed of himself.

**Dr Farry:** It may not be a deliberate and co-ordinated agenda, but the two parties share a common objective, which is to frustrate the devolution of policing and justice. It is clear that that is what the dissident republicans want to achieve, and the Ulster Unionist Party has said here today that it wants to frustrate the devolution of policing and justice. Therefore, they are working to the same objective.

**Mr Kennedy:** For the avoidance of doubt, the Ulster Unionist Party's position is that, in principle, we favour devolution. We have worked hard to create the right conditions in which to devolve policing and justice. We are different from the Alliance Party in that it wants to rush the devolution of policing and justice before it is dealt with properly, and we are significantly different from the dissident republicans because they do not want it under any conditions. Those are the clear differences between the Ulster Unionist Party and the Alliance Party and republican dissidents.

**Dr Farry:** It is over 10 years since the Good Friday Agreement, so we are hardly rushing the devolution of policing and justice; it has been a long-standing objective for many people. The Ulster Unionist Party says that it supports the devolution of policing and justice, but when does it want it to happen? The issue is a dot on the horizon that seems to be going further and further away rather than coming closer to us. They have to reflect upon that.

With regard to confidence and coalitions, I remind Mr Kennedy that not only is the Ulster Unionist Party a part of the four-party mandatory coalition; it is also a member of another coalition with the Conservative Party, as part of UCUNF.

**Mr Kennedy:** So is Ian Parsley.

**Dr Farry:** Indeed, and you are welcome to him — *[Interruption.]*

The central point with that arrangement is that the Conservative Party is committed to devolving policing and justice powers to Northern Ireland today — as of now. Indeed, I have spoken to Owen Paterson about that issue and he has assured me that that is the case. Therefore, the Ulster Unionist Party and the Conservative Party are in coalition, yet on one of the most significant issues facing the devolution settlement, they are at odds with each other. If Danny Kennedy has said that the Alliance Party is naive for championing the devolution of policing and justice, what has he said to

David Cameron and Owen Paterson, whose position is the same as ours?

I have a number of comments to make in relation to the method of electing the new justice Minister, which is at the heart of the Bill. The Alliance Party welcomes the fact that a cross-community vote will be used to elect the new Minister. Indeed, my party has been advocating that approach for some time. That approach sends out a powerful signal, because a cross-community vote demonstrates that all sections of the House have given their assent to whoever is appointed to the post, and that backing from all quarters of the Chamber also sends out an important signal of legitimacy for any Minister. "All quarters" may be a step too far given some of the comments that have been made during the debate today, and "two sides of the Chamber" may be more apt, but cross-community support is something that we should all welcome.

The opposite of that cross-community support for the new Minister would be the continued use of the d'Hondt methodology, which allows Ministers to essentially pick their portfolios based on a randomly generated list. That process does not add to power sharing or legitimacy; rather, it leads to a system of carve-up whereby the spoils of office are handed out to different parties. Furthermore, the connectivity in the system is weak at best, and, as a result, Ministers are very powerful in their own fiefdoms, and are able to impose their own party political agendas on policies, rather than reflecting the consensus of the House. One example of that non-consensus is demonstrated in our education system. At least four parties in the House have called on the Department to avoid the current anarchical situation in relation to the 11-plus by introducing some form of interim testing. However, the Sinn Féin Minister of Education has her own ideas, which prevail over the overwhelming democratic wish of the Chamber, and thus of our society. Similarly, four parties also supported the creation of an independent environmental protection agency, but the DUP, the party that controls the Department of the Environment, did not support that view, and that agency was not created.

That is not democratic, and it does not reflect power sharing. Power sharing means parties coming together to compromise and work through difficult issues and produce shared outcomes. That is not what we have at the moment, and the d'Hondt system contributes to that.

The d'Hondt system is not an underlying principle of the Good Friday Agreement, which is about power sharing and proportionality. There is a whole host of means of achieving proportionality, and d'Hondt is only one method. D'Hondt produces many anomalies, and, in fact, produces a very strange system of proportionality —

**Mr Campbell:** I thank the Member for giving way, and I am glad that he has raised that issue. In some areas of Northern Ireland, district policing partnerships were appointed on the basis of d'Hondt, and in Londonderry, where the unionist community make up 22% of the elected members of the council, unionist members received only 10% of the seats because d'Hondt was used. Does the Member agree with me that d'Hondt is not the precise mechanism that some try to make it out to be?

**Dr Farry:** I agree entirely with the Member's comment; it is a very good example. I will also refer to the elections to the Northern Ireland Forum in 1996 in which no unionists were returned in the Foyle constituency. The mirror image of that was the Lagan Valley constituency, where there is a considerable non-unionist population. In the same election, five unionists were returned in that constituency, which was not a proportional outcome.

Let us look at the central example. Due to the way in which the first mandate of the Assembly worked out mathematically, the d'Hondt system produced an equal number of unionists and nationalists in the Executive. In subsequent elections, the overall number of nationalist seats in the Chamber has increased. However, using the d'Hondt method of so-called proportionality, the ratio in the Executive is 60:40, unionist and nationalist. How can a so-called proportional system produce such a bizarre result?

The anomalies that Mr Campbell referred to, and that I have mentioned, appear when the d'Hondt method is used right across the system. When it is applied to a small number of individuals, it produces very bizarre results: therefore, we need to be acutely aware of the limitations of that system.

If we were to run the d'Hondt system for the justice Ministry, the notion that it would be left to the last pick and that the party that qualified next for a seat would automatically get that Ministry is a major fallacy. We must recognise that policing and justice will be one of the most important Departments for this society, and I would be stunned if it were left to the end. If we were to use the d'Hondt system, we would have to rerun it completely, and I imagine that policing and justice would be one of the first Departments to be chosen, if not the first.

I welcome a move away from using the d'Hondt system. A useful message can be sent out that there is a different way of providing power sharing and legitimacy in this society. I have ambitions to see a voluntary coalition established in the Chamber. A voluntary coalition is consistent with power sharing under the Good Friday Agreement, and any party would be eligible to be part of such a voluntary coalition, including Sinn Féin. However, it would

provide greater coherence of policymaking in advance and greater collectivity. Having said that, I realise that this is not a Trojan Horse for a voluntary coalition, and I reassure Sinn Féin on that point. I wish that it were otherwise, but it is not. We will have to have that debate on another day. I am aware that a number of parties are interested in having such discussions. I stress that different methods are consistent with the underlying principles of the Good Friday Agreement: it is not a threat to that agreement. What happened in 1998 was never meant to be set in stone for perpetuity; we must evolve with the times to meet the needs of a changing society.

The Alliance Party has been referred to a lot in relation to the post, and we have heard the speculation in the media. However, we had not heard the comment from Martina Anderson, and we will let her off the hook on that one.

**Ms Anderson:** Totally untrue.

**Dr Farry:** I accept what Martina Anderson says about it being untrue, for different perspectives, and we probably share that analysis.

The Alliance Party wants to see the devolution of policing and justice, irrespective of who takes the post, as it is important for our society. The Alliance Party has always looked to the wider interests of the people of Northern Ireland and has always tried to be constructive. The Alliance Party does not look to its own internal interests only: it has a wider concern. However, in the event that the post is offered to a member of the Alliance Party, or if one of its members is proposed for the post, it will need to reflect on whether what is being put forward is in the best interests of the people of Northern Ireland. I want to make it clear that that is far from automatic.

The Alliance Party has a number of concerns about the way in which the issue is being taken forward. Although we support the legislation and the methodology put forward for the election of a Minister, a number of implications arise as a result of that and it is right that they are put on the record. We feel that those concerns should be addressed between the point of the legislation being passed in the House and devolution eventually coming.

*12.15 pm*

First, the method of electing a Minister is the mirror image of the method for the removal of a Minister; it is done by a cross-community vote in the Chamber, as established by the Westminster legislation. At present, the terms of removal of any Minister are left wide open and are not defined. No criteria have to be met for the removal of a Minister. That would leave a potential Minister somewhat exposed and open to being removed from office by a cross-community vote

in the Chamber, although parties might come to that vote from entirely different angles.

It is important to respect that any justice Minister will have to take a number of very tough decisions, particularly over sensitive matters. That Minister must have the freedom to do that. No Minister should be given a blank cheque and allowed to do things without accountability, but there must be some protection against a situation wherein Ministers are routinely removed from office through a cross-community vote. Although some might say that a Minister from the same party may well be reappointed, a situation involving a series of mini crises is not in the interest of stability. A stop/start situation is never in the interest of any Department. In the context of policing and justice, where important decisions have to be taken, it is important to have stability.

I also want to stress the point that I made earlier about confidence being an ongoing issue. Building confidence is not something that happens in a day; it is an ongoing process. It is important that, when devolution does happen, irrespective of which party holds the post, there is an active agenda for the Minister of justice, the Executive and Assembly in relation to what they do on the different issues. Confidence will come when the Assembly is able to prove to the people of Northern Ireland that justice can make a real difference to their lives. We cannot have a situation in which devolution happens and we are then in an almost free situation until the 2012 deadline comes along, at which stage we try to renegotiate a different way of doing things. That first number of months and years will be critical to how the issue is going to be moved forward.

Similarly, returning to the issue of confidence and the ability of a Minister to deliver, I take on board Dolores Kelly's point about the problems in the Executive. It is important that any Minister is not pulled in a number of different directions by the big parties in the Executive and there is an understanding of the need for a Minister to move ahead with actions.

**Mr A Maginness:** The Member raised an interesting point about accountability to the Assembly on a cross-community basis and the possibility of removing a Minister through a cross-community vote. That situation would not arise were the Minister appointed under d'Hondt. That reinforces the value of d'Hondt, because d'Hondt prevents vetoes.

**Dr Farry:** My point is that the system outlined in the Bill is, to our minds, the lesser of two evils. The d'Hondt system, as I have already outlined, is completely flawed and creates a situation in which Ministers have no accountability whatsoever. A lot of the anomalies that I have mentioned so far in my critique of the methods set out in the Bill would be



addressed and removed if there were a purely voluntary coalition. However, we do not have such a coalition; that is not on the table at this stage and I accept that. While recognising that a cross-community vote is the better way of doing things, we are also quite right to point out the potential drawbacks and negative implications of that. It is then important that we turn our minds to overcoming those potential pitfalls.

The Alliance Party's conclusion is that it is important that parties discuss policy issues regarding policing and justice as far in advance of devolution as possible. The greater consensus there is in the House on what should be done on policing and justice in those critical initial months and years, the better placed we will be and the less likely it will be that there are crises and political fallout.

I fully accept that events will happen that will create major difficulties for any Minister, the Executive and the Assembly, but the more planning that is done in advance and the greater the policy discussions that take place on what can be done under devolution, the greater the chance of minimising the risks of those things happening. Our party leader, David Ford, has written to the other party leaders in the Chamber to seek discussions on those issues, notwithstanding who the Minister will be. I stress that that issue is open to the House. Given our concern that devolution must happen and that it must be done right so that it delivers, the discussions regarding policy are critical and they need to start as soon as possible, if not now.

**Mr M McGuinness:** Will the Member agree that the point that was raised about d'Hondt is an interesting one, specifically because it came from the SDLP? The SDLP has argued that, in the interests of inclusivity, a proposal should be put to the Executive and the Assembly that a justice Minister be appointed under the d'Hondt mechanisms. Is the Member aware of any occasion during Seamus Mallon's or Mark Durkan's time as deputy First Minister when any such proposal was put to the Alliance Party? No such proposal was made to Sinn Féin.

**Dr Farry:** I am certainly not aware of that happening. Much progress was made on the reform of policing under Patten, but devolution was always the big issue that was left. I welcome the progress on the issue, and we are now on the brink of the critical moment when devolution is agreed.

Alban Maginness stressed the importance of inclusivity. The system of designations in the Chamber requires the Alliance Party to designate as "other" because it is not a unionist party or a nationalist party. Our votes, therefore, count for less when a cross-community vote is taken. How is that voting system inclusive? Is the SDLP saying that it is in favour of inclusivity but that the votes of unionists and

nationalists are more inclusive than those of the Alliance Party, the Green Party, Kieran Deeny and the people who we represent? The subject of inclusivity must be considered from a wider perspective to ensure that all voices in the Chamber count equally, because, at present, they do not.

**Mr Campbell:** A considerable amount of effort has been expended in discussing the timing of the devolution of policing and justice. I am somewhat surprised by the pronouncements from the SDLP and the Ulster Unionist Party, because no matter when the devolution of policing and justice occurs, the step that is being taken today must be taken, whether it is taken this year, next year or the year after that. It is necessary that a set of stages be undertaken, and the Second Stage of the Bill is one of them. I would have thought that everyone who supports the devolution of policing and justice would support a necessary stage in the Justice Bill being enacted. There is no serious opposition to the principle of devolving powers, as Mr Kennedy and others said.

For the DUP's part, we have stated that both cash and confidence is needed for the powers to be devolved. The fact is that neither of those is currently in place. The physical act of proceeding to accomplish devolution receives setbacks when Sinn Féin and others keep trying to bring the date forward when neither of the two criteria has been met. The public have not been made aware of the possible additional resources that would be required if the dissident threat were to continue at the present level or if the situation were to worsen. That is in addition to what the public are only too well aware of: the less than adequate Sinn Féin response over the summer to, for example, the closing of Mountpottinger police station; its attitude and response to the burning of Orange Halls in rural areas; and its attitude to Loyal Order parades. All those issues set back community confidence rather than bring it forward.

That is not to say that progress has not been made; we must keep reiterating that: progress has been made. Sinn Féin is in a different place now than it was five, 10 or 20 years ago. The key is to ensure that it continues to make progress. My party intends to do that.

During the past few months, Sinn Féin has allowed the briefing of journalists to continue, which indicates that it will raise the stakes on policing and justice in the autumn. In the short term, it would be disadvantageous for that party to pursue the dangerous game of edging the Assembly towards the so-called political abyss, as it did in 2008. Sinn Féin, and everyone else, knows what happened then.

Sinn Féin's pursuit of that agenda, in the mistaken belief that it might force another impasse that, this time, will be followed by an Assembly election, could

have the doubly negative effect for that party of precipitating the required change that is needed in the designation and underlying system in the Assembly before it could resume.

Let no one be under any illusion: the political realities in Northern Ireland in autumn 2009 are similar to how they will be in 18 months' time. Therefore, my party sees no big distinction in facing an Assembly election in autumn 2009 or in 18 months' time.

**Mr O'Dowd:** On a point of order, Mr Deputy Speaker. Although it might be interesting to explore the dark recesses of Gregory Campbell's mind, I am at a loss as to what any of that has to do with the Bill's principles.

**Mr Deputy Speaker:** Thank you for that point of order, Mr O'Dowd. I remind Members to stick to the subject, which is the Department of Justice Bill.

**Mr Campbell:** Thank you, Mr Deputy Speaker. I note the total irrelevance of that point of order. However —

**Mr O'Dowd:** Further to that point of order, Mr Deputy Speaker. Does the Member suggest that your ruling was incorrect and that my point of order was not a point of order at all? I am sure that I would not rely on a ruling from him, the muppet.

**Mr Campbell:** As I said, the facts are what they are. People who believe that those facts will change will find that they are mistaken.

The changes to which I have referred are necessary. It would be deeply unfortunate if the wider community had to go through another impasse in order to arrive at a destination that will have to be reached in any case.

It is pointless and counterproductive to keep falsely raising people's hopes and expectations that the criteria for the devolution of policing and justice will be met soon, when everyone in the Chamber knows that that simply will not happen in the immediate future. However much we might like it to be the case, and must work towards its being the case, it is not the case at present.

In the past, in the wider political realm of requiring Sinn Féin's support for the police and courts before proceeding to establish a system of government, it has been proven that insisting on such criteria is better for everyone in the long run. Even if that necessitates those of us who want to do the right thing and get the right deal being lambasted yet again, we intend to keep doing that.

If Sinn Féin is serious, the job of Martin McGuinness and other senior representatives in that party is to convince me and hundreds of thousands of others by their actions, not by their words, that they can agree and deal with the perfectly reasonable and

legitimate criteria that we have set out. At that point, the Assembly can move forward with the entire community's confidence. I support the Bill.

*12.30 pm*

**Mr Deputy Speaker:** The Business Committee has arranged to meet immediately upon the lunchtime suspension. I therefore propose, by leave of the Assembly, to suspend the sitting until 2.00 pm.

*The sitting was suspended at 12.31 pm.*

*On resuming (Mr Deputy Speaker [Mr Molloy] in the Chair) —*

2.00 pm

**Ms Anderson:** Go raibh míle maith agat, a LeasCheann Comhairle. I declare an interest as a member of the Policing Board.

Arrangements are in place for the process to deliver policing and justice powers into the hands of locally elected politicians. The Bill represents the fact that the process is moving forward. Key stages in that process have already been implemented, including the Assembly and Executive Review Committee's report and legislation that has passed through the Executive and on to the Assembly. Undoubtedly, there is more work to be done, and we heard reference to that today, not least the securing of a suitable financial package and arrangements post-2012. I note the First Minister's positive comments last night, when he said that significant progress had been made on the financial package, and I wish him and his deputy, Martin McGuinness, well in their efforts to secure a financial package.

A sunset clause makes it imperative for all of us to secure agreement post-2012, particularly as a local Minister would do a better job than a British Minister. Many in our society would concur with that. The SDLP flagged up the issue of the sunset clause; I remind its members that they said that the sunset clause in the St Andrew's Agreement was a success and claimed credit for it. Whatever the truth about that claim, the SDLP's 2007 manifesto stated:

"Above all, we have ensured a sunset clause — so that the DUP will not get any of the changes conceded by others to the workings of the Agreement if they do not go into Government by 26 March 2007."

So, the SDLP does agree, in principle, to sunset clauses. If a sunset clause is the mechanism that we need to secure the devolution of policing and justice, there is no more important time than now to support it. However, the SDLP may have changed its mind, because after that manifesto assertion, the former, or current, leader — whatever sort of leader the SDLP has — talked about the ugly scaffolding of the Good Friday Agreement and how it should be dismantled. That was news to me, and it was news to the Alliance Party.

I see Dolores Kelly coming into the Chamber. Earlier, she claimed that I said that the Alliance Party should get the policing and justice ministerial position. I want to make my position clear. I took part in a radio interview with the leader of the Alliance Party in which I said that his party should not assume that it will get the ministerial post. I have also stated that Sinn Féin supports the allocation of the ministerial post to the SDLP.

At this juncture, it is important to remind all the parties that supported the 1998 Act, which emanated

from the Good Friday Agreement, of its detail. Section 17(4) of that Act states:

"The number of Ministerial offices shall not exceed 10 or such greater number as the Secretary of State may by order provide."

Section 17(5) states:

"A determination under subsection (1) shall not have effect unless it is approved by a resolution of the Assembly passed with cross-community support."

That was agreed by all the nationalist parties in the Assembly and some of the unionist parties.

I understand that some parties have difficulties with the arrangements for appointing a Minister. However, what is proposed is a temporary measure, necessary to move the process forward. It is Sinn Féin's position that, post-2012, the process should refer to d'Hondt.

That notwithstanding, Sinn Féin and the DUP have shown great leadership by saying that we do not intend to nominate at this point. In taking that position, we are prepared to set aside our party interests in the interests of all the people of the North.

**Mrs D Kelly:** Will the Member agree that those two parties are being generous in setting aside not only their own selfish party interests but in setting aside nationalists' interests, because the Member is saying that under the procedures of this legislation, no nationalist need apply for the ministry of justice?

**Ms Anderson:** No; that is totally wrong. The Member was not in the Chamber when I quoted the SDLP manifesto with regard to the principle of a sunset clause, so it is worth repeating:

"Above all, we have ensured a sunset clause — so that the DUP will not get any of the changes conceded by others to the workings of the Agreement if they do not go into Government by 26 March 2007."

The SDLP was quite prepared to accept and support the principle of a sunset clause in those circumstances.

We should not forget that some of the parties that criticised the process are the same parties that said that the transfer of policing and justice could never happen. They did nothing to bring it about, and now that it is happening, they prefer to snipe from the sidelines rather than admit to their failures. Whatever they say, however, the transfer of policing and justice powers from London into the hands of locally elected politicians is part of the St Andrews Agreement. It is not an optional extra; it is a British Government obligation.

The people are demanding a justice system that delivers for everyone in the North regardless of religious denomination or political affiliation. They are sick and tired of the revolving-door justice system that allows hoods and thugs back onto the street hours after being arrested. *[Laughter.]* Members may find that funny, but people in the North are very concerned

about the judiciary and the kind of sentences that are being meted out.

It strikes me as odd, when one considers what has happened in our society, that some parties oppose a statutory framework being put in place as a result of the transfer of policing and justice powers to allow people access to a local Minister. That is crucial. I would like the SDLP to clarify — because I was a little confused about their contribution — whether it supports the Bill. I know that Dolores Kelly will speak on the debate, and I am sure that Alex Attwood will clarify the situation, because when the OFMDFM Committee dealt with the issue last Wednesday, the SDLP member voted with the rest of us. The only Committee members who did not vote for this crucial Bill were from the UUP, although I thought that they indicated this morning that they opposed the Bill. Therefore it would be extremely helpful if the SDLP provided clarification.

**Mr A Maskey:** Perhaps the parties that oppose the Bill could explain to the rest of us how they intend to bring about the transfer of policing and justice powers. It is all very well criticising us on those matters, but it would be more relevant if those parties told us how they would seek to do that rather than just talk about it.

**Ms Anderson:** I agree with the Member, and hopefully, by the end of the debate —

**Mr B McCrea:** Does the Member agree that more than just a two-party coalition should be talking about these issues and that all parties should be involved, that all parties should be aware of any deals that are on offer, and that if we had open and transparent discussions in this place, we might get somewhere?

**Ms Anderson:** The Member should talk to his party leader about that. If he had been here earlier — *[Interruption.]* I would say to you that UUP members are on the Assembly and Executive Review Committee and on the Committee for the Office of the First Minister and deputy First Minister, which the Bill has been proceeding through. It is our role to scrutinise the Bill.

**Mr Deputy Speaker:** Order. I ask all Members to make their remarks through the Chair.

**Ms Anderson:** I am sorry about that. The Member knows that there is UUP representation in the forums that I listed.

People have had enough. They have had enough of seeing death drivers walk free on bail, able to continue to attack our communities, whether that happens in the Shankill, the Falls, the Bogside or anywhere else. A lot of people are very sickened by the revolving-door sentencing policy of the type of judiciary that has been in place for a long time. Following the transfer of policing and justice powers to the Assembly, the statutory framework governing what constitutes a

crime and what appropriate penalties should be put in place will become the responsibility of the Assembly's justice Minister. Sexual offences, for example, could be dealt with more appropriately in that framework. That is what people in our society want.

We accept, without doubt, that there are issues that we still need to resolve, discuss and engage with each other on. We must use the time ahead to secure the consensus that is needed. The process is moving ahead. That is the reality, and I think that people will be very grateful for that. In common with many other things, the process will move on with or without the UUP or the SDLP. That will happen, regardless of whether they vote against the motion; however, as I said earlier, I was a bit confused by what happened in the OFMDFM Committee last week. Those parties now face a choice.

**Mr Attwood:** I was going to respond at the end of the debate. However, given that the Member has raised the matter for a second time, I must interrupt. I know that she is quite new to politics, especially legislative politics, and, therefore, perhaps does not quite understand Committee procedures. The procedures are simply that a Committee decides to vote in favour of consideration of a Bill, and it then votes in favour of consulting and taking evidence on that Bill. Voting in favour of a discussion of a Bill is very different from voting in the Assembly to reject a Bill.

If the Member cannot understand that difference, I refer her to the Committee on Procedures, to any of the Committee Clerks, or to anybody else in the Assembly who knows fully the difference between a vote in the Assembly and a procedural vote at a Committee to allow legislation to be considered. If the Member has not learned that much in two and a half years, that says a lot.

**Ms Anderson:** The Member had ample opportunity at the Committee to raise any —

**The First Minister:** It seems that even those who have been around for more than two and a half years do not quite understand the purpose of the debate. This is a Second Stage debate, which is the equivalent of a Second Reading debate in the House of Commons. The purpose of the debate is to consider the general principles of the Bill, not the details of the Bill, which can be amended at Committee Stage. The principles that we are dealing with is whether a Department of justice should be set up and whether a mechanism should be in place in to appoint a justice Minister. Those are the two principles of the Bill; the mechanisms can be dealt with, if necessary, by amendment at the Committee Stage. It is the Committee that has to deal with the detail; this debate deals with the principles. On the basis of what the SDLP said, I thought that it agreed with the principles of the Bill.

**Ms Anderson:** I thank the First Minister for his intervention, and I agree with him. Those of us who sit on the OFMDFM Committee with the SDLP would have expected to hear opposition or concerns raised about the Department of Justice Bill. However, there was no utterance whatever from the SDLP.

Those parties opposing the Bill now face a choice. They can either continue to ignore the political reality or they can become involved in the process and play a constructive and meaningful role in building the sort of justice system that people are demanding and that they deserve. Go raibh míle maith agat.

2.15 pm

**Mr Moutray:** I welcome the opportunity to speak during the Second Stage of the Department of Justice Bill. The devolution of policing and justice powers is a prevalent issue, and I welcome the fact that the Bill is before the House today.

The Department of Justice Bill puts in place the framework to progress towards the transfer of policing and justice powers. It goes without saying that policing and justice is one of the most important issues that our society faces. If devolved, we will have responsibility for several issues that we do not currently have responsibility for, many of which are of particular concern to people in our community.

At this stage, it is important to note that my party's position on the devolution of policing and justice powers has been very clear. We, as a party, will insist that there be no devolution of policing and justice powers until all our conditions have been met, particularly on community confidence, Treasury financing and other issues. Although, owing to the complexity of its architecture and structure, massive issues have been overcome, the Bill will serve two purposes: first, it will allow, at some stage, for the creation of a Department of justice; and, secondly, it will make arrangements to enable the appointment of a justice Minister. However, both elements will not happen until the conditions laid out by my party have been met. Furthermore, I welcome the fact that the Bill in no way states a specific time frame for devolution. Its three clauses are a result of work carried out by the Assembly and Executive Review Committee and by the First Minister and the deputy First Minister.

The content of clause 1 is logical. If the conditions that the DUP has outlined are met, I will welcome the establishment of a Department of justice, which will be responsible mainly for the devolvement of policing and justice powers. Devolution is a long-term requirement, as it was for all the other Northern Ireland Departments.

I have heard others in the Chamber complain about an issue in clause 2, and, to be honest, their argument is flawed. Quite simply, the arrangements in the Bill for appointing a Minister of justice are clearly different

from those used to appoint other Executive Ministers. I have heard much reference to the Belfast Agreement, which envisaged that all ministerial portfolios would be allocated under d'Hondt and that a cross-community vote would be used to elect the First Minister and the deputy First Minister. Those Members who have complained must realise that what was negotiated as part of the Belfast Agreement was rewritten in the St Andrews Agreement, which ensured that the DUP had a veto over when devolution of policing and justice powers would take place. The party also ensured a veto over who the Minister would be, by virtue of the fact that the appointment of a justice Minister will require cross-community support.

On clause 3, some Members are obsessed with setting a date for the devolution of policing and justice powers. Again, my party's view is that, for the institutions to succeed, it is essential that the financial resources be made available and that the public have confidence in how the institutions will operate. It is, therefore, important that the necessary safeguards be put in place to ensure that cross-community support exists. That is why our party leader has stated that he will seek discussions on the confidence issue with the leaders of all the parties in the House.

Finally, much work must be done on the issue, and it is not a case of setting dates. The Bill is an important element in the devolution process. However, it will not give effect to devolution. It will, in essence, pave a path for other essential legislation in the process towards the implementation of devolution. Our party believes that conditions need to be fulfilled before any devolution; the triple lock will inhibit that end until they are fulfilled. The Bill in no way expedites the process to devolve policing and justice powers but is merely one of several essential pieces of legislation that are needed to give effect to devolution.

It is my position, and that of my party, that devolution should be accompanied by adequate resources and community confidence. Today is a demonstration of how we are working in good faith towards that goal. I support the Bill's being granted its Second Stage.

**Mr McFarland:** I declare an interest as a member of the Assembly and Executive Review Committee.

Before I put these matters in context, it is worth pointing out that colleagues talked earlier about how important it is to devolve policing. However, policing has been devolved to the Assembly and to Northern Ireland since 2001; it has been here for eight years. We should remind ourselves that the Policing Board looks after the buildings, finance and personnel for policing in Northern Ireland, while the Chief Constable is independent and responsible for operational matters. That is all here and has been in place for eight years.

The Court Service is being turned into an agency before its responsibilities are devolved, and the judiciary is independent and makes its own rules according to United Kingdom-wide norms. Despite what Ms Anderson might wish, the thought that a justice Minister — from the Alliance Party or otherwise — would be able to interfere with the judicial system when policing and justice are devolved, is a serious proposal even from Sinn Féin.

**Mr A Maskey:** At no time did Martina Anderson, or anyone else, suggest that. The Member should reflect on what Martina Anderson actually said. Earlier, I made it clear that the twin pillars of the justice system were democratic accountability and the independence of the judiciary. That is the clear position of our members. With all due respect to Alan McFarland, what Martina Anderson was reflecting on was that, in the context of the transfer of powers, the Assembly and the wider public would have an opportunity to input into those matters; it was not that they would be able to take away from the independence of the judiciary.

**Mr McFarland:** The Member has heard what he has heard; no doubt the Hansard report will reflect what I suggested.

**Mr B McCrea:** I am not sure that I heard Ms Anderson's point properly, but I think that I heard her talk about the sentencing of sex offenders and how the justice Minister would have an input into that. I wonder whether Mr McFarland finds that surprising, given the independence of the Parole Commissioners for Northern Ireland, which is the sentencing review body. In reference to Alex Maskey's intervention, how can there be input without it affecting independence?

**Mr McFarland:** My colleague has made good points; Members will be able to reflect on those issues in due course. I will move on.

The Minister, therefore, is left with making policy. As we know, the law can only be changed by bringing forward new legislation to the Assembly. In the end, the Assembly has a say in what the Minister can bring into law. The Bill paves the way for the devolution of policing and justice, but the key question, which my colleagues have referred to today, is whether we are ready. Are the Assembly and the Executive ready for the devolution of policing and justice? At the moment we have a DUP/Sinn Féin axis in the Executive that is not inclusive, despite what they say. Two parties in the Executive are left out of most decisions, and the DUP and Sinn Féin go into a huddle before Executive meetings to decide how they are going to operate. There is no consultation in the Executive.

Those of us who are members of the Assembly and Executive Review Committee know that when the time came to make moves, they were driven through by Sinn Féin and the DUP against the opposition of other

parties here. However, such moves only happen when that axis can reach an agreement. Mostly, of course, the relationship is totally dysfunctional. We had over 150 days of paralysis. Just to refresh Member's memories as to why that happened, the DUP would not do as it was told on policing, so Sinn Féin called the whole thing to a halt until November 2008, when the DUP agreed to do what it was told on policing. It was then that we had the famous Robinson/McGuinness letter.

**Mr A Maskey:** When are you going to address the Bill?

**Mr Deputy Speaker:** I remind Members to make their remarks through the Chair.

**Mr McFarland:** What other evidence does the Assembly need that this edifice that we have is unstable?

Let us examine those policing and justice issues that have been pushed through the Executive. The method of selection of the justice Minister is a corruption of a system that has stood us well since the formation of the Assembly. We may not like it, but it is our system. It is called d'Hondt, and under that system, each party gets a turn at choosing which ministry it wants and the party leader gets to choose how long that person stays in that job. The d'Hondt system stops other parties interfering with what is going on. It is a tried-and-tested method, and we mess around with it at our peril.

If we want to devolve policing and justice and create a new Department, we should use a system that works: we should run d'Hondt again. The justice Department will be very important, and colleagues made the point that some parties may want to choose that Department ahead of others.

**Ms Anderson:** I remind the Member that his party supported the 1998 Act. He was not in the Chamber earlier when I quoted directly from section 17, subsections 4 and 5 of the 1998 Act, which state:

“(4) The number of Ministerial offices shall not exceed 10 or such greater number as the Secretary of State may by order provide.

(5) A determination under subsection (1) shall not have effect unless it is approved by a resolution of the Assembly passed with cross-community support.”

That is what the Member, and others, agreed to, and he should reflect on that. It was in the 1998 Act, and it is relevant.

**Mr McFarland:** I pride myself on being fairly astute, but I am completely baffled as to what that was about. *[Laughter.]*

**Mr Deputy Speaker:** Order, please. Mr McFarland has the Floor.

**Mr McFarland:** An additional Department is being created. Logically, d'Hondt should be run again, and each party, according to its strength, will get to nominate to the Department that it wants. That is the

standard system. We disagree with the SDLP: just because it is next in line to make a nomination under d'Hondt does not mean that the justice portfolio should be its for the asking. If we are to have this extra important Department, we should run d'Hondt again so that every party would have a choice.

**Mrs D Kelly:** At no time has the SDLP stated that it was opposed to the rerunning of d'Hondt. Does the Member agree that under the rerunning of d'Hondt, the SDLP would have two Departments?

**Mr McFarland:** The choice of the honourable Member's colleagues on the Assembly and Executive Review Committee was that the justice portfolio would be added on to the end since the SDLP was next in line to nominate. That was the SDLP's position. Our position was that d'Hondt should be run again.

Earlier, we discussed why the DUP or Sinn Féin should or should not nominate to the justice Department; they made the right decision in not doing so. The logic is perfectly obvious: can you imagine a senior member of the IRA army council who had been serving life sentences in jail for murder and who was released under the Good Friday Agreement becoming our policing and justice Minister? Can you imagine the chaos that that would cause?

I know from discussions with Sinn Féin over the years that it views some DUP colleagues as having a similar ability to give impartial justice. I understand why those parties do not want to have that Department, but why should the Alliance Party have it? It appears that the Alliance Party is being chosen because the DUP and Sinn Féin want a tame Minister. We have no agreement on the links between the Minister, the Executive and the Assembly because the politburo is trying to concoct a system whereby it can wheel the tame Alliance Minister in for policing and justice matters and promptly wheel them out again when any important Executive business arises so that they do not interfere with the balance of power in the Executive.

I do not know how the Alliance Party feels, but it seems to be a slightly daft way of agreeing to operate, if that is what they have agreed to.

**Dr Farry:** The Member talks of a huge conspiracy, but he should read the legislation. The Northern Ireland Act 2009 states that the Minister, irrespective of their party, will be a full member of the Executive — there will be no wheeling in or out. The issue was settled in Westminster legislation that was supported by the Conservative Party.

**Mr McFarland:** The Member will find that that is not the conception that the politburo has.  
[*Interruption.*]

**Mr Deputy Speaker:** Order, please.

**Mr McFarland:** However, let us dwell on the Alliance Party for a moment: so much for it being Her Majesty's principled opposition. We have been hefted for two years by the Alliance Party as its being the only party of opposition. Purity is their call: they are the only people holding the entire Executive to account. How good it is that they are prepared to sacrifice themselves for the good of Ulster. What a decent thing to do; to sacrifice one's principles for Ulster.

It is worth reminding ourselves that the 154-day logjam was broken by the Robinson/McGuinness letter of November 2008 that produced a detailed timescale. One of the things that struck me at that time about the letter was that it got round to discussing public confidence in a blurred way. Its bottom line on that point was that public confidence will exist when Peter and Martin decide it exists. On careful reading, that is what the letter means: public confidence will exist when the First Minister and the deputy First Minister decide it exists.

**Mr Hamilton:** I have seen the timetable to which the Member refers. It is actually a list of 37 points or processes that need to be gone through. Will he enlighten me and the rest of the House by pointing out one exact date or time in that process paper? I am sure that he will not be able to, if previous experience is anything to go by.

**Mr McFarland:** I cannot. [*Interruption*]. However, I can point out that several of the Member's colleagues said that it would be an entire political lifetime or ten political lifetimes. [*Interruption*]. Barking, or what?

**Mr B McCrea:** Does the Member care to hazard a guess, in years, about how long a political lifetime might be?

**Mr McFarland:** It will be interesting to see how long the elected lifetime of the DUP will be, given the current rise of the TUV.

I want to move to the outstanding issues. On finance, it looks as though we are getting somewhere. As many Members around the House have said, that is absolutely vital. If we do not get the finances right, we can pack up and go home. We also have a major issue that has not yet been highlighted over parades. There is no room for error. If we do not tie that issue down and get a set of rules with which we can all operate and with which we are all happy, there will be no point in having policing and justice. Every summer, the parading issue will rise up and bite whoever the Minister may be.

The third issue is a pet one of mine, the Eames/Bradley Consultative Group on the Past. My view is that we need to leave this back with the NIO to deal with and pay for. At the moment, although the NIO is keeping responsibility for inquiries, it is trying to move the Eames/Bradley work over with policing and justice. In

my view, that would be an absolute disaster. Trying to deal with the past is something could haunt us for 50 years. We will have enough trouble in accepting policing and justice in its current form. If we accept the Eames/Bradley work into this House, we will never get policing and justice going in a sensible way.

The Ulster Unionist Party supports the devolution of policing and justice, but not yet. There is a lovely Civil Service axiom, “the doctrine of unripe time”, which, if one thinks about it, is quite clever. The time is not right for doing this.

**Ms Ní Chuilín:** It is worth reminding the Member that on 21 October 2000, David Trimble, the Member’s former party colleague, or perhaps he still is the Member’s party colleague, said:

“I can think of nothing better to give everyone confidence, and to bind all the community behind law enforcement, than to see the central political policy direction of the criminal justice system – including policing – in the hands of Seamus Mallon and I, and our successors.”

I will leave that with the Member.

**Mr McFarland:** I agree. We are keen for policing and justice powers to be devolved. Indeed, as has been mentioned, our party brought down the entire edifice over policing and justice. There is no point in accepting the proposals if the structure at the top is completely dysfunctional and wobbly and if every serious challenge, on every issue from education onwards, causes a complete furore. What chance do we have if we bring about the devolution of policing and justice now?

2.30 pm

**Mr Cobain:** Do they know what they were saying in 2000 or in 1998 or in 1997?

**Mr Deputy Speaker:** Order. I have reminded Members a few times already that all remarks should be made through the Chair. Mr McFarland has the Floor.

**Mr McFarland:** The proposals that are being put forward today would mean that Peter and Martin could sack the Alliance Minister the moment he or she does not do as he or she is told. The system for electing the Minister of justice will be down to the two largest parties in the House, and the system for removing that Minister will also be down to the two largest parties. The Minister of justice will be a puppet Minister, subject to the whims of Peter and Martin. The Minister of justice will be out as soon as he or she does not do as he or she is told. Imagine an Alliance Minister trying to stand up to the politburo here in a disagreement about parades or how to deal with the dissidents.

On ‘The Stephen Nolan Show’, on the radio this morning, Mr Alex Maskey said that it was dreadful that police were stopping people around the countryside. A member of the Policing Board is complaining about the police stopping people in their attempt to deal with

the dissident threat. As justice Minister, what chance would “Lord” Farry or “Lord” Ford have of dealing with such issues on the Floor of the House if the two largest parties disagreed with their methods?

**Dr Farry:** In his opening remarks, the Member made a great play of the importance of the operational independence of the police and the other agencies that are involved in taking decisions on the ground. Rather than contradicting himself, can he make up his mind on what point he is making?

**Mr McFarland:** The point that I am making is that, at some stage, the justice Minister may wish to give advice on a policy decision to the Policing Board and the Chief Constable. The Chief Constable does not have to listen to him at all, but the justice Minister may wish to give advice.

**Dr Farry:** That is a breach of his independence.

**Mr McFarland:** No; the Policing Board can give its views to the Chief Constable, but he may or may not listen. If the two largest parties disagree with the Alliance Minister’s view on a parading issue or how to deal with the dissidents, that Minister will get a thick ear and will be told to behave or be sacked.

**Mr M McGuinness:** Does the Member recall 12 Ministers being sacked at the whim of one party on several occasions in the early 2000s?

**Mr McFarland:** As the Member knows only too well, that happened because there was an understanding that his organisation would take certain measures, and, if those things were not done, my party was to stop the operation of the Assembly. His organisation did not do what was required of it, and we stopped the Assembly. *[Interruption.]*

**Mr Deputy Speaker:** I hope that Members will return to discussion of the Bill and address their remarks through the Chair.

**Mr McFarland:** Earlier, Dr Farry wiggled us about the Conservative Party’s views on the devolution of policing and justice. I remind the House of the words of the Conservative Party’s Northern Ireland spokesperson when the Bill was being discussed in March 2009. He said:

“We have therefore always supported the eventual devolution of criminal justice and policing, when the conditions were right and once the proposed model for devolution had the support of all communities.”

I am afraid that that sounds a bit like my party’s position; it is not different as Dr Farry claimed earlier.

I will draw my remarks to a close.

**Mr A Maskey:** Will the Member give way?

**Mr McFarland:** No; I have been bobbing up and down, and my legs are getting sore. *[Laughter.]*



The Ulster Unionist Party is fully supportive of the devolution of policing and justice, but not until government is stable. We hope that that will be soon and that we will be able to get on with it. However, there is no point in bringing contentious issues to the House when we cannot even do the basics yet. We oppose the Bill.

**Some Members:** Hear, hear.

**Mr Ford:** On a point of order, Mr Deputy Speaker. Mr McFarland referred to “Lord Farry” and “Lord Ford”. He may be unaware of this, but, on two occasions, I told his former party leader that I was not interested in a peerage, which was being offered as a bribe.

**Mr Deputy Speaker:** That is not a point of order. The Member should resume his seat.

**Mr Ford:** I request that Members be properly referred to in the House.

**Mrs D Kelly:** The guarantees of equality, partnership and inclusion are benchmarks for the conduct of government in the North, and they were hard won. However, during the negotiations about the devolution of policing and justice powers, the DUP, with the consent of Sinn Féin, took bites out of those guarantees. By altering the selection method for the Ministry, Sinn Féin conceded that a nationalist cannot now be justice Minister. Its belated concerns for the SDLP are regarded as hypocrisy.

The SDLP has a right to have a second Minister at the Executive table. However, we will end up with another unionist Minister at that table, while the mandate of another party is ignored. Democratic rights get turned on their heads by the DUP on Sinn Féin’s watch.

Mr Campbell, Mr Moutray and others talked about how they support the devolution of policing and justice powers. Similar contributions were made by members of Sinn Féin and other parties. My party colleague Mr Alban Maginness said that we are very much alive to the needs of the community, and said that legislation is required. Indeed, legislation is required to address a number of issues, not least to allow the police to do their job more effectively and efficiently.

I was somewhat bemused by Martina Anderson’s contribution, because Sinn Féin now seems to have become the “lock them up and leave them” party. She talked about the revolving doors of justice, but she did not mention anything about a fair trial.

When I was a young girl, my grandmother told me to tell all the boys that I would marry them, but not to tell them when. *[Laughter.]*

**Mr Kennedy:** Did you take that advice?

**Mrs D Kelly:** I did not. It seems as though Mr Peter Robinson got similar advice, because he has been told to tell Sinn Féin that policing and justice powers will

be devolved, but he will not say when. We still do not have a time frame for the devolution of those powers. The Bill is simply about creating a Department of justice and providing a method to appoint a Minister of justice, rather than electing one. That is all that is in the Bill.

What was all of last year about? What was the stalemate about? What is the paralysis and logjam at the heart of government about? The DUP says that it is a party of devolution. It has devolved powers, so where are the decisions that are needed daily and that matter to people in their everyday lives? Rather than taking decisions for the greater good, those decisions are held up by the mutual veto of the DUP and Sinn Féin, and their selfish party political interests. That is what is happening with all decisions and across all public services. *[Interruption.]*

Mr Simpson is one to shout across the Chamber. Other Members may be reticent about naming him, but I am not: it was Mr Simpson who said that the devolution of policing and justice powers would not happen in a political lifetime.

**Mr Simpson:** On a point of order, Mr Deputy Speaker. I want Mrs Kelly to confirm in writing where I said that, whether in this House or another House, because I did not say it. Had I said it, I would stand over it. The Member should prove that I said it.

**Mrs D Kelly:** I am sure that members of the media who work in Stormont can do a trawl of numerous interviews.

**Mr Simpson:** Further to that point of order, Mr Deputy Speaker, if Mrs Kelly checks the House of Commons Hansard report, she will realise that I did not say that.

**Mr Deputy Speaker:** I ask that Members return to the issue of the Bill. *[Interruption.]*

Order. Members should pay attention and speak through the Chair. Once again, I ask that Members return to the subject of the Bill.

2.45 pm

**Mrs D Kelly:** I will happily return to the subject of the Bill. However, first I will try to allay Mr Simpson’s concerns. Had he listened carefully in the first place he would know that I did not say that he made that comment in the House. I said that I had heard it in the media. Does Mr Simpson now deny that his colleagues have made such a comment?

**Mr Simpson:** On a point of order, Mr Deputy Speaker. Will Mrs Kelly please make up her mind? First, I understood her to say that I made that comment, but she now attributes it to one of my colleagues. Will Mrs Kelly please confirm what she said?

**Mr Deputy Speaker:** That is not a point of order. I asked Mrs Kelly to return to the subject of the Bill.

**Mrs D Kelly:** I will return to the debate, but my recollection is that Mr Simpson made that comment — Mr Dodds and Lord Morrow certainly did. Does Mr Simpson now agree — *[Interruption.]*

**Mr Deputy Speaker:** Order. Mrs Kelly, I ask you to return to the Bill, because that is the subject of the debate.

**Mrs D Kelly:** The Bill is deficient, because it does not include a time frame for the devolution of policing and justice.

**Mr Campbell:** *[Interruption.]*

**Mrs D Kelly:** You are delaying the process, Mr Campbell. Mr Robinson has a problem with getting all members of his party to agree on the devolution of policing of justice, regardless of what the community wants, says or needs. How many times have Members heard on the doorsteps that the devolution of policing and justice is a matter of concern? It is not; people want policing and justice powers to be devolved. However, they also want the Good Friday Agreement to be protected because they know that, time and time again, Sinn Féin has been hoodwinked by the DUP in negotiations at St Andrews and elsewhere.

**Mr O'Dowd:** I assume that the last time that the Member was canvassing was for the European election, as a result of which the good people to whom she refers endorsed Sinn Féin. Where, therefore, did she hear that message?

**Mrs D Kelly:** The clue is in the title: it was a European election.

By referring to Sinn Féin's inability to negotiate and its having been blindsided on a number of fronts by the DUP, I seem to have touched on a sore point for those sitting on that party's Benches.

**The First Minister:** The Member was getting a little excited; perhaps she has now calmed down a bit and may be able to take in what I am about to say. The Bill specifically does not contain a date for devolution; it is not required to do so because it is enabling legislation. Other legislation already exists that sets out the process under which devolution takes place. There is, therefore, no requirement on the deputy First Minister and me to encourage anyone to include a specific date in the Bill. That does not make the Bill "deficient", as Mrs Kelly described it. The Bill is simply enabling legislation and has nothing to do with the date on which devolution will take place. The debate from that end of the Chamber, however, has concentrated solely on when devolution will happen. It is an enabling Bill, and Members should be addressing that aspect of it.

**Mrs D Kelly:** The First Minister may be used to speaking in a patronising tone to people in his party, but he will not refer to me in that tenor. He does not

speak in that manner to Margaret Ritchie at meetings of the Executive; perhaps that is why the DUP does not want another SDLP Minister. *[Interruption.]*

**Mr Deputy Speaker:** Order, please. I remind Members to make their remarks through the Chair, and I ask Mrs Kelly to return to the subject of the Bill.

**Mrs D Kelly:** A date is important to provide some surety. The fact that the date was also important to Sinn Féin resulted in a delay of four or five months and a suspension of the Assembly. Why should the date not be important? At this stage, why not have clarity by setting a time frame? Perhaps, in responding to the debate, the First Minister will inform the House of the date that he may have agreed last night with Gordon Brown and Sinn Féin. He did not, however, include the Ulster Unionist Party, the SDLP or the Alliance Party in those discussions. As Mr McFarland said, the so-called mandatory coalition is more of a "DUP/Sinn Féin axis".

We are well used to Sinn Féin's somersaults and cave-ins on a wide range of issues. However, we will have our voices heard and we will let the nationalist people know what Sinn Féin is doing on its watch. The SDLP will protect, and always has protected, the Good Friday Agreement. We will not be silent and turn a blind eye when vetoes are handed to the DUP, which has a record of not sharing power in any council in the North of Ireland.

**Mr McKay:** Go raibh maith agat, a LeasCheann Comhairle. I support the Bill and I declare an interest as a member of the Policing Board. The Bill will pave the way for the transfer of policing and justice powers. The fact that the Bill is before the House is further evidence of the agreements that have been reached in the Office of the First Minister and deputy First Minister.

There is support in the wider community for the transfer of powers. The public want to see the criminal justice system being made more accountable. The best way to do that is through locally elected representatives. Those arrangements are, of course, temporary. The process provides for a sunset clause to take effect in May 2012, by which time new arrangements are required to be in place for the continuation of the Department of justice.

Scotland has shown some initiative since having policing and justice powers devolved. The Scottish Government have led the way in introducing drugs courts, which are now being copied in other jurisdictions in Europe. Last year, a cross-party delegation from the Policing Board met the Minister with responsibility for policing and justice in Scotland, Kenny MacAskill. The benefits of having those powers devolved to locally accountable representatives are blatantly obvious, and were made blatantly obvious to those representatives who were on that trip.

Already, the four main parties work together on the Policing Board to hold the PSNI to account. We need policing and justice powers to be devolved to deal effectively and holistically with issues such as antisocial behaviour, death-driving, drug dealing, the PPS and sentence remission. Many victims of crime have suffered as a result of the serious flaws in the criminal justice system. As we are aware, hardly a week goes by when the issue is not mentioned on the news or through the media, which, in itself, highlights the extreme urgency of the problem. Victims will continue to suffer as a result of those shortcomings if the transfer of those powers continues to be put on the long finger.

**Mr A Maskey:** Can the Member recall, and perhaps seek clarification from, a Member who may speak later for the Ulster Unionist Party? During an intervention, Alan McFarland referred to the position of the Conservative Party in the Westminster debate on the policing and justice transfer legislation. The Ulster Unionist Party should remind this House that the Conservative Party supported the legislation that was going through the British Parliament, despite the protestations from the Ulster Unionist Party. Which part of the Ulster Unionist Party, UCUNF or the Tory Party are those Members talking about today?

**Mr McKay:** I thank the Member for his intervention. As other Members on this side of the House have done, he highlights all the holes in the arguments that the Ulster Unionist Party and others have put forward. All that we have heard today is a series of contradictions in relation to its position and its past positions. At the end of the day —

**Mr B McCrea:** We are quite prepared to engage in debate. In fact, the reason why we are doing this today is to let Members know that we have opinions — considered opinions. We are quite prepared to give answers to all the questions that Mr Maskey asked.

**Mr A Maskey:** Give them now.

**Mr B McCrea:** We will, when the questions are put to our party. It seems a little incredible that you asked a member of your own party for an answer that he does not have. We will address —

**Mr Deputy Speaker:** The Member should address his remarks through the Chair.

**Mr B McCrea:** We will address those issues, Mr Deputy Speaker. It is important that all parties are involved in these issues. Rather than keeping itself in the dark, why does Sinn Féin not try talking to the rest of us?

**Mr McKay:** The Member had the opportunity to answer the question, but he clearly did not have the ability to do so.

What we have seen today is a number of parties putting political opportunism and point-scoring ahead of the interests of the wider community. Ultimately, the community wants powers that relate to a wide array of policing and justice issues, including antisocial behaviour and drug dealing, which is a big concern in my constituency, to be devolved. People want those powers to be devolved because they want their communities to be made safer and they want to see crime reduced. That will not be achieved by the pathetic comments that have been made by Members at the other end of the House.

The Bill represents immense political progress, and the public wants to see it progressed because criminal justice is a major issue for all our communities. It is important that adequate finance is put in place to provide an effective community service, and I acknowledge the work being done to secure that funding by the First Minister and the deputy First Minister in negotiations with the British Government.

In conclusion, I support the Bill. I encourage other parties in the House to put aside their own narrow political self-interest in the wider interests of the community, because the policing and justice issue must move forward. Therefore, I urge those parties to reconsider their very inconsiderate positions.

**Mr Deputy Speaker:** Questions to the Minister of Culture, Arts and Leisure will commence at 3.00 pm, so I propose that Members take their ease until that time.

3.00 pm

## Oral Answers to Questions

### CULTURE, ARTS AND LEISURE

#### GAA: Hunger Strike Commemoration

1. **Mr B McCrea** asked the Minister of Culture, Arts and Leisure if the use of Galbally Gaelic Athletic Club for a hunger strike commemoration rally meets with his Department's criteria for funding of the GAA. (AQO 75/10)

15. **Mr I McCrea** asked the Minister of Culture, Arts and Leisure, following the recent commemoration of the hunger strikes at a Tyrone GAA facility, what steps he has taken with the GAA to ensure sports grounds are not used for this type of event. (AQO 89/10)

**The Minister of Culture, Arts and Leisure (Mr McCausland):** With your permission, Mr Speaker, I will answer questions 1 and 15 together.

I have publically expressed my concerns about what took place at Galbally on 16 August 2009, and I have called for the GAA to carry out a full investigation into the matter. I understand that the GAA's central council has already asked its Ulster council to establish the exact circumstances surrounding the use of the Galbally Pearses GAA ground for a commemoration of deceased members of the Provisional IRA. I await those findings, and I look forward to receiving the completed report.

I am also aware that, following claims that there was a paramilitary display during the event, the PSNI is making enquiries to see whether any laws were broken.

**Mr B McCrea:** Surely there should be consistency in the rules for administering public funds. If there is an outright ban on the use of public funds to support party political activities, surely the use of facilities that are largely supported by public funds should be subject to a similar caveat. Instead of looking to other agencies, should the Minister's Department not be taking corrective action on the matter?

**The Minister of Culture, Arts and Leisure:** This is not a new issue; it has been around for quite a few years, and I assure the Member that I am doing what is appropriate in the circumstances and what will be effective in dealing with it.

There is already a requirement that any body that seeks funding for ground improvements must sign

what is termed an equity statement. I am in discussions with Sport NI, and, later this week, I will speak to its representatives about the nature of that commitment, its implementation and whether it needs to be reviewed. I have already asked Sport NI to review the situation, so that we can deal effectively with the sort of appalling situation that we saw last month.

**Mr I McCrea:** Will the Minister outline what funding Galbally Pearses Gaelic Athletic Club has received from Sport NI, and, in the light of the events on 16 August, will he inform the House of any intentions that he might have to withhold future funding?

**The Minister of Culture, Arts and Leisure:** In January 2009, Galbally Pearses GAC was awarded an Exchequer grant of £200,565 under Sport NI's Places for Sport programme to assist with the construction of a full-size Gaelic games grass pitch. That work is ongoing, and Sport NI has advised that, to date, the club has drawn down approximately £166,000 of the award.

Sport NI funding programmes have an equity clause as a standard condition of its grants, and, although on this occasion the situation has yet to be clarified, Sport NI has been asked to review its existing terms and conditions of grants to sport. I look forward to receiving Sport NI's analysis and, if appropriate, its recommendations for change by the end of November.

I also met informally with senior representatives of the GAA's Ulster council, when, as a public representative and the Minister for sport, I had an opportunity to represent the concerns and comments that I had received from across the community following recent publicity around the use of GAA property. In addition, I was able to emphasise my belief in the importance of sport, culture and art in building a shared and better future.

The meeting also afforded the GAA an opportunity to brief me on the governance and work of the association, including what it is doing at council and provincial level to deal with the issues around Galbally and other matters of concern. Personally, I found the exchange to be informative, and I appreciated the opportunity to express my concerns to the organisation.

**Mr Brolly:** Go raibh míle maith agat, a LeasCheann Comhairle. Does the Minister accept that it would be illegal for his Department to discriminate against any sports club with regard to its funding criteria?

**The Minister of Culture, Arts and Leisure:** One of the fundamental principles that I have taken forward in the Department is the creation of a shared and better future that will be based on equity, diversity and interdependence. The principle of equity is very important, and, when I met them in July, I assured the three major sporting bodies that I would treat them all with fairness in every way. There will be no

discrimination. I hope that folk at the grass-roots level of sport will remember the importance of social cohesion, tolerance, respect and interdependence in the future.

**Mr D Bradley:** Go raibh maith agat, a LeasCheann Comhairle. Does the Minister agree that the most important element is the protection of sporting and cultural organisations from political and sectarian exploitation, not the victimisation of any particular sporting body or political influence at departmental level?

**The Minister of Culture, Arts and Leisure:** I agree entirely with the Member. It would be wrong for any organisation — political or otherwise — to exert the sort of pressure to which the Member refers on any sporting club. I have no difficulty in agreeing with that. Many people in the GAA at the highest level were as horrified as the rest of us at the sort of event that took place at Galbally in August.

### Re-imaging Communities

2. **Mrs Long** asked the Minister of Culture, Arts and Leisure for his assessment of the Re-imaging Communities programme. (AQO 76/10)

3. **Ms Purvis** asked the Minister of Culture, Arts and Leisure for an update on the costs to date of the Re-imaging Communities programme; and for an assessment of the success of the programme and its contribution to community cohesion. (AQO 77/10)

**The Minister of Culture, Arts and Leisure:** With your permission, Mr Deputy Speaker, I will answer questions 2 and 3 together.

The Re-imaging Communities programme was launched in July 2006. It is delivered by the Arts Council of Northern Ireland and overseen by the Shared Communities Consortium. The programme has been allocated some £3.8 million and, to date, 136 projects have been awarded a total of £3,007,634. Some 70 project proposals are also at various stages of development. There are many excellent examples of the work of the Re-imaging Communities programme across Northern Ireland. Those include the East Belfast Historical and Cultural Society project on the industrial heritage of the area; the Glenbryn project depicting prominent figures from the history of north Belfast; and the Kilcooley project in north Down, which is held up as a model of best practice by the Arts Council.

An independent interim evaluation of the Re-imaging Communities programme was completed in December 2008. The findings indicate that the programme has been a success. A survey of 2,000 participants in 10 areas in which projects have been completed showed that the majority believed that the project had been of high quality, had improved the appearance of the area and had been generally

beneficial. The programme has been very successful and has met its key objectives. As a direct result of the programme, many displays of paramilitary symbolism have been removed and/or replaced with new imagery that reflects the aspirations of local communities in a more positive manner.

The interim evaluation indicated that the programme has had a significant effect on community cohesion by strengthening relationships; restoring relationships between communities and councils; developing a sense of achievement and ownership of the artwork; helping to reduce delinquency and antisocial behaviour; transforming the character of areas; encouraging community responsibility for its own environment; and highlighting the fact that the community no longer wants to be associated with division and hostility.

**Mrs Long:** I thank the Minister for his answer, which reflects the value of the projects. I declare my interest as a member of Belfast City Council, which was involved in the programme's delivery.

Given that it transforms not only physical places but the people in those places, is the Minister of a mind to further invest in this kind of vehicle for transformation? The programme has had a massive impact on people's confidence and sense of place and their ability to move on to other projects that will enhance their local communities.

**The Minister of Culture, Arts and Leisure:** The programme has, indeed, been very successful, and there is a continued demand from local communities, as evidenced by the number of proposals still being developed. Consequently, I am supportive in principle of the continuation of the programme. However, doing so will require significant additional funding, and Members will be well aware of the challenging financial environment and the increasing pressures on all areas of expenditure.

My officials and I are working together and exploring options for ways in which the Department of Culture, Arts and Leisure (DCAL) may be able to provide some support to the programme. I am aware that the Arts Council is in discussions with various other stakeholders to explore potential funding streams in order to extend the programme. However, Members will be aware that we are facing a much more challenging financial environment, and there are significant numbers of pressing priorities for public funding.

**Ms Purvis:** I thank the Minister for his detailed response. I have first-hand experience of the Re-imaging Communities programme that exists in a number of communities, and I can see the practical benefit that it brings to all sections of the community. Has there been a difference between the uptake of the programme in unionist and nationalist areas or in the number of proposals that have been submitted to the

Arts Council from each group? Is there a difference in the outcomes for those areas? Will the Minister assure the House that he will do all that he can to ensure that the programme continues, given the positive outcomes that have been experienced and the amount of work that remains to be done in deprived communities?

**The Minister of Culture, Arts and Leisure:** I do not have to hand a breakdown in respect of unionist and nationalist areas. I have a complete list of all the projects, but they have not been identified in that way. However, I have a breakdown by constituency across Northern Ireland, which may be of some help. It is clear that there has been a lower uptake in some constituencies than there has been in others. For instance, there was an uptake of £191,576 in East Belfast, £351,094 in North Belfast and £422,000 in South Belfast. However, there was a smaller uptake in other constituencies: only £27,000 in one case; £21,000 in another; and £15,000 in a third constituency. There is, therefore, an issue regarding the uptake across different areas.

Work is being, and has been, undertaken by the Arts Council to ensure that the programme is rolled out across Northern Ireland as far as possible. To date, projects have been undertaken in all but two district council areas in Northern Ireland — Fermanagh and Strabane — but all other council areas were included and involved.

The Arts Council has sought to address the lack of uptake by holding roadshows and funding clinics and through direct liaison with district councils. The council has been reasonably successful in that regard, and work is under way in the areas that it is targeting, including Coleraine, Ballymoney and Omagh. I understand that the Arts Council has had initial discussions with groups in Fermanagh and Strabane regarding potential projects, but progress on those will be dependent on future funding.

**Mr T Clarke:** Does the Minister accept that it is difficult to measure the difference that the Re-imaging Communities programme has made to the quality of people's lives? I speak from my experience in my constituency of South Antrim, particularly in Randalstown. A proposal has also been submitted for a re-imaging programme in Antrim. I ask the Minister to think about the changes that such programmes make to the lives of the people who live in the areas, particularly when funding is being considered. It is difficult to quantify that in financial terms at the outset, when an application is made, but does the Minister accept that it makes an immeasurable difference to the lives of the ordinary people who live on the estates in which the re-imaging is taking place? I invite the Minister to Antrim to see some of the work that has taken place.

**The Minister of Culture, Arts and Leisure:** The Member is right: the improvements are more qualitative

than quantitative. It is difficult to put a value or a number on those things and to measure them in that way. That is why, in my initial answer, I indicated the areas of improvements and the help that such projects delivered. I spoke about them strengthening relationships and the sense of achievement that is felt by the people who are involved in them, and I commented on how they address antisocial behaviour, transform areas and create a more positive image of the community. Therefore, I agree with the Member that it is difficult to quantify the effects of such programmes, but that is not a reason for failing in any way to pursue the additional funding that we would seek.

**Mr K Robinson:** I thank the Minister for his reply. I agree with all the Members who have spoken on this question. There is no doubt that it is difficult to quantify the benefits that the programme brings to communities that have suffered and which need the re-imaging programme.

The Minister listed some of the huge sums of money that have been made available for the projects. However, given that those resources are fairly limited, will any sustainable jobs be created in those communities after the schemes have finished?

3.15 pm

**The Minister of Culture, Arts and Leisure:** It is more a case of additional skills being left behind when the projects have finished. As a result of those projects, people will have enhanced their experiences and acquired skills, and, in many instances, they will have been able to work with voluntary and statutory agencies and local authorities in a way that they may not have been able to do previously. Therefore, apart from the physical changes that will come about, the main improvements, and the lasting benefits and legacy, are in enhanced skills.

**Mr Deputy Speaker:** Question 4 has been withdrawn.

## 2012 Olympic Games

5. **Mr Savage** asked the Minister of Culture, Arts and Leisure what plans there are to host in Northern Ireland athletes attending the 2012 Olympic Games. (AQO 79/10)

**The Minister of Culture, Arts and Leisure:** Northern Ireland is seeking to attract 10 countries or teams for pre-games training. I have asked Sport Northern Ireland to lead a small cross-organisational working group to progress that work with representatives of local government, Invest Northern Ireland, the Northern Ireland Tourist Board and Disability Sports Northern Ireland. Twenty-six sports facilities here have registered in the London 2012 pre-games training

camp guide (PGTC) for the Olympic Games, and eight sports facilities here have registered in the PGTC guide for the 2012 Paralympic Games. The Department is working already with the London 2012 Organising Committee (LOCOG) and through our sports governing bodies to attract those countries or sports to Northern Ireland.

**Mr Savage:** Will any of the athletes who are linked in any way, however remotely, to the 2012 Olympic Games be taking part in any sporting events in Northern Ireland?

**The Minister of Culture, Arts and Leisure:** The intention is to bring those athletes here for training camps; however, it would be premature of me to comment on what else they might do when they are training here. If I am to comment, I would need some information on what teams and countries are coming and what sports those athletes are involved in. I get the gist of what the Member is getting at, and I will keep it in mind.

**Dr McDonnell:** I thank the Minister for his answers so far. Will he give the House his assessment of the financial gains or, indeed, losses that will result from hosting athletes who are attending the 2012 Olympics? Has any assessment been made of the financial outcomes of hosting those athletes?

**The Minister of Culture, Arts and Leisure:** Again, the difficulty is that unless one knows what teams and sports will be coming here, it is very difficult to put a figure on it. It is clear that there will be a benefit, but to put a figure on it is difficult at this stage. Therefore, I find it difficult to respond to that question at this stage.

**Mrs McGill:** Go raibh maith agat, a LeasCheann Comhairle. Will the Minister assure the House that sports facilities in Counties Tyrone, Fermanagh and Derry will have a fair chance of hosting athletes who may come here during the Olympic Games in 2012?

**The Minister of Culture, Arts and Leisure:** I indicated already that 26 sports facilities have registered for the 2012 Olympics and that eight have registered for the 2012 Paralympic Games. Those facilities are spread across Northern Ireland.

**Mr Craig:** Will the Minister outline what financial assistance will be available to facilities such as the Salto National Gymnastics Centre in Lagan Valley? That centre has succeeded already in attracting international gymnastics teams to Northern Ireland, and staff there would be very keen to support the 2012 Olympics programme.

**The Minister of Culture, Arts and Leisure:** My officials have liaised with the governing body of gymnastics here, Gymnastics Northern Ireland, about the Salto centre in Lisburn. Gymnastics NI, together with all the other governing bodies of sport here, will

shortly be invited to apply, through Sport NI, for limited funding to assist them in securing teams in the run-up to the 2012 Olympics. I understand that through that funding, Gymnastics Northern Ireland will support Salto's efforts to attract teams for pre-games training in 2012.

**Mr Deputy Speaker:** Question 6 has been withdrawn.

## Maze Prison Site

7. **Mr Kennedy** asked the Minister of Culture, Arts and Leisure to outline his Department's involvement in the development of the Maze site. (AQO 81/10)

**The Minister of Culture, Arts and Leisure:** The Department, in conjunction with the Strategic Investment Board, was involved in the development of proposals for a multi-sports stadium to be used by the three main ball sports in Northern Ireland. That included the production of a robust business plan by independent consultants. The Department worked closely with the governing bodies of the three sports — football, rugby and Gaelic games — in finalising and agreeing the business plan for the multi-sports stadium.

It was the responsibility of the Office of the First Minister and deputy First Minister, supported by the Strategic Investment Board, to identify a preferred developer for the whole Maze site, including the stadium. In January 2009, the then Minister, Gregory Campbell, having reviewed all the material available to him, advised the Northern Ireland Executive of his decision not to proceed with the proposed multi-sports stadium at the Maze. My Department has, therefore, no further involvement in the future development of the Maze site.

**Mr Kennedy:** I am grateful to the Minister for his answer. Now that plans for a multi-sports stadium have been abandoned, will the Minister outline the current culture, arts and leisure proposals that he and his Department are considering in respect of the Maze site? Will he take this opportunity to confirm that no part of the site will be used to create a shrine to republican terrorists?

**The Minister of Culture, Arts and Leisure:** In reply to the second part of the Member's question, I have already said that the Maze site is not within my domain. With regard to the first part of his question about the stadium development, earlier in the year my predecessor asked the three governing bodies to bring forward their preferred options on regional stadium provision. In June 2009, the Executive received an update on stadium development and a broad outline of the options that those bodies had submitted, and the Executive agreed the process for advancing the regional stadium development.

Since becoming Minister at the beginning of July, I have been actively progressing that process. I have met, collectively, with representatives of the governing bodies. A strategic outline case, which confirmed the options to be tested in a full economic appraisal, has been produced and approved by the Department of Finance and Personnel (DFP), and the commissioning of consultants to undertake an economic appraisal of the options has commenced. I expect to be able to return to the Executive by the end of the year with the outcome and the proposals to take forward the strategic development of regional sports stadia.

**Mr Butler:** Go raibh maith agat, a LeasCheann Comhairle. The Minister referred to the development corporation and the future of the Maze/Long Kesh site. Has he given any consideration to other sporting or arts facilities being placed there as part of the development corporation's plan? When I and other party members sat on the Maze/Long Kesh monitoring group, the stadium was the main feature of the sporting facilities. However, there were also discussions and plans to have other sporting facilities on that site. Will the Minister consider those plans as part of the future of the site?

**The Minister of Culture, Arts and Leisure:** I am unaware of any proposals for other sporting facilities at the Maze site, and I have none under consideration.

**Mr Moutray:** Will the Minister say when consultants will be appointed, how long he expects the consultancy to last, and how much it will cost?

**The Minister of Culture, Arts and Leisure:** I expect consultants to be appointed by early October — within a few weeks — and the results of their work to be available later this year. The total cost of that work will not exceed £80,000.

**Mr McCarthy:** The Minister will be aware that the Department has spent almost £4 million on the Maze site to date. Has the Minister any regrets or any apology to make to the taxpayer? It has been a complete and absolute waste of almost £4 million, given that the Department probably knew from day one that the site would not be used to promote the shared future through a multi-sports stadium?

**The Minister of Culture, Arts and Leisure:** I will deal with the issue of a shared future, in case the Member was not listening to me earlier. I have put the creation of a shared and better future right at the top of my list of priorities. That will be implemented in all areas, whether in culture, arts or leisure. As for money that was spent in previous years, the Member will be well aware that most of that expenditure was committed at the time of direct rule, and that it was an initiative of direct rule. The decision of my predecessor, Gregory Campbell, not to proceed with the plans for the Maze site, but to provide separately for the three main ball

sports was taken under devolution, and I believe that it was the right decision.

We are carrying matters forward as quickly as we can, because the real issue now is about getting decisions made, getting developments on the ground, and rolling out the sort of work that is demanded and expected — rightly — by those three sporting bodies. That is why I have set a very clear timetable. The consultants will be in place by early next month, and will report back to my Department by the end of the year. I will then be able to take the matter to the Executive.

## Sport Matters

8. **Mr P J Bradley** asked the Minister of Culture, Arts and Leisure for an update on the sports strategy document 'Sport Matters'. (AQO 82/10)

**The Minister of Culture, Arts and Leisure:** The Department of Culture, Arts and Leisure, in partnership with Sport Northern Ireland, has prepared a final version of a planned new Northern Ireland sports strategy, which is now entitled 'Sport Matters: The Northern Ireland Strategy for Sport and Physical Recreation 2009-2019'. The final version of that strategy has been forwarded to the Northern Ireland Executive for consideration at a future meeting. I have been pressing, and will continue to press, for that to be considered and agreed by the Executive as soon as possible.

**Mr P J Bradley:** I thank the Minister for his answer. From what the Minister has learned since taking up office in July, how much of the 'Sport Matters' strategy can be delivered — I am being optimistic — in the remaining 19 or 20 months of this Assembly?

**The Minister of Culture, Arts and Leisure:** The difficulty with answering that question is that I am not clear when the sports strategy will be fully endorsed by the Executive. However, we are already working on the assumption that it will be endorsed, and sporting bodies are also working on that assumption. It is also difficult to provide a figure in answer to the Member's question, because the strategy covers 10 years. To ask me today how much will be done in a number of months is perhaps asking too much. What is proposed for the 10-year period is a realistic proposal; it can be delivered, and it is my hope that it will be delivered. In the remaining months of this Assembly I will certainly be doing all that I can to ensure that it will be delivered.

**Mr Kinahan:** Has the Minister had any discussions with the Education Minister on how his Department could augment and improve sport in schools as part of the overall sports strategy?

**The Minister of Culture, Arts and Leisure:** Since coming into office at the beginning of July, I have not had discussions with the Education Minister, but the Member picks up on a very important point. The sports



strategy is not simply an issue for DCAL; it involves a number of other Departments. It has implications for health, because one of the great benefits of sport is that it helps to address the issue of obesity. It has implications for the Education Department, because the issue of making schools and schools' facilities more accessible to the wider community is obviously very important. I know that that has been discussed in the Education Committee and elsewhere in the past. The Member is absolutely right to say that the sports strategy is a cross-departmental issue. That is a good thing, because good government should be joined-up government that stretches right across Departments.

3.30 pm

## QUESTION FOR URGENT ORAL ANSWER

### **Belfast Health and Social Care Trust**

**Mr Deputy Speaker:** The Speaker has received notice of a question for urgent oral answer to the Minister of Health, Social Services and Public Safety.

**Mr McCarthy** asked the Minister of Health, Social Services and Public Safety for his assessment of the leaked proposal that the Belfast Health and Social Care Trust is to axe a total of 150 beds in the Royal Victoria and Belfast City Hospitals.

**The Minister of Health, Social Services and Public Safety (Mr McGimpsey):** For months, I have been saying that times are hard in the Health Service, with challenging efficiency savings of some £700 million and increasing demands. However, in April 2009, the Assembly refused to exempt the Health Service from efficiency savings. As I said at the time of the Budget settlement, it was as good as it gets, but it was not enough. The situation has been further exacerbated by the cost of the swine flu pandemic.

I am still in the position of having to fight for the money that I need to protect the people of Northern Ireland, and I trust that the Executive recognise that in their response to the September monitoring round. My Department has now received proposals from the trusts, including the Belfast Health and Social Care Trust, to achieve break-even, and those proposals are currently being considered. No decisions have been made.

**Mr McCarthy:** I thank the Minister for coming to the Chamber to answer the question. Devolution to the Assembly was meant to bring benefits to everyone in Northern Ireland. The diabolical news of the loss of some 150 hospital beds is a shattering blow to the many patients who are already waiting for a hospital bed. Indeed, Health Service redundancies are completely outrageous.

Will the Minister of Health, Social Services and Public Safety, the Minister of Finance and Personnel, the First Minister, the deputy First Minister and the entire Executive give some cognisance to the catastrophic effect that those cutbacks will have, bearing in mind the threat of swine flu this winter, which the Minister mentioned. The Minister must be as aware as anyone else that, unless those hospital beds are saved, people throughout Northern Ireland will die during the winter.

**The Minister of Health, Social Services and Public Safety:** As I explained in April 2009, when the

House debated an amendment to exempt the Department of Health, Social Services and Public Safety from the process of efficiency savings, £700 million of efficiency savings must be found. In addition, resources for health are inadequate; as I said at the time of the Budget settlement, an extra £600 million is needed to provide the same standard of Health Service as that provided in England. In that regard, England is behind Wales, and Wales is behind Scotland. Therefore, the resource is already severely stretched, and it is a huge stretch to catch an additional £700 million from it.

The Health Service must also face the issue of swine flu. Under the Budget settlement, the deal that I did with Peter Robinson when he was Minister of Finance and Personnel, it was agreed that the first £20 million from in-year resources would go to health, but I have still not seen a penny of that. The reason why I have been able to manage the health budget so well is because of the efficient use of money through flexibility. As part of the Budget settlement, I was given the right to bid for resources for pandemic flu, but I have still not seen a halfpenny of those or received a guarantee.

Against that, all the trusts report seriously increased demand. The birth rate has increased by 20% since 2002, and we all know about the stretch at maternity units. The older population is steadily increasing and in receipt of even more sophisticated life-enhancing treatment packages. Attendance at accident and emergency is up by 7.2%, and the number of emergency admissions via accident and emergency is up by 9%. Total inpatient activity is also up. The demand is constantly rising.

The Appleby report on efficiency recommended that the Health Service receive an increase to its budget of 4.3% a year in real terms. The Health Service never received that or anything like it, and increased demand is, in fact, around 9%. Even allowing for inflation, over the past two years, the increase has been around 1.75% in real terms. Therefore, there is a gap, and there is not enough money to do the job.

By Treasury rules, the trusts are required to break even. They have been asked for contingency plans, and those plans have been prepared and will come to me. I will look at those and determine a way forward.

If there is more activity than had been anticipated, and there is not enough money to cover it, everybody can see that that creates a gap. It is a matter for the House to determine how that gap needs to be addressed. Do we want to do some of the other things that we do, or do we want to address the gap in health?

Are curbs more important? In an ideal world, they are important, but are those sorts of activities in other areas and Departments really where we want to spend our money? Mr McCarthy is quite right: if we do not

spend the money on health, patients come to harm. I made that point in April 2008. Since then, I have made it over and over again.

**The Chairperson of the Committee for Health, Social Services and Public Safety (Mr Wells):** The fact that the Minister has failed to deny the claims that have been made by the unions this morning shows that they must contain some truth. It is quite clear that 150 beds will be removed from the system. As Mr McCarthy has, quite rightly, said, that has profound implications for the ability of both the Royal Group of Hospitals and the City Hospital to deliver.

Part of the package that was given to the Minister was that, in return for not claiming money through the monitoring round, he could have total flexibility in his £4 billion budget. If the budget cuts that he suggests do have to be made, surely the last services that should suffer are front line services in the main acute hospitals.

We need clarity from the Minister about what has actually been agreed with the Belfast Health and Social Care Trust under the comprehensive spending review (CSR) plans. We need to hear very soon what implications the CSR process has for the other trusts. The Committee and the Assembly need that information immediately. We want to hear a good reason why major front line services are being cut, rather than management, bureaucracy and administration.

**The Minister of Health, Social Services and Public Safety:** For Mr Wells's benefit, I remind him that, as far as the review of public administration (RPA) is concerned, the Department of Health is the one Department that has achieved its RPA targets. It has reduced the number of trusts from 19 to six and the number of boards from four to one. It has reduced administration by around 1,700 jobs, which saves £53 million each year. It has reduced the number of front line management staff from 180 to 61. My Department has done all of that. It has also increased its efficiency rating by 7% during the past two years. As far as productivity and the RPA are concerned, my Department's performance is better than that of any other Department.

As I have said, the fact is that demand has increased throughout the Health Service. There is increasing demand for services from an older population, as well as on maternity services and A&E attendances and admissions. All of those have gone up. Against that increasing demand, resources have not gone up. Money must be found. I have no choice.

The House voted for £700 million of efficiency savings to be made. Indeed, I have the list of Members who voted for that. Mr McCarthy was one of those Members who insisted prominently on that £700 million, as were members of the Health Committee.

The House must make up its mind where it wants to spend money. It is no use coming to me and saying that I must do this, that and the other; telling me that I must make efficiency savings, yet, when efficiency proposals are made, Members do not want to know and they oppose them. The Assembly will not put its money where its mouth is. It will not vote for that money. Therefore, there is not enough money going to the Health Service.

Funding for mental-health services is 25% pro rata below what it is in England. Demand for those services is 25% higher than in England. In the past two and a half years, I have made those points over and over again. Despite that, due to my Department's efforts, efficiency in the Health Service is up by over 7% in the past two years. It has achieved more than any other Department on RPA and productivity. However, it must also deal with increased demand.

The budget settlement promised the Health Department the first £20 million of available funds. I have not seen a penny. It also promised that my Department could bid for funding for pandemic flu.

I have not seen a penny for that either. That is the reality. However, money is being spent on other things. *[Interruption.]* I hear the First Minister talking from a sedentary position. I notice that resource for his office in the past year has risen from £60 million to £85 million, which is a 30% rise. Do Members want money to be spent on Peter Robinson's office, or do they want it to be spent on front-line health services? That is the issue.

Those plans — and they are plans — were brought forward to me. I asked every single trust to come forward with contingency plans; in fact, they have already done so, and I have to look at them. I keep telling Members that I have tough decisions to make, but it is not only me who has to make this decision; the Executive and the Assembly must do so, too. The Assembly cannot continue to tell me willy-nilly to increase services and provision for this, that and the other — and Mr McCarthy has been one of the most prominent in calling for more money to be spent here and there — yet, at the same time, refuse to vote to give me more money and insist that £700 million of efficiency savings be made over three years.

I have said that we can make those efficiency savings, just not in the time frame required. There is not enough money in the system to do that right now. I do not have enough money to pay the bills; I am in the position that I have been placed in. I remind Members that I put it to the House that the Health Service should be exempted from making those efficiencies. The Health Service can be exempted because moneys for efficiencies are supposed to come from the Executive: they do not have to come from each Department. By the way, it was decided in Scotland that the efficiency

requirement for the Health Service should be 2% rather than 3%, because it was decided that healthcare was a key provision. Only the PUP supported my party; every other party voted against my party's motion. An opportunity exists for Members to look at the issue again, and they must do that.

The debate on policing and justice is about to resume, and I have absolutely no doubt that there will be plenty of money for policing and justice. That will be no problem. However, I think that the Health Service is at least as important as the devolution of policing and justice. I think that Members agree with me, and I am absolutely certain that the public agree with me.

## EXECUTIVE COMMITTEE BUSINESS

### Department of Justice Bill

#### Second Stage

*Debate resumed on motion:*

That the Second Stage of the Department of Justice Bill [NIA 1/09] be agreed. — [*The First Minister (Mr P Robinson).*]

**Dr W McCrea:** We return to the Department of Justice Bill, which is enabling legislation that will simply permit the devolution of policing and justice to happen at some time. Most parties have said that they believe in the devolution of policing and justice and that the powers of policing and justice should be returned to the Assembly.

I must set that in the context of the many other challenges that we face. I listened with interest to the closing remarks of Mr McGimpsey. The Assembly certainly faces many challenges. My constituents have told me that the economy is top of their agendas and that they are worried about how we are going to get through the hard times of the recession. They have also told me that the banks are still crippling small and medium-sized businesses and that those businesses have not the clout to withstand the excessive charges that are being forced upon them. My constituents have said that they are concerned about whether they will have jobs at the end of the recession. They worry that even businesses with high productivity will not be able to survive the recession.

My constituents have said that they are concerned about whether they will be able to afford their mortgages and keep their homes. They are also worried about the number of hospital beds, some of which have been lost through the Department's foolish direction in policy, and about the cuts in which we will all have to play a part.

Bearing all those points in mind, we know that Sinn Féin has held up vital decisions in the Executive in the past. There was a logjam of necessary legislation simply because that party was not getting its own way. Members may say that that is childish. It is not only childish; it is damaging to the prosperity of Northern Ireland.

3.45 pm

So, we ask ourselves what the recipe is for combating the hard economic times that we are living in. Sinn Féin's answer is to simply increase the financial burden on the Executive and the people of Northern Ireland. I want to address Sinn Féin's demand for the immediate devolution of policing and justice powers.

Given that there is a recession and that people are losing their jobs, homes and other things, why is there such undue haste? The answer is political dogma and

the unrealistic promises that Sinn Féin made to its supporters. The House has no responsibility for any promises made by any party; each party will either stand or fall on its own promises at an election. We cannot be held to any timetable that is suggested by a particular party in the House just because it made promises and is unable to fulfil some of them.

My party has made it abundantly clear that there are two issues that must be addressed. The first issue is cash, which my friend from East Londonderry Mr Gregory Campbell alluded to in his speech. The second issue is confidence. I want to address both of those issues, because they are relevant to our discussion.

The First Minister and his deputy have been in talks with the Prime Minister and Treasury officials about money for the devolution of policing and justice powers. What has been the Government's response? We all know that there is a black hole in the policing budget and that the demands for increased policing have not been realised in the community. In the midst of their demand that we should immediately devolve policing and justice powers, the Government recently added to the pain by demanding £17 million of further cuts.

We also know that there are increasing demands on the police. For example, there is no package in place for members of the part-time police Reserve, who gave excellent and sterling service throughout the years of Provisional IRA terror, murder and mayhem. We have to provide financial support to deal with that demand, because it will not go away.

One of today's papers carries the headline:

"Axe falls on PSNI Drugs Squad".

In the midst of everything, we have a situation where the drugs squad will be removed despite the community wanting more police on the streets to deal with the drugs that are out there. Let us not close our eyes to the real drug problem that exists in Northern Ireland. There is a major drug problem here, although many people want to close their eyes to it and suggest that it is not as big as it is. That problem is causing the destruction of the lives of both young and old.

On top of that, there is a demand on us from the Patten report. I listened carefully to Mr Kennedy's opening remarks when he said:

"our fingers are not in this".

Let me tell him what his and his party's fingers are on. At the time of the Patten discussions, one of the leading politicians in his party at the time, Lord Maginnis, the then MP for Fermanagh and South Tyrone, entered into negotiations on the Patten proposals and agreed to a change in the name of the RUC and the destruction of that organisation. Let not Mr Kennedy try to be pious and say that their fingers were not involved: we know exactly where the fingers of the

Ulster Unionist Party were. Its fingerprints are all over this; they were also all over the Weston Park talks when the Ulster Unionist Party was ready to devolve the powers of policing and justice without anything —

**Mr Deputy Speaker:** Order, please. I remind the Member to speak to the Bill.

**Dr W McCrea:** I am endeavouring to point out, Mr Deputy Speaker, that Mr Kennedy was supposed to be dealing with the same Bill, yet he spoke about this very issue. Therefore, if it is being suggested that the matter is not within the Bill's remit, Mr Kennedy, too, must have been totally without the Bill's remit, because I am dealing with the issues that have been raised. It must be very uncomfortable listening for him, but rest assured that the Ulster Unionists are not getting let off on this issue.

Under Patten, there was a demand for the axe to fall on the full-time Reserve. At a time when there is a demand out there for more police on the ground, what is happening? The axe is falling on a vital part of the Police Service of Northern Ireland. Not only has the full-time Reserve given sterling service, but its members want to continue to give sterling service, yet the axe is going to fall on them. That is a recipe for disaster. Therefore, it is not enough to say that we have the devolution of policing and justice powers; the accompanying cash must be made available. Failure to provide that, and failure to put adequate numbers of police on the ground, means that drug lords and community Hitlers will continue to take control of estates and desire to take greater control of estates that they had previously lost.

I have constituents in my office daily demanding action on antisocial behaviour, which is thuggery under another name, and it is not being tackled. When I bring in the police, they tell me that they do not have the manpower to deal with antisocial behaviour. Therefore, although it is important to say that, yes, we need the devolution of policing and justice powers, we had also better face up to the reality that we need sufficient people on the ground in order to be able to do the job. Without the money to pay for them, we will not have the men on the ground. Therefore, let us not live in cloud cuckoo land.

That may be unpalatable for Sinn Féin —

**Mr Beggs:** Will the Member give way?

**Dr W McCrea:** No; the Member will, I am sure, want to make a vital contribution to this debate at some later stage.

However, Sinn Féin is saying that we must have policing and justice powers devolved now. Of course, if it closes its eyes to the reality check that is those community challenges, it is living in cloud cuckoo land.

We are told that the answer to those community challenges is police chiefs recommending the closure of police stations and cutting police numbers and overtime. That has led to a lack of confidence in the community. The First Minister said, "Let us go to Mr Brown." I appreciate the efforts that the First Minister has been making to try to get the Treasury and Mr Brown to come up with money.

However, what money can he come up with? Remember that words are cheap. Mr Brown has the certainty of tenure of only a few months before a general election is held. He has no certainty that he will be there beyond then. He can promise the world, but can he keep his promises? When we look to the past and see how easily promises have been set aside, we would be absolutely foolish not to learn lessons.

Others will say, "But what about the Treasury? It will still be there." However, let us look at Treasury figures. We know that its figures have been suspect in the past, because often when the Chancellor of the Exchequer stands up in the House of Commons, he is recirculating money that he had already promised. It is simply a recirculation. Promises have not been realised in the past.

What happens if this Prime Minister's tenure is almost over? Ah, we say, we will look to the Conservatives. Of course, we will then look to their sidekicks, or their tail: the Ulster Unionist Party will guarantee us money. There will be no problem, because Mr Kennedy will say that his party has such influence with the Conservative Party. Although the Ulster Unionists may be only the tail of the cow, they will, nevertheless, be able to assure us that we will have all the money that we need.

That is living in cloud cuckoo land. Without the money, there cannot be the proper devolution of policing and justice.

**Mr B McCrea:** On a point of order, Mr Deputy Speaker. I understand that, in Standing Orders, there is a rule that states that you are not allowed to compare people to animals. I distinctly heard the Member say that we were a cow. I think that Dr McCrea should withdraw those remarks.

**Mr Deputy Speaker:** I do not think that that is really a point of order. I will go back to the other Mr McCrea.

**Dr W McCrea:** I feel sorry for Basil; he is so sensitive today. I never referred to any Member as an animal, I mentioned a party. With the greatest respect, Basil, I have been in politics for a long time, so do not try to lecture me about what we are allowed to do or say.

**Mr B McCrea:** On a point of order, Mr Deputy Speaker. I think that it is the protocol in this place not to refer to Members by their Christian names.

**The Deputy Speaker:** I ask the Member to remember that.

**Dr W McCrea:** That is rich. I am led to believe that one of Mr McCrea's colleagues Alan McFarland used someone's Christian name earlier. Pardon me, is that "Colonel" McFarland? How am I supposed to refer to Mr McFarland? This really shows that the Ulster Unionist Party is on the run on this issue. They are certainly scared of being exposed for exactly what they are. *[Interruption.]*

Where was I before that interruption?

**Mr Deputy Speaker:** Order. I ask all Members to address their remarks through the Chair and to face the Chair when speaking.

**Dr W McCrea:** Mr Deputy Speaker, I am very happy to address my remarks through the Chair. I was always told that it is very bad manners to turn one's back on people and refer to them at the same time. Being a good parliamentarian, I try to look around the Chamber as much as possible.

Let me explain what I was going to say before the UUP got very sensitive and very hurt. Certainly, they seem to have been scalded in some way. I was talking about the promise of money. The Tories and the Ulster Unionists are going to assure us about getting that money. However, we already know that they cannot do that. Mr Cameron and his colleagues have said that there will be 10% cuts on everything, straight across the board, and policing was not excluded. He did mention two areas that would be left out — international development and health — but, of course, that has changed. There will now be cuts to the health budget as well.

**Mr Kennedy:** During much of the early part of the Member's speech, I was heartened to find myself in full agreement with Dr McCrea. At one point, I got the impression that because of his consistent concerns, Dr McCrea was going to join the Ulster Unionist Party in the Lobby and vote against the Bill. Dr McCrea has rightly highlighted the issue of finance. But which parties in the House promised the mother and father of financial settlements for the mother and father of political settlements? Was that not Dr McCrea's party, the DUP? What happened to the new fairer deal?

**Dr W McCrea:** I suppose that Mr Kennedy thought that that would somehow put me off my stride; that somehow I would shake when he got up; that it would be like being beat over the head with a dead sheep. We never promised that there would be money for the devolution of policing and justice. That was not promised. Therefore, let him not move the goalposts.

He is representing a party that says it is going to take the leadership. As far as the Tories are concerned, they are going to sweep the boards at Westminster.

Therefore, they believe that they are the party with the wherewithal to assure the money for policing and justice; they can whistle because they have the upper lip. The truth, as Mr Kennedy well knows, is that he cannot, and I suggest, should not, take the electorate for granted.

That is an insult to the electorate. We can be sure of one thing: his leader at Westminster, Mr Cameron, has promised that there will be cuts of 10%. There is no money for the devolution of policing and justice. Interestingly, the Ulster Unionist Party is looking both ways. Before I left Westminster, Conservative Front Bench Members told me that policing and justice powers must be devolved now. They may not have told Danny because he is too far down the chain. Nevertheless, they should have told his party leader. *[Interruption.]*

4.00 pm

**Mr Deputy Speaker:** Order. I hate to break up personal contact between Members, but I ask Members to address remarks through the Chair and to address the Chair.

**Dr W McCrea:** I am happy to do so.

They should have told the Member's leader. However, the Member has a problem because he is looking both ways. Is Mr Cameron his leader or is it Sir Reg Empey? He does not know.

We will not run away from the issue of the money for the devolution of policing and justice. We must ask ourselves whether we can trust the promise of a Labour leader that the money is there. He is a Prime Minister who might be in office for only a few months. He could face the situation in which he has to rely on Ulster votes to stay in power. Indeed, the Conservatives could have to rely on Ulster votes to get elected. Remember this: our votes will be used to do what is best for Ulster, unlike the actions of the Ulster Unionists in the past. We will make our decision based on what is good for Northern Ireland and Ulster. Can we trust either party? *[Interruption.]*

**Mr Deputy Speaker:** I ask Members to address the Chair and not to speak from a sedentary position. If Members want to make an intervention, they should ask to do so.

**Dr W McCrea:** Can we trust either of the two parties across the water to make the decision to provide the money? The answer is no. We must remember that, in the past, they broke their word to Northern Ireland. Mr Kennedy and his party's friends forced the Anglo-Irish Agreement onto the people of Northern Ireland even though the people rejected it. Therefore, we cannot trust them to provide honest answers to the people of Northern Ireland. They messed up the reduction of police numbers, and the

policy of 50:50 recruitment, and they destroyed the RUC through negotiations. That was under the leadership of the Ulster Unionist Party.

Words are cheap, and the people of this Province have been left to pick up the pieces and work with the mess. The money to pay for the devolution of policing and justice must be promised by Westminster or raised through taxes. However, as the Assembly does not have tax-raising powers, the money cannot be obtained by our raising taxes here. So, how can we secure that money and provide the services that are demanded by the community and that will resolve the demands of a dissatisfied public? The only way to do that, if there is no money coming from Westminster and if taxes cannot be raised, is by cutting services.

**Mr Kennedy:** Will the Member give way?

**Dr W McCrea:** With the greatest respect to Mr Kennedy, he had his opportunity at the beginning of the debate and failed miserably. Will he let me continue? *[Interruption.]*

**Mr Deputy Speaker:** Order. It is obvious that the Member does not want to give way, Mr Kennedy. Again, I ask Members to address their comments through the Chair and not to speak from a sedentary position when a Member does not give way.

**Dr W McCrea:** It is good that Mr Kennedy wants to give an answer. It will be interesting and entertaining.

Without money from Westminster, we will have to cut services and slash budgets. My question is: where? On top of all the pressures of recession, will those cuts be in education? Will they be in hospitals? Of course, some local hospitals are disappearing under the stewardship of Sinn Féin and Ulster Unionist Ministers. Will the cuts be in housing, roads or job creation? I listen to people in the community who tell me that they want MLAs to get on with the business that they were elected to do. Instead of looking for additional powers at this time —

**A Member:** Will you vote against the Bill?

**Dr W McCrea:** With the greatest respect, Members are still shouting from a sedentary position. They know that that is the opposite of parliamentary procedure. However, I suppose that they have never been there, and never will be there.

The community is craving for us to deal with the recession. People want us to deal with the issues that are having an impact on their daily lives. The community wants more police on the streets; it wants the thugs taken off the streets and it wants our elderly people to be able to sit in their houses at ease at night without fear of an attack. However, it is not good enough for Sinn Féin to simply say that, whether or not we can pay for it, we will have the devolution of policing and justice because of political dogma, as I

said earlier, or because of a promise to its electorate that it knows it cannot keep.

Sinn Féin must wake up and smell the coffee. It can shut out reality; it can demand devolution of policing and justice immediately, or else. Or else what? I will come to that in a moment.

Sinn Féin has seats in the mother of Parliaments, but it does not go there; it absents itself. However, in that Parliament, a triple lock was secured; in fact, it was a quadruple lock. We were told that the devolution of policing and justice would come about when it was decided by the politicians in Northern Ireland. There were various steps to be taken by the First Minister and the deputy First Minister, and by the Assembly and Westminster, and those were to be put in place.

Does anyone think that, after fighting hard for the triple lock to get things right, to find answers and to achieve confidence, we, as elected representatives, should just roll over to appease Sinn Féin, and hand over to it the locks that were given by the mother of Parliaments? Should we let it unpick those locks as it did the vaults of the Northern Bank? As far as I am concerned, the answer is no. That is fantasy land; it is not reality. We had better face reality in this debate.

The cost of devolution is important, but there is another issue of concern to unionist people, which is the lack of community confidence. There is no lack of confidence in the brave men and women who protect us; indeed, we salute them, because they have defended the people of Northern Ireland through very difficult times, even when they faced murder, mayhem, destruction and terror. Those who were responsible for that terror ought to be condemned and the guilt must be upon their shoulders for so doing.

We salute the memory of those members of the Royal Ulster Constabulary GC, the Royal Ulster Constabulary Reserve and the other security forces who died, because they went out to protect us. We do not have a lack of confidence in those who protect us; but there is a lack of confidence in those who are in authority over them. The suggestions of continuous closures of police stations do not add in any way to the confidence of the unionist community.

There is no use in brushing things under the carpet; I call a spade a spade, and I might get into difficulties for that. Nevertheless, I would be happy to do so, because there are other issues in the community that must be dealt with before confidence can be gained.

Let us consider the issue of parades. There are people in the republican community who do not want any Prods' feet walking on what they call their roads. They do not want any Orange feet walking on their roads. In fact, those are the Queen's highways; they do not own those roads. Therefore, people should have the

liberty to walk down Her Majesty's highways without insult to anyone.

My friend the Member for Upper Bann, who sits beside me, has campaigned constantly about the situation on the Garvaghy Road. The Member for North Antrim could talk to us about Rasharkin and other places.

We now find that the Orange Halls that have been damaged and are constantly under attack are no longer being attacked with paintbrushes: tractors are trying to bust into them. Tractors are being driven into the sides of them. Those issues have to be dealt with. We talk about having confidence in the community: we have to have confidence that those who perpetrate these despicable actions against a law-abiding community will be tackled and brought to justice.

When the police take certain actions, members of Sinn Féin howl and cry about a return to brutal tactics. They say that there is no need for all of these stoppages, and that there are not stoppages in both places. Those actions were aimed at dissident republicans. I do not know why the police would go into loyalist areas to look for dissident republicans.

We must deal with these issues, but the tragedy is that some people are not willing to face them. In the midst of our greatest economic crisis, what does Sinn Féin do? It threatens to pull the place down. It intimidates unionists, and says do not give control of policing and justice to them. Sinn Féin says that it will pull the House down. I suggest that Sinn Féin thinks very carefully about its actions. Remember this: unionist representatives, and the people that they represent, did not give in to IRA weapons, and we will not surrender to Sinn Féin words. We will not give in to demands that threaten and intimidate us, and tell us to do something or else. Those days are over.

In case anyone is under any illusion, as far as I am concerned, the issues, including those of finance and confidence, must be settled before we have proper devolution of policing and justice. Those issues cannot be brushed under the carpet.

I appeal to Members across the House who really want the devolution of policing and justice, and I am led to believe that every party has said that it wants the devolution of policing and justice. How do we hasten that moment? Allow Northern Ireland to have a genuine peace; allow terrorists to be taken on and defeated; and give evidence, if anyone has evidence, on who is perpetrating such dastardly acts as were perpetrated against two of my young friends at Massereene Barracks in Antrim.

We have a job of work to do. We must instil confidence within the community. People tell me what "the people" want. Where do they think I live?

**Mrs D Kelly:** On Mars.

**Dr W McCrea:** I have three offices in South Antrim. That might be a smart remark from the Member for Upper Bann, but I will tell her something. I have three offices in my constituency, which were not there before: at the end of the constituency in Glengormley; in the heart of the constituency, in Ballyclare; and in another part of the constituency, with my colleague the Member for South Antrim Mr Clarke, in Antrim town. We are in the community. We are with the community and we are listening to them. The community is not telling me day after day that the greatest need is for policing and justice to be devolved now. They say "get it right".

First, Sinn Féin should deal with the issues that it has power over, instead of threatening to bring the House down or putting logjams on legislation in this place. We must deal with the people that are hurting because of the recession, and try to help them through the most difficult days that any community has had to suffer in the recession, and then build that confidence, to allow people to be respected throughout the Province, whatever part they are in, to allow the community to move together.

**Mr McFarland:** Will the Member confirm that he is agreeing with the points that my colleagues and I made earlier — that the time is not right for the devolution of policing and justice?

**Dr W McCrea:** As far as I am concerned, the time is not right. The Bill does not do that.

The Ulster Unionists have a wonderful time building a straw man only to knock him down. That party does not tell the truth to the people of Northern Ireland. The Bill does not say that the devolution of policing and justice powers is imminent.

*4.15 pm*

Is the devolution of policing and justice powers not the Ulster Unionist Party's policy? Is it not the Conservative Party's policy? I had better be careful not to look in the direction of the Ulster Unionist Benches. Conservative policy is to devolve policing and justice powers now. That is what that party has told us. I see that Mr Kennedy is shaking his head. Has he not been talking to Mr Paterson or to Mr Campbell? Or, indeed, is the conversation one way, with the Conservatives saying, "this is what you should do, Mr Empey; we make demands and tell you what to do"? Do the Conservatives say "jump", and the Ulster Unionists say, "how high, Mr Cameron?" The Ulster Unionists may ask that question because they want to stay in with their coffers and keep what they gain from their relationship with the Conservatives.

I refer the question back to the Ulster Unionists. A statement made by Mr McNarry reads as follows:



“Any financial package for the transfer of policing and justice powers needs to be rigorously tested for its financial sustainability, risk management and contingency planning against potential shortfalls. It should be rolled out over a five-year period initially being funded entirely by Westminster. Only then, on the basis of the outcomes of this five-year period, should it be fully transferred.”

Is that the Ulster Unionist Party’s policy? That is not what Mr Kennedy said in the debate. The Ulster Unionist Party wants to be able to blame everyone else, and it tries to build up a straw man, only to knock him down. I do not need any straw man; I face the facts as they are. The Bill does not hasten by one hour the day of the devolution of justice and policing powers. The Bill is an enabling piece of legislation. If Mr Kennedy believes that policing and justice powers should be devolved at some time, why would he not approve the enabling power? The fact is that he is playing silly politics. That is not a sign of maturity; rather, it is a sign of total immaturity.

We know that SDLP members play little games with each other from time to time; I suppose we should allow them to have that enjoyment while it lasts.

The motion relates only to the Bill, which is a piece of enabling legislation. I assure the House that if the Bill stated the date for the devolution of policing and justice powers, I would vote against it. However, the Bill does not do that, and Mr Kennedy should not pretend that it does. The Ulster Unionist Party should pay more respect to the people out there, because they can read. They know exactly what the Bill says. They do not accept what is read into the Bill by someone who has a political agenda of his own, failed as it is.

I say to all Members that they should face reality. They should allow Northern Ireland to have confidence and stability, and when the day comes that the devolution of policing and justice powers is appropriate, enabling legislation will be in place to facilitate it. That day will come, it will be tested, and each party will have to declare its hand.

I know exactly where I stand, but I doubt whether Mr Kennedy knows where Mr McNarry or some of his other colleagues stand on the issue.

**Mr O’Dowd:** Go raibh maith agat, a LeasCheann Comhairle. After that 34-minute speech, we can only be glad that the previous Member to speak did not sing.

As several Members said, the Bill is a piece of enabling legislation. I am surprised that the SDLP has not clarified whether it will vote against the motion. The Ulster Unionist Party said that it will vote against it, even though it is in favour of the devolution of policing and justice powers. That is disappointing, because voting against the motion will be not done for credible reasons; however, I will go into that later.

I will work my way through Members’ contributions, including that of William McCrea. It is no coincidence,

a LeasCheann Comhairle, that three of the 12 apostles are sitting side by side. Two of those Members have made the most negative contributions to the debate on policing and justice thus far. Indeed, I think that those Members’ speeches were directed to their own party rather than to anyone on this side of the Chamber. However, those matters will have to be resolved in DUP meetings and discussions.

When I sat here during the Hain Assembly, the interim Assembly and all the other Assemblies, I heard similar words from the 12 apostles. I heard all sorts of demands being placed on society, on Government and on my party. They always spoke about what they would not do rather than what they would do. “Never, never, never” was the mantra that was always used across the Chamber. However, in fairness to them, they eventually did the right thing for broader society. They agreed to share power with their nationalist and republican neighbours. I am not criticising the DUP for that, because that was the right decision. Having been so negative during that period, that party eventually made the right decision.

I hope that the right decision is also made about the devolution of policing and justice powers. Although it is being debated among politicians here, the Bill is about improving the community’s daily lot. It is about ensuring that we deliver for the community. I have heard a lot from some Members about the need for community confidence and community support. We must not deny the community its fundamental right to policing and justice. We must not deny ourselves, as politicians, authority over policing and justice, and I do not mean interference in the day-to-day operation of the courts or policing. If we deny those things, we will truly have let the community down.

William McCrea made much of financial contributions. He is right in some ways, because we need a good financial settlement. However, the argument was countered by his interactions with the Ulster Unionist Party about David Cameron’s promise to make 10% cuts across the board. Is William McCrea arguing that David Cameron will not touch policing and justice in the North of Ireland if he gets into power, with the matter having been left in the hands of the British Government? Is he telling us that David Cameron will not take 10% off the NIO budget? Of course he will; David Cameron will slash the NIO budget.

In these hard financial times, we need to ensure that it is local politicians who manage the finances. As local politicians, we must ensure that those cuts, which are designed simply to balance the books, are not made. Politics is very difficult, and anyone who entered politics, or this place, for an easy ride is foolish. Politics is about having the courage to make hard decisions, and the decision to share power was one such decision.

The Ulster Unionist Party's stance on the Bill is not sincere. That party is using the Bill as a political weapon as it seeks electoral revenge on the Democratic Unionist Party. Every party has the political right to try to increase its mandate, but I ask the leadership of the Ulster Unionist Party to reflect on its strategy. Its strategy appears to be to object to the Department of Justice Bill because it is being proposed by the DUP and Sinn Féin. The Ulster Unionist Party has hitched its wagon to the Traditional Unionist Voice.

The Traditional Unionist Voice agenda is quite simple: to tear down the institutions and the power-sharing arrangements and return us to a pre-1969 arrangement. Perhaps some members of the Ulster Unionist Party and the DUP believe that that would be some sort of Utopia. It is complete and utter political madness, and it is not going to happen. No Government involved in the process, either the British Government, the Irish Government, or, indeed, the Government of the United States, is going to agree to such a strategy for this part of Ireland. Why waste political time and energy hankering after something that is not going to happen?

The Ulster Unionist Party claims to support power sharing. I heard Mr McFarland and some other representatives of his party say that they want the Executive to work and for services to be delivered on the ground.

Why is that party choosing a strategy that, in effect, will bring an end to this institution? That is what it is about. That is what it has hitched its wagon to.

**Mr B McCrea:** The issue is whether the Executive or the Assembly will work in the open, transparent and consensual way that was envisaged. If the mess in education cannot be sorted out, if the Executive cannot meet and work constructively, if all Ministers are not involved in the decision-making process, a consensus cannot be achieved, there will not be community confidence and this place will be doomed to failure because it will be burdened with issues that it cannot cope with.

**Mr O'Dowd:** With respect, under the Ulster Unionist Party's strategy, there will not be an Executive, because Jim Allister is intent on tearing down these institutions, the power-sharing arrangements and the peace process. The Ulster Unionist Party has hitched its wagon to him, which is an electoral strategy; not a political strategy.

**Mr B McCrea:** Will the Member give way?

**Mr O'Dowd:** No, I will not give way. Dr McCrea again raised the issue of community confidence, as did one of the other apostles. I want someone from the DUP Benches to tell me how they are building confidence in the unionist community. No Member from the Benches opposite has touched on that subject.

Is there a responsibility on me, as an Irish republican, to assist in that process? Yes, there is. Is there a responsibility on me, as a Sinn Féin representative, to do that? Yes, there is. However, we cannot do it on unionism's behalf. I want to know what unionism is doing to build community confidence.

**Mr T Clarke:** As my colleague from South Antrim Dr McCrea said, he and I are members of the Loyal Orders. We make no apology for that. Mr O'Dowd, by his own admission, said that he can help in the process of building confidence. He can help with the parades issue, which would instil confidence in the unionist/Protestant community. It is the Member's party that holds the key to achieving that. We are proud to be members of the Loyal Orders. We want to walk the Queen's highway, which the Member and his party try to prevent us from doing. Until his party help in that process, there will be no confidence in the unionist community.

**Mr O'Dowd:** Mr Clarke must understand that the Loyal Orders are one section of the unionist community; they are not "the" unionist community. They are an important section, but they do not speak on behalf of the unionist community.

I assume that Mr Clarke is a member of the Orange Order. If we are to build confidence for the transfer of policing and justice powers, perhaps the best thing that could happen would be for the Orange Order to start to engage with nationalist communities. It could also start to engage with Sinn Féin, which represents, through the ballot box, the majority of the nationalist and republican community. Therefore, Mr Clarke could use his influence on the Orange Order. If that organisation's representatives were to knock on Sinn Féin's door for talks, we will talk to them.

**Mr T Clarke:** If the Member casts his mind back, he will remember a recent parade in Rasharkin. Dialogue about that parade was suggested. However, a member of Mr O'Dowd's party openly protested on the street on the evening of the parade in an attempt to prevent the Orangemen walking down the street.

**Mr McKay:** It was not the Orangemen. Get your facts straight.

**Mr Deputy Speaker:** Order. During their contributions, Members should turn their attention to the Bill. They can have other discussions on another day. Also, Members should speak through the Chair.

**Mr O'Dowd:** Go raibh maith agat, a LeasCheann Comhairle. It is important that the Bill passes its Second Stage today. I am sure that the Member opposite will agree that the legitimate right to protest is enshrined in any democracy, which will continue to be the case when policing and justice powers are transferred. I am sure that the Member has been involved in the odd protest. I want to ensure that we

have the confidence of the unionist community for the transfer of those powers.

The closure of police stations has also been mentioned as being damaging to the unionist community's confidence. The closure of police stations is the operational responsibility of the area commander; it will not be the responsibility of the next justice Minister, whoever that may be, nor will it be the responsibility of any justice Committee. It will and should remain the operational responsibility of the senior police officers on the ground, who know the requirements of the communities that they serve. Those officers should consult widely with the local DPPs and should engage with community representatives, but the responsibility lies with them.

**Mrs D Kelly:** I thank the Member for giving way. I am sure that the Member is well aware of the proposed closure of Edward Street police station in Portadown.

Does the Member not share my surprise that only 12 members of the public attended three meetings about the closure and that just one letter was received expressing opposition to it? None of those people was a political representative.

4.30 pm

**Mr O'Dowd:** Some parties are using the closure of police stations as a political platform rather than dealing with the needs of the communities that they serve.

I return now to the enabling powers for the transfer of policing and justice. Mr McCrea said that there must be confidence in the PSNI and how it operates. I agree with him 100%. It is also worth noting that the PSNI's senior command structure supports the transfer of policing and justice. Confidence, therefore, exists in that organisation, and the people whom we task with delivering policing on the ground are confident.

*(Mr Deputy Speaker [Mr Dallat] in the Chair)*

However, some people assume that the Police Service cannot be criticised. Willie McCrea and others criticised Alex Maskey for his stance today. During the summer, the PSNI arrested four of approximately 100 loyalists who gathered in a small nationalist enclave in Banbridge. Senior members of the DUP in the area were with the loyalists at the time, but none of them was arrested. However, they protested about those arrests outside the police station. Is that wrong? Were they entitled to do that? Are they, as public representatives, entitled to share the concerns of those people? I believe that they are. What is sauce for the goose is sauce for the gander.

I will move on to other contributions to today's debate.

**Mr Simpson:** Have you protested outside Lurgan police station?

**Mr O'Dowd:** Many times, and if I consider there to be a requirement to do so in the future, I will protest again.

**Mr Deputy Speaker:** I again ask Members not to speak from a sedentary position.

**Mr Moutray:** Does the Member agree that community relations in Banbridge were among the best in the Province until four years ago when a Sinn Féin councillor was elected to Banbridge District Council? That was the source of the discord of last summer and since his election.

**Mr O'Dowd:** I will abbreviate what Mr Moutray said: many loyalists were upset because the people of Banbridge exercised their democratic right to elect a Sinn Féin representative. Surely that is wrong.

Confidence is a cross-community factor. Republicans and nationalists must have confidence in the institutions, and we also face challenges. The administration of policing and justice in this part of Ireland does not have a fine history; it has, in fact, a dark history. As republicans, we want to assure, and be assured, that we get policing and justice right and that a new justice Department will not be open to the abuses of the past. As part of that, we must have confidence in the Benches opposite. We must ensure that the DUP and the Ulster Unionists operate in a fair and open-minded manner. We could come up with excuses to argue against the transfer of policing and justice.

Mr Campbell devoted his contribution to giving Sinn Féin a lecture on how it must step up to the mark. Mr Campbell, I observed you over the summer in Coleraine. You certainly have not stepped up to the mark. *[Interruption.]*

**Mr Deputy Speaker:** Order. I ask the Member to direct his remarks through the Chair.

**Mr O'Dowd:** Tá brón orm, a LeasCheann Comhairle. Were I to seek confidence in the unionist community from leadership such as his, I would not have any confidence at all. I am thankful, however, that Mr Campbell's stance in Coleraine is not representative of the majority of the unionist community.

**Mr Campbell:** The Member said that the nationalist community in Banbridge elected a single Sinn Féin councillor. Does he accept that the scenario in Coleraine is exactly the same? I happen to have been elected by many people there, and when I speak for them, I speak for them. No intimidation from anyone inside or outside the Chamber, from the Back Benches or the Front Benches, will change my attitude.

**Mr O'Dowd:** I agree with the Member that he was elected by the people of Coleraine. I am glad that he used the word "intimidation", since he has failed miserably to provide leadership during the ongoing

intimidation and murder. He has shown moral and political cowardice throughout.

I have listened with intent to contributions from SDLP Members. I think that they have spoken for about one hour during the debate. During that entire time, I have not heard the needs of the community being mentioned once. I have not heard the word “community” mentioned once. All that I have heard about is the needs of the Social Democratic and Labour Party, what it wants and what it requires, not what is needed by the community in relation to policing and justice, or what is needed for an ongoing peace process and the establishment of a new beginning on this island. All that I have heard from SDLP Members is what they need and how badly they feel that they have been treated in recent times.

SDLP Members may believe that it is disingenuous of Sinn Féin to support a nomination from the SDLP Benches. We would do so, but we cannot persuade Mr Robinson, the leader of the DUP — or, as has already been stated, the Ulster Unionists — to support it. If the SDLP requires cross-community support, which is, as Martina Anderson stated, enshrined in the Good Friday Agreement, it is up to it alone to see Mr Robinson and Reg Empey and persuade the two parties opposite to support it. For many years, the SDLP has told us that it receives support from all sections of the community. It is now time to use that influence and get support from the Benches opposite. Sinn Féin is on record as saying that, if the SDLP nominates, it will support that nomination.

Much has been made about compromises in all negotiations. We are in a divided society. We are building a peace process, and we are moving on to a new beginning in this part of Ireland. All parties need to compromise their positions. For that, Sinn Féin does not apologise. We will not compromise on any of the basic principles of the Good Friday Agreement or what we are about. However, if the SDLP tells us —

**Mr Gallagher:** I thank the Member for giving way. He spoke about compromise, and I remind him that the SDLP opposes the Bill because it will stand the principles of equality and inclusion, as laid out in the Good Friday Agreement, on their head. It looks as if Sinn Féin will nod in assent to that. Furthermore, the exclusion of the d’Hondt principle, regardless of what party it applies to, although it applies to the SDLP in this case, is a fundamental and flagrant injustice.

**Mr O’Dowd:** The injustice that I have heard about so far is the one that the SDLP claims is being done to it, not to the community or to the people who need policing and justice or to the communities who need a new beginning. In a one-hour contribution to the debate thus far, two SDLP Members have not once mentioned the community.

**Mrs D Kelly:** On a point of order, Mr Deputy Speaker. If Mr O’Dowd has the chance to go upstairs and check a copy of the Hansard report, he will find that we spoke about the needs of the community. In fact, the SDLP led on policing reforms. The Johnny-come-latelys of Sinn Féin did not support policing for eight years.

**Mr Deputy Speaker:** That is not a point of order.

**Mr O’Dowd:** I am more than happy to check the Hansard report. The SDLP’s position of giving in to the Mandelson Bill held back policing reform. As has already been said by the deputy First Minister, the SDLP never once requested the transfer of policing and justice powers to the Assembly.

The SDLP and the UUP try to present the alternative Government to the media and how things would be different if they were in charge. From today’s debate, however, it is clear that the Ulster Unionist Party fundamentally disagrees with the SDLP about how policing and justice powers should be transferred, how the Minister should be elected and what powers there should be. There would be no agreement between those two parties if they were in charge.

**Mr B McCrea:** Will the Member give way?

**Mr O’Dowd:** No; I have given way enough. I am about to come to an end. Today is a stepping stone towards the transfer of policing and justice powers. Sinn Féin does not demand it because it wants it.

It is not a case of Sinn Féin putting it up to any party, or else: that terminology has not been used by any of its Members here, in private, or in briefings to anyone else. We are seeking the transfer of policing and justice because it is required, needed on the ground and because communities are crying out for it. We are seeking policing and justice because it is part of the St Andrews Agreement, which was signed up to by the party sitting opposite and by the Irish and British Governments, which also have responsibilities in relation to this issue. Sinn Féin is seeking the transfer of policing and justice because the party is about creating a new beginning for the lives of everyone on the island of Ireland.

**Mr G Robinson:** I commence by identifying some areas of crucial importance; namely, public confidence, budgetary requirements and infrastructure.

I do not believe that public confidence and the budget are available in significant quantities at the moment to ensure an early date for devolution of policing and justice. However, we must be prepared for the day when it eventually arrives, and the debate is concentrating on the mechanism for that event.

The motion ensures that the framework will exist and the Department will have a name when devolution occurs. People must understand clearly that the Bill is

not the start of policing and justice being devolved; it puts in place the infrastructure that will be required when that happens.

For devolution to occur, the qualifying criteria of public confidence and sufficient funding to run the justice Department must be met. I do not believe that anyone could say that public confidence is anywhere near high enough throughout the Northern Ireland population for the process to begin. There are obvious and major concerns that the funding required for Northern Ireland to have the policing and justice systems that it deserves will fall far short of what is really needed.

I appreciate and thank the First Minister for his ongoing efforts to have the level of funding raised to a realistic level. Like me, he believes that Northern Ireland deserves only the best and must have the budget to ensure its delivery. As the motion is purely technical and designed to put in place the structures needed to form a justice Department, I support it.

**Mr B McCrea:** There is a temptation in this debate to have a little bit of fun, settle scores, and play a bit of political knockabout. Yet, there are serious issues for us to debate and discuss. In the past, I have made it clear to Members on the Front Bench that if they want to engage properly with us, we will engage. We understand the difficulties facing the Executive, the Assembly, and other matters: Ulster Unionists are prepared to discuss them.

However, we are not prepared to be presented with a *fait accompli* that we are asked to rubber-stamp. If nothing else has been learnt in the past, Members should have learnt that nothing progresses in Northern Ireland without consensus. Consensus is not demanded; it is built by trust. Showing that something is being done right, and well, builds confidence that something more can be done.

Our opposition to the Bill is principled. We have been vilified in the debate by Members in the Alliance Party; we have been patronised by Members in the DUP; and we have been given a lecture in the obvious from Sinn Féin. However, all of that is for nothing. You should not talk to us; you should listen to us, because we have got things to say that need to be heard. We understand that the DUP is the largest party and that Sinn Féin is the second-largest party, but both parties can move nowhere if they do not bring all of Northern Ireland society with them.

4.45 pm

At the outset, I should have declared an interest as a member of the Policing Board; I do so now. I have looked at the intimate details of the financial challenges facing the PSNI. I also talk to senior and junior officers and I understand their frustrations and the changes that they would like to see made, and I

appreciate the areas of best practice in which the PSNI is falling behind other forces. The PSNI would like to address all those issues and engage positively with the Northern Ireland people in order to make things better for everyone, but it cannot do that in an environment in which nothing else works.

When addressing the motion, I must point out our performance with respect to other issues, notably, from my perspective, education, although I know that other Members mentioned parades and such like. If we cannot address those issues and find proper closure and a satisfactory way forward for all of the people of Northern Ireland, what makes us think that we can do it with policing and justice? That will be the straw that breaks the camel's back.

When it comes to putting out some of the facts, there was much discussion, and some Members were reluctant —

**Mrs Long:** Will the Member give way?

**Mr B McCrea:** — to give way, Mr Speaker, but I am not one of them. [*Laughter.*]

**Mrs Long:** With respect to the Member's point about the Executive's failures on education and on a range of other matters, maybe the Member will clarify whether he would prefer those matters to be un-devolved and sent back to be dealt with at Westminster. Would his party prefer direct rule to devolution, because that is the natural outworking of what he has said? If he is saying that underperformance in those areas makes devolution completely flawed, surely he must argue for sending the responsibility for those matters back to Westminster.

**Mr B McCrea:** I must say, and I do so with some reluctance, that many parents in Northern Ireland today wish that education was not devolved. They worry about the fate of their children. They want clarity and someone to make decisions, whatever those decisions might be. Instead, we have a complete and utter mess.

**Mr Campbell:** The Member alluded to the frustrations that we know many parents have about education. But he said that many parents would prefer the education process to be un-devolved. Does he accept that if that were the case, we would have no academic selection of any kind to complain about?

**Mr Deputy Speaker:** Order. I encourage Members to get back to discussing the motion, which is about justice.

**Mr B McCrea:** I assure you Mr Speaker that I will do that, but I will briefly address the point that was raised.

Although some people have a view about academic selection, a good school is what most people want.

**Mr Deputy Speaker:** Order. Please stick to the subject of the debate.

**Mr B McCrea:** Returning to the debate, certain statements and calls for clarification were made about the general principle, and, because some Members believe that there is a distinct possibility that the Conservative Party will form the next Government, they have alluded to what that party thinks, does and says. For the record, and because Members do not understand, let me quote what Owen Paterson said during the passage of the Northern Ireland Act 2009:

“We have therefore always supported the eventual devolution of criminal justice and policing, when the conditions were right and once the proposed model for devolution had the support of all the communities.”

That is the standard, and I am also prepared to say — *[Interruption.]*

**Mr Deputy Speaker:** Members should make their remarks through the Chair.

**Mr A Maskey:** Will the Member give way?

**Mr B McCrea:** Can I answer that point? Fair enough, go ahead if you have a point.

**Mr A Maskey:** Once again, a LeasCheann Comhairle, the Ulster Unionist Party has quoted Owen Paterson’s remarks with respect to the legislation that passed through the British Parliament.

Would the Member care to go on to say what Owen Paterson proceeded to say and do? The Conservative Party supported the legislation’s passage through Westminster, unlike the Ulster Unionist Party. Can the Member clarify for which part of the party the UUP is now speaking?

**Mr B McCrea:** I understand the point that the Member opposite is making. The reason that we oppose this particular stage of the Bill is that we think that there is undue haste to devolve policing and justice powers. When the First Minister spoke, he outlined —

**Mr Kennedy:** I am grateful to the Member for giving way. The phrase “undue haste” struck a chord, because it was Dr McCrea who said that this legislation is being driven forward with undue haste. Was that not a fine statement?

**Mr B McCrea:** I am grateful to my colleague for bringing that point to my attention. I agreed with many of the comments that the Reverend Dr William McCrea made during his speech — certainly in the first hour of it that I heard. In fact, Mr Kennedy said that we thought that he was coming over to support us, because all the points that he made are precisely the reason that we have an issue with the legislation. Frankly, I cannot understand why there is a dichotomy in the DUP’s position on the devolution of policing and justice powers. Why does the DUP say one thing in public but other things in private? No community confidence yet exists to move the legislation forward.

Our concern represents a principled opposition to undue haste in progressing the legislation. I think that I heard today —

**Mr O’Dowd:** Will the Member give way?

**Mr B McCrea:** I will give way in a moment. I think that I heard — I could be wrong — from the deputy First Minister that we are looking to get things done by Wednesday; that we are going to get things sorted out very quickly. That seems to me to be —

**Dr W McCrea:** I think that I dealt with that.

**Mr B McCrea:** I am not sure that the Member did, because I would not be surprised if policing and justice powers were devolved before Christmas or at least the —

**Dr W McCrea:** Wise up.

**Mr B McCrea:** I will tell the Member why, and I am putting out a challenge here. The window of opportunity to devolve policing and justice powers, if we are to do that, is open before Christmas. It is probably open in the last week in October and the first couple of weeks in November. After Christmas, we are into Westminster elections, when there will be purdah —

**Mr T Clarke:** Will the Member give way?

**Mr B McCrea:** I will finish my point and then let people in. We will go into purdah, during which time we will get no decisions from Westminster. There will possibly be a change of Government, but certainly there will be a Government that will have many financial matters to deal with in the United Kingdom. They will not be interested in this place. We will then have Assembly elections. It will be three years, at the very least, before powers can be devolved.

I do not know whether it is the case, but I have heard it said that it is politically untenable for Sinn Féin to wait that long, because it has made promises, which it is quite OK for it to do. However, we have been told that, if we do not pass the legislation now, the danger is that the Assembly will collapse. The danger is that we are trying to satisfy one set of expediencies at the expense of others. We do not want to put that particular test to the people of Northern Ireland. That is why we are saying that we should be objecting to the Bill now. I am talking directly to each and every Member of the Assembly when I say not to put my party in a box that says that we are rejecting the legislation out of hand. Do not say that this is party political posturing or that we are trying to make political gain at the expense of unionist colleagues. That is not the case. What we are saying directly to Members here and now is that there is a problem.

If Members want to come to talk to us, they can do that. Despite all the platitudes that have come in our direction, nobody has come to talk to us. Members

have said in the Chamber that we have had a difference of opinion with the SDLP.

I am happy to be corrected — the SDLP can speak for itself, and I will take an intervention — but I understand that the SDLP's preference is to rerun d'Hondt in its entirety and, if that is not possible, the next party should take the office. That party happens to be the SDLP. We agree with that position. The leader of our party is on record as saying that we will support an SDLP candidate, having said what our position is first.

**Mrs Long:** Perhaps the Member will clarify what his party leader was raging about in the newspapers when somebody uncovered the miraculous information that David Ford is not a unionist. He said that an Alliance Party Member holding the post of justice Minister would have serious implications because it would be unthinkable that a non-unionist should occupy that office. He was, in effect, hanging a “no nationalist need apply” sign over the door.

**Mr B McCrea:** During this debate, Mr McFarland stated our position categorically.

**Dr Farry:** Reg Empey is wrong.

**Mr B McCrea:** Mr Deputy Speaker, intemperate remarks are coming from a sedentary position to my right. I shall ignore them and press on.

**Mr Ford:** Will the Member give way?

**Mr B McCrea:** Of course I will give way to the leader of the opposition. Sorry; he is not the leader of the opposition any more.

**Mr Ford:** I am delighted that the Member has given way. Perhaps he should have listened to Naomi Long's question. The simple fact is that the leader of the Member's wing of UCUNF said in the press that the justice Minister must be a unionist; now he is saying that a member of the SDLP is acceptable. Which does he mean? He cannot mean both.

**Mr B McCrea:** In the Great Hall, I have had to deal with some inappropriate language from Alliance Party colleagues. I find it offensive that the Alliance Party — a party that was founded on the principles of inclusivity — tried to take political advantage of a situation to realise its real ambition of making itself relevant and making one of its Members the Minister of justice. My comments are being reported by Hansard. We have serious concerns that if the proper procedures are not followed in the selection of a Minister of justice, that Minister will not be able to command the support of the entire House and of society as a whole.

**Dr W McCrea:** Will the Member give way?

**Mr B McCrea:** I am sorry; I have to carry on. — *[Interruption.]*

**Mr Deputy Speaker:** Order. I regret that I have to ask Members again to ensure that their remarks are made through the Chair. It is my responsibility to ensure that I hear what is being said, but I cannot hear because of remarks that are being made inappropriately. Let that be the final request for respect for the Chair.

**Dr W McCrea:** May I ask the Member a question very respectfully so that you will hear, Mr Deputy Speaker? Did the leader of the Ulster Unionist Party in Northern Ireland say that the justice Minister would have to be a unionist? How does that equate with Mr Basil McCrea's statement that an SDLP member would do? I did not know that the SDLP had joined the unionist camp.

**Mr B McCrea:** That question would be best put to the man himself, who is not here. *[Interruption.]* For those of you who care to listen rather than indulge in pointless rhetoric, our position is that if you want to resolve the issue, you will have to start talking to the rest of the people here and not only the DUP/Sinn Féin axis.

The position of the Ulster Unionist Party, which was stated earlier by Mr McFarland and which will be stated again by Danny Kennedy, is to agree with the SDLP and to rerun d'Hondt. If that is not possible —

5.00 pm

**Mr McFarland:** We are clearly confused here — *[Laughter.]*

It was not the policy of the SDLP to rerun d'Hondt; it was the Ulster Unionist Party's. During the meetings of the Assembly and Executive Review Committee, the policy of the SDLP was to run on the end of d'Hondt, but I am happy that it has now joined with us in suggesting rerunning d'Hondt.

The Ulster Unionist Party has made it clear from the start that if a new Department is to be created, d'Hondt must be rerun. Under that, a unionist — in this case the DUP — would have first choice of Departments and could take the Department of justice. That is the context of that comment, and to suggest that it meant something else is incorrect.

**Mr B McCrea:** It may or may not be rubbish. *[Laughter.]* In the sense — *[Interruption.]*

I take many interventions in the House, and I am prepared to answer straight questions with straight answers. There are very few Members from whom I have refused to take an intervention, and what I now see in the Chamber is very childish behaviour.

I have precious few opportunities to offer Members a solution or to suggest what they should do. However, there are several things that the Executive must do: they must resolve the education debacle; they must prove that the Executive can meet in a totally inclusive way; they must deal with some of the more contentious

issues in ‘A Shared Future’ — although I am not sure what document we are dealing with now — and they must prove that they have the maturity to deal with real issues. If they can do all those things, they will demonstrate to the people of Northern Ireland that they are making decisions, that they can make it work, and that they can be trusted. What I have seen recently does not fill me with confidence, and when people —

**Mr O’Dowd:** We hear a great deal from the Ulster Unionist Party about the responsibility of others. What is the responsibility of the Ulster Unionist Party on the devolution of policing and justice? Furthermore, what is unionism, and particularly Mr McCrea’s class of unionism, doing to promote confidence in the unionist community on policing and justice?

**Mr B McCrea:** The responsibility of the Ulster Unionist Party is to place the devolution of policing and justice in a stable political environment. Our caution to the Assembly is that if those powers are devolved with undue haste and without the appropriate consensus, such stress will be placed on the Assembly that it might collapse and we might never get it back again. That is an important issue, although some Members have said that that does not matter, and the House had a lecture earlier from Sinn Féin about what such a collapse would mean.

In 1998, the Ulster Unionist Party did the heavy lifting. It took the risks to put the Assembly together through conversation with our colleagues in the SDLP while some johnny-come-latelys from Sinn Féin tagged along at the end, and there was neither sight nor sound of the DUP.

Because we believe in devolution, we addressed the important issues: ‘A Shared Future’, the people of Northern Ireland, and the way forward, and we have taken heavy losses in doing the right thing. When Members use platitudes and tell us that we must do the right thing, I must tell them that we are doing the right thing.

We are saying that this is not the right time and that conditions are not right. You have not built the consensus; you have not got community confidence, and you have not shown us that you can do anything worthwhile. In fact, I found it particularly rich when the deputy First Minister stood up, intervened, and said that we brought the Assembly down, when he held it to ransom for 150 days. That sort of hypocrisy makes everybody else in the country look at this place and wonder what we are doing up on the hill.

**Dr Farry:** On a point of order, Mr Deputy Speaker. Mr McCrea has accused the deputy First Minister of being a hypocrite, which is unparliamentary language. He needs to withdraw that remark.

**Mr B McCrea:** I have no problem with that. If there is an issue about what I said, I can say that the party is hypocritical. *[Interruption.]*

Mr Deputy Speaker — *[Interruption.]* I give way to Mr McCallister.

**Mr McCallister:** I am grateful to my honourable friend. Would he be surprised to learn of the Alliance Party’s stand just over a year ago when its leader, David Ford, said that the Alliance Party would not take the policing and justice Ministry? He went on to make the same argument when he said:

“The Alliance Party will not be taking the Policing and Justice Ministry. This Executive is failing in its duties, so Northern Ireland needs a strong and coherent opposition. We are providing that opposition and we will continue to do so. The Executive is in crisis over planning, the environment, the 11-plus, Irish language, and the multi-sports stadium issue”,

to name but a few. *[Interruption.]*

**Mr Deputy Speaker:** Order. I am having difficulty hearing Members, and there is an important issue that I need to clear up. Did I hear Mr McCrea say that he would withdraw the remark “hypocrite”? That is necessary for the Hansard report. Mr McCrea may continue.

**Mr B McCrea:** Thank you, Mr Deputy Speaker. The intervention from my colleague Mr McCallister is helpful. It shows that there are people in the Chamber who have got ambitions that do not solely rest beyond their own self interest. If the Assembly wishes to come to terms with the future and not look to the past or rehearse the old arguments, or not be a hostage to those things that were wrong, but look forward, confident in its ability to deal with the challenges that face our society, that can be done in discussion here. Those are issues.

With regard to registering our disapproval and our concern for the timescale, which I accept is not present in enabling legislation, there are other issues that lead us to believe that those decisions will be taken sooner rather than later. We wish to make it clear that any undue haste or unseemly rush to make an appointment will end in severe disappointment, and that is the point that we are trying to make. We will use whatever political platform we have to address those issues. Do not misinterpret it: do not think that we are against the devolution of policing and justice in principle. We want to have control over those issues, and we want to tackle all the problems facing society in Northern Ireland. We want to have control, but we can do so only when we have the correct conditions.

From my experience on the Policing Board, I know about the financial pressures on the PSNI, and other elements of the criminal justice system are severe and are likely to get worse. We must deal with those issues, and we cannot countenance the early devolution of policing and justice until those issues are sorted out.



I want to conclude on those matters, and I hope that I have not baulked at anyone who wanted to have a go. I hope that everybody who wanted to have a go has had a go. I see the First Minister on his feet. I was a bit worried that I had neglected him.

**The First Minister:** I am grateful to the Member for giving way; he has been generous in giving way when Members have asked. He indicates that the force of the Ulster Unionist Party's position is that it is a principled position; that party supports the devolution of policing and justice, but has concerns about the timing. That is a perfectly sensible position to adopt, but the Bill does not say anything about the timing of the devolution of policing and justice. It is about the principle that, at a point in time, when the Assembly decides it appropriate, it will draw down the powers. It is an enabling piece of legislation dealing with the principle alone. If his party agrees with that principle, why would it not support the Bill? If it does not agree with the timing at the stage when it is brought forward, it will have the opportunity then to vote against the transfer on account of the timing.

**Mr B McCrea:** I thank the First Minister. I was coming to a conclusion, so I will answer that point, and it will then be for someone else to carry on the debate.

The point that we are making is that, when a Bill comes before the Assembly for its Second Stage, that is one of the opportunities for us to outline our very real concerns. The most important thing that I can say is that we need to have a proper discussion among all parties about those issues, with a view to moving forward.

Some people may disagree with the tactic that we have chosen, and which I believe other parties have chosen, but we want to emphasise and reinforce our absolute concern about what appears to be a runaway train. We do not want the devolution of policing and justice to happen unless it is going to succeed, but we do want it to happen, and we are prepared to engage. We are not playing party politics. We are prepared to take the brickbats from others in the Chamber, because that seems to amuse them. We are trying to send a serious message to everyone: if they want to move forward on contentious issues, all parties in the Executive — in fact, I would go so far as to say all parties — need to be involved in the discussions, and their concerns must be taken countenance of.

**Mr Durkan:** The Bill has three clauses, and constitutes enabling legislation. Clause 1 and clause 3 present no problems for the SDLP. We fundamentally oppose clause 2, because it is a fundamental departure from the provisions and promise of the Good Friday Agreement. We stand by that agreement.

The principle of the devolution of justice and policing is one that the SDLP cherishes and champions. We have pressed, urged and called for the devolution of justice and policing for many years. While Sinn Féin was opposing the devolution of justice and policing that was taking place in 2001 and 2002 — through the establishment of the Policing Board and the transfer of powers from the Secretary of State and NIO to the Policing Board on the one hand and the Chief Constable on the other — the SDLP was making the devolution of justice and policing happen. We are not going to take lectures or questions from Sinn Féin suggesting that we have opposed the progress of the devolution of justice and policing or the implementation of the Patten report. We drove the implementation of the Patten report when Sinn Féin was still rejecting it.

When I was deputy First Minister, I sought agreement with the then First Minister on how to frame progress in relation to the wider debate on the devolution of justice and policing powers to the Assembly. I also raised that issue in meetings with members of other parties, including Gerry Adams and Martin McGuinness, when I discussed the possibility of taking some new initiatives in the Executive, including, perhaps, the appointment of additional junior Ministers from some of the other parties, because there was further work to be done to build on devolution. Unfortunately, those proposed initiatives came to nothing because of the sort of disagreements that were ongoing at that time. We know what those were, and we know what brought about suspension in October 2002.

I was on public record as saying that we needed to start framing our understanding of how we would move forward on the devolution of justice and policing. Even after suspension in October 2002, when all-party talks were convened by the two Governments, again we were saying that the whole question of making progress on the devolution of justice and policing had to be included in those negotiations.

That was included in various submissions that we have made in other talks since then, including those at Leeds Castle and elsewhere. Therefore, I do not take any nonsense from Sinn Féin that we have not been pushing for the devolution of justice and policing.

*5.15 pm*

We believe in the devolution of justice and policing, not only because we are democrats who believe in maximising the powers that are exercised by democratically elected people on this island but because we believe that that is clearly provided for in the vision that is set out in the Good Friday Agreement and in Patten, which stems from the agreement. We believe that the Assembly will only be deserving of the title of

a legislative Assembly when it has the power to legislate on criminal law.

We are also very clear that there could be key benefits across a number of services to the community if justice and policing were devolved, because there could be better meshing of programmes, better gearing of policies and better organisation and sharing of budgets across services if they were all to come under the devolved Budget. Only a couple of weeks ago, the SDLP ran a conference in Belfast on youth justice, and we used that as an example of why we are crying out for the devolution of justice and policing.

A number of services that are already under devolved control are also relevant to justice and policing, but we do not always get proper meshing and interface between services, resulting in budget breakdowns and budget black holes. Contrary to what Mr O'Dowd says, we are very strong and positive, for good community reasons, in our support for improving our services and improving performance and efficiency as we deliver them across the sectors. We believe in the devolution of justice and policing.

We have also consistently said that the parties here should unite to deliver the devolution of justice and policing, not only by completing the Good Friday Agreement but by facing down the sinister threat from so-called republican so-called dissidents. We have said consistently that those people are still using the old Provo-speak of "Crown forces", "British police force", "collaboration" and "collusion", which is what we heard from the Provos and Sinn Féin during the 1980s and 1990s. They are using that language not only to intimidate members of the Police Service and to extend that intimidation and threat to their families but to try to create a wider sense of intimidation and fear across the community.

The best answer that we, as democrats, can give to the dissidents is to unite. We showed a united response after the murders in Antrim and Craigavon earlier this year, but we must show not only a united temporary, emotional response but united deep-running and real political unity. We can best do that by joining to deliver the devolution of justice and policing, and that is what we want to do. We know the sinister agenda of the dissidents, and we know that they are trying to use the present sense of instability and uncertainty.

I hope that some Members will be more careful with some of the language that they use in the debate. Saying that there have been all sorts of threats in the exchanges that are going on privately is dangerous talk. I hope that that is not the tone of any exchanges that are going on between Sinn Féin and the DUP and between the First Minister and the deputy First Minister. I hope that it is not the tone of any briefings that the DUP is giving to its people, because if people

were to try to create the impression that we will be on the verge of collapse if someone does not get their way on this issue, it would be grist to the mill of the dissidents. They want to create and feed off the prospect of instability, so they will continue to exploit any differences and difficulties that there are around the issue. Let us resolve those difficulties sooner rather than later.

**Mr O'Dowd:** Given the laudable reasons that the Member has given for the need for the transfer of policing and justice, will he set aside his party's selfish and narrow interests on the matter and vote in support of the transfer of policing and justice?

**Mr Durkan:** The Member suggests that support for the Good Friday Agreement is a selfish party interest. It is absolutely fundamental to us, and we have stood by it.

We are aware that Sinn Féin has ditched all sorts of elements of the agreement. We all know that my Oxford speech was a defence of the agreement and an exposure of how Sinn Féin has sold it out on several levels on a number of occasions.

What is the sell-out in the Bill? Clause 2 is the sell-out. It provides that the Minister of justice will not be appointed by d'Hondt, as is prescribed by the agreement. Nor will the Minister be appointed according to democratic inclusion, which is the method that was enshrined in the agreement and included in the Northern Ireland Act 1998. The Minister will be appointed by another means that has not been provided for in either the agreement or in the 1998 Act.

Earlier, I listened to Martina Anderson quote section 17(4) of the 1998 Act, which states:

"The number of Ministerial offices shall not exceed 10 or such greater number as the Secretary of State may by order provide."

She then quoted section 17(5), which states:

"A determination under subsection (1) shall not have effect unless it is approved by a resolution of the Assembly passed with cross-community support."

Clearly, she was trying to give the false impression that the agreement provides for a Minister to be appointed by cross-community support if the number of Ministers will exceed 10. That is not what the 1998 Act says. Basically, the Act says that if there are to be more than 10 Departments, that decision must be approved by cross-community vote. The Act and the Good Friday Agreement provide that Ministers will head Departments and all Ministers will be appointed according to the rule of democratic inclusion that is used in the Assembly, which is d'Hondt. That democratic inclusion is provided for absolutely in the agreement.

**Mr A Maskey:** I thank the Member for giving way. On a number of occasions in the debate, he and his party colleagues said that in the past, they have advocated, urged and sought the transfer of policing

and justice powers or, as Mark said, the framework for an understanding of how that might happen.

Given the fact that, obviously, none of that advocating, urging or seeking an understanding of how the Assembly might sort all that out has actually ended in the transfer of policing and justice powers, is the Member now telling us, on the SDLP's behalf, that if a positive answer to those questions cannot be obtained, he is prepared to say that under current circumstances, there will not be devolution of policing and justice powers?

The sum total of the SDLP's line is that the transfer of policing and justice powers will not happen. I ask the SDLP whether, given all that experience, it is now telling people that, because of the arguments that it has outlined, we can now look forward to a future in which there is absolutely no prospect of the transfer of policing and justice powers? That is the choice: the Assembly either does what it takes to get the transfer of those powers, or it does not.

That is a simple question that requires a simple answer.

**Mr Durkan:** I thank the Member for his lengthy intervention. Let us be clear: the SDLP does not believe that subverting the Good Friday Agreement is the price that needs to be paid to secure the devolution of policing and justice powers.

Obviously, the Member believes that the Assembly must do whatever it takes. Why does Sinn Féin have that imperative? It has that imperative because it sold out in the St Andrews Agreement. It pretended that it had secured the devolution of policing and justice powers by May 2008. It told the public that that was signed, sealed and delivered. It said that the DUP had no choice: there would be devolution of policing and justice powers by May 2008.

The SDLP has never claimed that it has the deal done on devolution of policing and justice powers. We never claimed that we had stitched up the DUP or anybody else. We have always been honest. When we could not reach agreement, we were honest about it. We did not pretend that we reached agreements when we had not. That is what Sinn Féin did going into the St Andrews talks, and it is what it did afterwards. It misled the electorate and itself. Now the penny has dropped among its own members, who are becoming panicky.

What else did Sinn Féin do at St Andrews? It forfeited the agreement by giving new vetoes to the DUP. Those vetoes help to gridlock and worsen the situation that now exists in Government. Contrary to the DUP's claims at the time that they would improve Government, a number of the changes that were made at St Andrews have added to the difficulties that we experience at present.

If Sinn Féin had its way, there would even have been in the St Andrews Agreement the exclusion from Government of parties that did not vote for members of its party and the DUP to be First Minister and deputy First Minister.

That was in the comprehensive agreement that Sinn Féin had agreed with the DUP and the two Governments, and it was going to be included in the St Andrews Agreement. The DUP and Sinn Féin said that any party that did not vote for a First Minister and deputy First Minister from their respective parties would be excluded from ministerial office, not for breaking any law, committing an offence or wrongdoing, but simply for exercising a democratic —

**Ms Anderson:** *[Interruption.]*

**Mr Deputy Speaker:** Ms Anderson, are you questioning my ability to chair the debate?

**Ms Anderson:** No.

**Mr Deputy Speaker:** I need to know.

Please continue, Mr Durkan.

**Mr Durkan:** Sinn Féin obviously cannot take the truth. I have a few more truths to tell. Sinn Féin was prepared not only to sell out on democratic inclusion but to introduce a new rule to exclude parties that did not support it. Our negotiations with the DUP were the only thing that seemed to unnerve it sufficiently and change the position. Sinn Féin made no move to defend the agreement at that point; rather, it introduced a perverse exclusion of parties that exercised the right not to support people for the positions of First Minister and deputy First Minister.

Sinn Féin allowed exclusion then, and it has allowed it again this time. The Bill says that the justice Minister will not be appointed by d'Hondt or by any such means. The devolution of justice and policing should be as the agreement provided; there really should be a rerun of d'Hondt. We quickly gathered that other parties did not want a rerun of d'Hondt for different reasons, such as not wanting to upset Ministers. There were also questions about how a rerun would be engineered in such a situation. My party said that using a d'Hondt top-up as a way of meeting the problem was fair enough. That was our position regardless of who would have benefited from it. We defended other parties' interests as well as our own under the agreement.

When related legislation on the devolution of policing and justice was being debated, we opposed any election of a justice Minister, and, in particular, we protested against the method of election for a Minister that would have excluded members of the Alliance Party specifically, not on the grounds of mandate, but on the grounds that its members are not designated either unionist or nationalist. We actually defended the Alliance Party's rights in that respect. We said that the

law was flawed, particularly because it was going to discriminate against the Alliance Party.

The Bill is basically a charter for discrimination, because it allows the DUP to show patronage to one party — a party of its choosing — for the Ministry and to discriminate against a party that is democratically entitled to it. That is a carry-over from the old Stormont days, when the systems of proportional representation were removed first for local elections and then for parliamentary elections. By departing from d'Hondt, this new Stormont regime has begun to remove and interfere with the proportional representation inclusive provisions that are laid down in the agreement. Those principles are fundamental for the SDLP, not in our own interests as a party, but as Irish democrats who want to honour the agreement that is the express will of the Irish people.

As for Sinn Féin's generous support of an SDLP nomination: how specious and vacuous can you get? That was an entirely empty gesture by Sinn Féin to keep itself right after it made a huge gaffe by allowing Martin McGuinness to agree with Peter Robinson that the justice Minister will be appointed by a cross-community vote at all times. I repeat: at all times. That is going to be a permanent DUP veto on a Sinn Féin Minister and, any time that it wants, on a nationalist Minister. That absolutely guarantees that no nationalist need apply.

Sinn Féin agreed to that wording, it slept in on it, and it said that it was great. However, when we pointed out the problem, the party said that the wording was not meant to mean that and that perhaps either some punctuation marks were missing or one or two words were wrong. Everyone else knew what "cross-community support at all times" meant. It was a permanent DUP and unionist veto on who could be justice Minister, which is absolutely contrary to the principles and promise of the Good Friday Agreement.

Sinn Féin did two things to try to undo that damage. It said that its preference was to support an SDLP nominee. Straight away, I said to the deputy First Minister and junior Minister Gerry Kelly that they would just support the Alliance Party nominee when the SDLP nomination was defeated. In response, I got a shoulder shrug from the deputy First Minister and something between a grin and a smile from junior Minister Gerry Kelly. Therefore, Sinn Féin's support for an SDLP nominee is an entirely empty gesture to try to cover up serious folly and a serious mistake in its negotiating position.

John O'Dowd said that it is up to the SDLP to sort out the DUP and the UUP, even though Sinn Féin handed those parties a veto that it did not need to. We already heard the reference to the triple lock and the quadruple lock. I remember the First Minister saying

in the House of Commons that there would be a double-double lock, not just a quadruple lock. Sinn Féin handed those parties a veto and is now telling the SDLP to do what it can to sort them out. If Sinn Féin wants the SDLP to repair its damage, it should step aside instead of getting in the way.

**Mr O'Dowd:** The Member had an opportunity to vote against the Bill in Westminster, a place that he thinks highly of because he is resigning from here to go and live in Westminster. He had an opportunity to vote against the Bill, but he left before the vote took place. Why did he do that?

**Mr Durkan:** There was not going to be a vote; certain parties had agreed that they were not going to divide the House. We made clear our point of principle in opposing aspects of that Bill, just as we have done today. We will record our opposition by voting against the Bill because of clause 2, not because we are opposed to the devolution of justice and policing. The Good Friday Agreement does not need to be sold out to facilitate the devolution of justice and policing.  
*[Interruption.]*

I hear more from Martina Anderson. I heard her say earlier that she never said that the SDLP was not entitled to the justice Ministry. On several occasions in the late summer of 2008, she said that the SDLP was arrogant and did not have any entitlement to any Ministry. She will find copious references to that in the media, which quote her. She was not the only one; at the same time, Alex Maskey said that the SDLP was putting petty self-interest ahead of the national interest on the devolution of justice and policing. Both of them indicated that the Alliance Party could be entitled to the justice Ministry. Of course, that was before the deputy First Minister had his moment of epiphany and told me that Sinn Féin would support the SDLP. We did not hear anything about a Sinn Féin preference to support the SDLP when Martina Anderson and Alex Maskey were having a go at us in late August and early September 2008. The record on that is clear, just as it is on the phrase that Dolores Kelly quoted about the devolution of justice and policing and political lifetimes. Mr Simpson did say that.

**Mr Campbell:** He did not.

**Mr Durkan:** He was quoted in the media; I can give those references to the Member. Why would he not have said it? The phrase came from a DUP policy document that was issued during an election campaign, and the leader of the DUP was happy to clarify it several times in Westminster. Therefore, it would be odd if some DUP MPs had not used the phrase "political lifetime".

**The First Minister:** I have the policy document with me. The Member should listen carefully to what it says:

“We have repeatedly indicated that in the context of Sinn Féin having a ministerial role in policing or justice it could be a political lifetime before such powers would be devolved.”

That was the context.

**Mr Durkan:** The document continues:

“However, we have now negotiated arrangements which allow the powers to be devolved when we are satisfied but also allow us to block a Sinn Féin Justice Minister.”

The DUP still has that power. That power is not removed by the Bill.

What were Sinn Féin’s two big ways of sorting out the gaffe in the joint letter from the First Minister and deputy First Minister that ceded that there would be a unionist veto at all times on the appointment of a justice Minister? As well as making the completely bogus promise to the SDLP of their votes on the nomination, they also secured the sunset clause of May 2012 in the Westminster Bill.

It is important that people understand how this Bill connects with the other legislation that already exists at Westminster. People talk about the need for confidence and stability before they will agree to the devolution of policing and justice powers, but it is also important that we address the need to ensure that there is absolute confidence and stability when we get devolution. The formula that has been negotiated between Sinn Féin and the DUP does not give us that.

Yes, we can elect the first justice Minister here by cross-community support, contrary to the provisions of the agreement. When the Assembly returns after an election in 2011, the justice Minister will, again, have to be elected by cross-community support. We know that all sorts of negotiations and stances might be taking place at that time. It might be a considerable time before we get a justice Minister agreed and appointed. In 2011, therefore, we could come back here and have a Department with no Minister.

Then, of course, there is the sunset clause: Sinn Féin’s guarantee that this is only a temporary arrangement and veto that cannot last beyond 2012. The sunset clause says that, in May 2012, the Department will be dissolved, unless there has been agreement to continue that arrangement or there has been agreement on other models. When I asked Alex Maskey earlier what happens if there is no agreement in May 2012, he meandered a bit but eventually said that there will have to be agreement because there is no fallback position.

That is not true. A fallback is built into the legislation, and either Sinn Féin is aware of it and is pretending that it is not there — just as it was aware of all sorts of other things that it conceded and pretended were not there. The party pretended that things going on at St Andrews — such as making sure that we could not move away from academic selection — were not

there and just focused on other things. The fact is that there is a fallback.

Paragraph 8 of schedule 1 to the Northern Ireland Act 2009 provides for a fallback. Paragraphs 6 to 8 provide for the crash of the dissolution of the Department in May 2012 — Sinn Féin’s guarantee that the DUP will have to cede its veto at that time. Paragraph 5(2)(b) of schedule 1 to the Act states that paragraphs 6 to 8 of schedule 1:

“are not to apply at all if an Order in Council has been made under section 21A(7C) of the 1998 Act.”

Section 21A(7C) was inserted into the 1998 Act by the Justice and Security (Northern Ireland) Act 2007. Therefore, it is not from the agreement, and not really from even the 1998 Act. It allows the Secretary of State for Northern Ireland to impose the model for the devolution of justice that was legislated for in the Justice and Security (Northern Ireland) Act 2007. Therefore, the fallback is there.

I think that the DUP knows that that fallback is there. Its members may have been careful not to show it off in public, but they know that it is there. The NIO is maybe being careful not to show it off in public and let on that it has provided the DUP with that cover of a fallback, but it is there, contrary to Sinn Féin’s claims. Again, that shows the absolute failure of Sinn Féin’s negotiation on that and other matters.

The Justice and Security (Northern Ireland) Act 2007 provides for a Minister and a deputy Minister elected by parallel consent. That model is the fallback position for May 2012. That means that the DUP will continue to have a veto over the appointment of any nationalist justice Minister. The fallback is there, and, in many ways, the DUP probably feels quite smug that it still has the at-all-times veto. If the DUP does not agree anything else with Sinn Féin, that is the fallback position.

Sinn Féin was wrong to give the DUP that veto in the first place and wrong to allow it to remain. Did Sinn Féin know that that fallback position was there? Is Sinn Féin happy with that? If so, why is Alex Maskey pretending that there is no fallback position, and that Sinn Féin will have the DUP over a barrel at that time? Can anybody tell me?

**Mr O’Dowd:** I will tell you.

**Mr Deputy Speaker:** Order. For the umpteenth time, I request that remarks be made through the Chair.

**Mr O’Dowd:** I will make my remarks through you, a LeasCheann Comhairle.

At the time of the 1998 Act, I believe that the SDLP was the largest party and had several Members at Westminster — the place that Mr Durkan feels so gracious to, feels he owes loyalty to, and, I think,

swears an oath in. Is that where he is talking about that Act coming from?

Of course a justice Ministry will have to be set up. However, if that were to collapse, the clause to which Mr Durkan refers will have to get the agreement of Sinn Féin. That is what he is leaving out of his comments. Mr Durkan claims that Sinn Féin has sold the community a pup; he is saying that the community was stupid. I, for one, do not believe that.

**Mr Durkan:** I do not think that the community was stupid. However, Sinn Féin managed to con people on some of the issues, as it has done on several other occasions in relation to selling out on the Good Friday Agreement. That is something that we will not do.

The Member referred to the 1998 Act, but, remember, the clause was inserted into that Act only in 2007.

**Mr O'Dowd:** Where are you —

**Mr Deputy Speaker:** Order. I apologise, Mr Durkan. The Member appears to have a very short memory. He promised to speak through the Chair.

**Mr Durkan:** At the time, the SDLP opposed that Act in Westminster. We spoke against it and we exposed that issue. Today, Sinn Féin tried to pretend that there is no fallback. Yet John O'Dowd seems to be saying that, of course, there is a fallback, which totally contradicts what Alex Maskey was trying to tell us earlier.

Remember, Sinn Féin does not decide whether the Secretary of State for Northern Ireland activates that power. Potentially, we could have a Tory Secretary of State, or a situation in which there is a very narrow majority in Westminster and all sorts of deals have to be done. The Secretary of State can simply decide to activate those powers. Sinn Féin's only power of veto comes through the exercise of parallel consent during the election of the Minister and the deputy Minister. However, the DUP has a veto too. The fact is that the at-all-times veto is still there; there is no other fallback position. That mistake lives on with Sinn Féin.

A number of Members asked whether it is time for the devolution of policing and justice. I make it very clear that it is. It is not time to ditch aspects of the Good Friday Agreement. It is significant that the DUP and the Alliance Party say that they regard what is in clause 2 of the Bill as a very useful precedent, and no doubt they will be returning to that in future reviews. Those parties will say that that precedent has been conceded, and, when it has been conceded here, ask where else can we go with that. That is the position of those parties. However, do not let Sinn Féin pretend that it has conceded that precedent.

I know that the First Minister and the deputy First Minister have been in a series of negotiations, and I do not expect them to spill the beans at this stage.

However, finance is a hugely important issue, not just for the services under justice and policing but for our wider Budget.

Of course, people will want to know that the funding, whatever funding there may be, will be properly ring-fenced, not only according to Treasury terms but according to our own Budget priorities and interests.

5.45 pm

I am a little perturbed when I hear people from the DUP Benches start to write all sorts of new preconditions into the community confidence requirement. Indeed, a couple of DUP Members said today that the DUP must be satisfied on the parades issue and that that would be one of the tests of confidence.

**Dr W McCrea:** I thank the Member for giving way. The Member attended the debate in the House of Commons. It is not factually correct to suggest that those issues were not raised in that debate.

**Mr Durkan:** I do not know whether the Member is saying that I am suggesting that none of those issues was raised in that debate. I am making the point that several DUP Members today referred specifically to the parades issue as a key test of community confidence. They suggested that if people are satisfied with the position on parades and if people are allowed to parade down certain roads, that would satisfy a test of confidence.

We need to be careful about the route that the test of community confidence takes. During the history of our process to date, different issues have, at times, been bundled together during different negotiations and have been bartered for. There is a potential difficulty in that the Bill could be cleared and everything else could be ready to run, whereupon the DUP could say that it will trigger the process as long as it receives one or two more wee things. At that point, Alex Maskey will tell us that the devolution of justice and policing is so imperative that those things will be a price that we have to pay.

**Dr W McCrea:** With the greatest respect to the honourable Member, parading and the right to parade is not a wee thing or a wee concession; it is the community's right.

**Mr Durkan:** I do not want to dwell on the subject of parades only. Members did not only refer to the issue of individual parade locations. For instance, we know that the DUP wants a particular outcome on the winding-up of the Parades Commission. That is, potentially, not the only item on its shopping list. From time to time, we hear that the DUP wants to scale down and merge the Equality Commission and the Human Rights Commission. We know that it wants to bullet through the idea of a bill of rights, and we also

know that its approach to the North/South review is to keep it low and go slow.

The First Minister also recently suggested changing the voting arrangements in the Assembly. One could be forgiven for thinking that people are preparing a portfolio for a review or quasi-review. I want the First Minister and the DUP to assure the House that they are not lining up those issues so that they can say that they can support the devolution of justice and policing only in the context of a review in which other changes are made. It might also want to stitch the UUP into such arrangements because it does not like how the UUP is positioning itself to take pot shots on the one side while it receives pot shots from the TUV on the other.

How will the DUP stitch the UUP in? We heard the First Minister say that all other parties must be stitched in. He might come up with the brainwave of a review exercise, through which he unveils his shopping list and through which he is able to tell Jim Allister that the DUP secured change through the St Andrews Agreement and is pursuing more change now, challenging him to outline his strategy and agenda. Of course, the two Governments will feel that they have to give Peter that review if it is the context in which the devolution of policing and justice can get over the line. That is what the Governments have always done. It is what they did with David Trimble and on other occasions since.

They will be unable to resist the review, if demanded, as the context of change, and they will be able to resist few of the demands therein. Sinn Féin will certainly not be in a strong position to resist any demands: it has not resisted any demands so far. It asked today what else it can do, because it must do all it can to achieve the devolution of justice and policing. That is how weak a negotiating position Sinn Féin has put itself in.

It agreed to the gerrymandering that is provided for in the Bill, which will allow people to deny parties their entitlements. That is not the only form of gerrymandering that Sinn Féin has agreed with the DUP. It has allowed the gerrymandering of the new local government boundaries. Three out of 26 councils that are currently, or will be, under nationalist majority are going to be under unionist control.

**Mr Deputy Speaker:** Order. I remind the Member to discuss the Bill.

**Mr Durkan:** Mr Deputy Speaker, I have stuck more faithfully to the Bill than most other Members have done.

I offer that as an example of the gerrymandering that Sinn Féin will allow to take place. No council areas will be moving from majority unionist control to majority nationalist control. Three council areas, and more than 100,000 people, will be moving the other way. That gerrymandering will happen without any

sort of protection, and it shows that Sinn Féin does not look after the nationalist community's interests: it only looks after its own interests.

We will oppose the Bill because Sinn Féin has been so pathetic on the issues. We can have no part in supporting clause 2, and we do not want anyone in the future to misrepresent any support that we would give to clause 2 as meaning that we had agreed to concede on the agreement when we never would.

**Mr Ross:** There have been some lengthy speeches on what is a relatively short Bill that should be fairly non-contentious, given that it is simply enabling legislation. Nevertheless, there have been some very entertaining contributions, not least from the various SDLP Members, telling us about the dismantling of the Belfast Agreement and the many times that the DUP outwitted Sinn Féin. It is great stuff altogether, and I wonder whether they are available to speak at our party conference later in the year.

We also heard from Basil McCrea, who said that the Ulster Unionist Party now wants to support the nomination of an SDLP Member as justice Minister. Yet, on 24 August, Sir Reg Empey, the Ulster Unionist leader, said:

“Many unionists — those who are not agnostic on the issue — would be very concerned that our first Justice Minister could therefore be someone who is not pro-Union.”

Basil's contribution contradicts his party leader's position, and, having given himself away so many times in the debate, he might find himself in some trouble.

The Bill will not deliver the devolution of policing and justice. It is enabling legislation, and it is simply one cog in the overall machinery required to get powers transferred to the Assembly. As was said earlier, the Bill's title has been agreed by everyone, including the Assembly and Executive Review Committee, and is non-contentious. However, clause 2, which deals with the appointment of any future justice Minister, is important. It is not only consistent with what my party has said, but it ensures cross-community buy-in.

Throughout the debate, the SDLP has been exercised on that issue. It appeared not to want to have that cross-community support for whoever the future justice Minister might be. Of course, any future justice Department will be subject to certain sensitivities and must be seen as being different from any other Department, and, therefore, maximum buy-in from both communities is important. However, that is secured in the Bill.

We have heard that there will be no Sinn Féin justice Minister. That is also important, because the prospect of a Sinn Féin Minister would not instil confidence in the unionist community about the devolution of policing and justice. We have ensured

that that will not be the case. That certainty goes some way towards building confidence in the unionist community.

That is contradictory to the position of the Ulster Unionist Party. I listened to Danny Kennedy at the start of the debate, who talked about early devolution of policing and justice. We should consider those remarks in the wake of David McNarry's rogue paper — as it turned out to be — in which he said that we would not be looking at the devolution of policing and justice for another five years.

It is hard to take the Ulster Unionist Party seriously when it says things like that, because we all know that if that party had still been the largest party, it would have completed the devolution of policing and justice by 2005, and there would have been absolutely no barriers to a Sinn Féin Member becoming a justice Minister. In fact, some members of the Ulster Unionist Party said that it was inevitable that a Sinn Féin Member would become a justice Minister and that it was bound to happen. The Ulster Unionist Party is not interested in safeguards.

Earlier in the debate, we heard that even before the institutions were restored a couple of years ago, it was the Democratic Unionist Party alone that insisted that Sinn Féin had to support the police, the law and the courts system.

The Ulster Unionist Party was not interested in that. Alan McFarland said that he had a preference for d'Hondt to be rerun, and Basil McCrea talked about their justice Minister of choice being an SDLP Member.

Returning to a system of d'Hondt in order to nominate a future justice Minister would re-open the possibility of Sinn Féin taking that post. It is worrying for members of the unionist community to hear the UUP open the door once again for Sinn Féin to take the justice Ministry — even more worrying than Basil's support for an SDLP Member taking the position.

The Ulster Unionist Party also spoke about its "principled" objection to the legislation. Not many people in the Chamber think that there is anything "principled" about its opposition today. It is not a genuine concern; it is simply posturing and political point-scoring.

Mr Farry teased out an interesting point: the complete lack of confidence that the Ulster Unionist Party has in its senior party colleagues in the Conservative Party. There will be a Westminster election within the next few months, which is highly likely to result in a Conservative Government. If the Ulster Unionist Party honestly believes that the link-up with the Conservative Party will give it more influence in national politics — an idea it sold to the unionist electorate in Northern Ireland — why does it fear this legislation so much? Surely, the UUP's colleagues in the Conservative Party

will block it in Westminster. I think that we know the truth of that situation; the relationship will unravel rapidly after the Westminster election.

My colleague Gregory Campbell highlighted the fact that the Bill is about supporting the principle of the devolution of policing and justice. All parties in the Assembly have said that they support — in principle — the devolution of policing and justice. Many of us, including Members of this party, have issues over the timing of it, but if Members support the devolution of policing and justice in principle, they should have no difficulty in supporting the Bill today.

The Bill will not establish a timetable for the devolution of policing and justice. There are a number of outstanding issues. One of the larger issues is that of finance, and I note that the First Minister said that some progress was made in the meeting with the Prime Minister last night. However, issues still remain, and those figures need to be tested.

The second important issue is that of confidence in the community. We have consistently said that if policing and justice are to be devolved, there must be adequate confidence in the unionist community for that to occur, and that it must be tested. The First Minister has indicated that, as a large stakeholder in the unionist community, the Ulster Unionist Party has a say in that, although listening to some of the nonsense that has come from its Benches today, I am not sure that that is altogether wise.

The Bill contains safeguards, including the cross-community element of the appointment of a future justice Minister, which I think is important. That will help to build some level of confidence in the unionist community that there will not be a Sinn Féin justice Minister. That is one of the most important issues.

The Bill is about supporting — in principle — the devolution of policing and justice. If the Ulster Unionist Party and the SDLP genuinely want to see the devolution of policing and justice, they should support the Bill.

**Mrs Long:** The general principle of the Bill is that policing and justice should be devolved to the Northern Ireland Assembly. I agree with the Bill on that point. The Alliance Party believes that it is important that that be done, for a number of reasons.

Devolution is not complete. We are committed to seeing devolution completed, not because we are blind to the flaws of our devolved Administration, but because we are not blind to its potential, if it is worked properly. We believe that completing this process will allow devolution to mature and move forward. If one is a devolutionist, one should be committed to running all our affairs locally.



I have been concerned about parts of the debate today because of the creeping form of people in the House who seem to feel that their interests would be best served by not having devolution of any issue to the Assembly. If people want confidence to be instilled in the community, it seems a mighty strange way to go about it — to undermine confidence in the structures that we have at the moment, and to talk up the benefits of direct rule. Therefore, I am concerned about the tone of some of those comments.

6.00 pm

I believe that we need our affairs to be run locally, and we need local Ministers to step up to the mark. In different ways, some Ministers do that on occasions. Some Ministers do not, and it is fine to be critical in those instances. Despite all the difficulties that we have experienced over recent years, I believe that we are better off with devolution than we would have been without it.

It is a sign of political immaturity for people to want to tackle only easy issues. Earlier today, in his closing remarks in a discussion on a different topic, the Health Minister said that health is at least as important as policing and justice; I agree with him. Health is at least as important as policing and justice, and we are happy to have health devolved despite all its attendant difficulties and financial pressures. We have confidence that we can handle health better than it would be handled by direct rule, yet we are nervous about doing the same thing with policing and justice.

**Dr Farry:** Does my colleague agree that the Department of Health, Social Services and Public Safety would benefit from the devolution of policing and justice? Both Departments would cut costs if they could co-operate on issues such as offending levels and alcohol problems, which contribute to the occurrence of a lot of offences.

**Mrs Long:** That is undoubtedly true. Indeed, a realisation of the joined-up nature of devolution would help to restore public confidence in these institutions and make people feel that devolution has benefited them.

Although it is easy and appropriate for us to hold Ministers to account week in and week out in the Assembly, little emphasis has been put by any party on defending the Assembly's record. That is largely because people are nervous of the institutions and of the people with whom they are in Government. Ministers could sell the proposition to the public more effectively if they went out and confidently argued the benefit of devolution for their people. If they sold devolution to the public rather than look nervous about their partners in Government, perhaps some parties' electoral fortunes would reflect that confidence.

In discussing the Bill, we would be foolish if we did not recognise the central role that the devolution of

policing and justice powers holds in the wider devolution project. We can talk about quadruple locks, triple locks and whatever else, but no one can be in any doubt that the devolution of policing and justice powers was important to the majority of parties at St Andrews, when we discussed what form devolution would take and the time frames for its completion. The SDLP repeatedly emphasised its importance in those discussions. It was clearly very important to Sinn Féin and, indeed, had the appearance of being a make-or-break issue for that party.

It was important to the DUP, which said that it was committed to the devolution of policing and justice powers when the time was right. Some of what I have heard today makes me wonder about that, but the inclusion of the Bill for debate in the House at least indicates that the DUP remains committed to the devolution of those powers.

I also thought that it was important to the Ulster Unionist Party. At that time, it had been arguing that policing and justice should be in the hands of local politicians when the timing was right. I cannot understand that party's angst about the enabling legislation. The Ulster Unionist Party is focusing on timing, but timing is not in the enabling legislation.

The fact that a Department has come to the House in a timely fashion with important legislation that will get a full Committee Stage and proper public consideration and responses, and the fact that the Assembly will be allowed to do its job properly, is a welcome departure from what we have had in recent years with cobbled-together Bills being put in front of us and then forced through under accelerated passage. I openly, and on the record, commend the Office of the First Minister and deputy First Minister for that. The fact that the legislation has been brought in a timely fashion means that we will have the opportunity to explore in detail all the issues that have been raised during the debate today. Making plans for the legislative framework to be in place when the time is right for the devolution of policing and justice powers is the correct action to take. We would all be entitled to be critical if that did not happen.

The issue is about whether we are moving forward with the devolution of policing and justice powers. Earlier, my colleague Stephen Farry stated our position on the Bill and its proposed mechanisms. I do not intend to rehash that; it is already on the record.

I am happy for a cross-community vote to be introduced on policing and justice. Mark Durkan talked about a precedent being set. I simply refer him to what Stephen Farry said: although some of us may wish that appointing a future justice Minister, instead of using the d'Hondt system, could be a Trojan Horse to get a voluntary coalition, we do not think that it is.

The fact that that particular Department, in these particular circumstances, is handled in this particular way sets a rather limited precedent. Much as I might wish that it were otherwise, that is the reality. It would be wrong to suggest that it is anything other than that.

My party is on record as saying that we prefer a voluntarily coalition. The Bill does not change that, nor does it advance it. We do not take our position because we want to exclude any particular party, nor do we think that we would automatically be on the inside through those arrangements. We simply believe that running Government by having people come together to agree programmes in advance would be a more robust arrangement.

The timing of the devolution of policing and justice powers has remained the most divisive issue. It is relevant to the Bill in that that issue will be affected by the finances that are available. No one here or anywhere else would argue against the First Minister and the deputy First Minister going to Westminster to petition jointly for the best budget that they can get. It is absolutely right that they do that. It is hard, though, to conceive how they can do that if the Assembly took no active interest in the devolution project for policing and justice. The people with whom they are dealing would have no truck with them; they would say that they should be talking to the Secretary of State for Northern Ireland about the budget for policing and justice. I would prefer locally elected representatives to be arguing the case for the budget for policing and justice rather than ceding that right to the NIO. I am not saying that I necessarily prefer the locally elected politicians who are doing the job, but that is democracy, and I accept it.

We must be realistic about the budget for policing and justice. It is not often that I agree with John O'Dowd, but I did today. He was correct: we are living in a dreamworld if we think that there will not be cuts. The question is: who will take the decisions on where those cuts will be felt? Whom do we trust to take the decisions about what stays open and what closes, about how many police officers we have and about where the cuts are to be made? We need to know who will be taking those decisions. Despite my reservations about how the Executive function, I still prefer such decisions to be taken by locally elected Ministers.

We also need to be realistic about timing. We need to ask ourselves from whom we will get the better deal. If we are to petition the Prime Minister or the potential future Prime Minister, we need to know who is most likely to do the better deal on the financing of policing and justice. Timing will be crucial, because we know that a general election is just around the corner. It seems that, in national politics, the pendulum has swung. Instead of politicians trying to convince the electorate that there will be no cuts, they are now in

competition with each other about how dramatic the cuts that they make will be. We must be realistic and accept that the cuts will be deep. The cuts will affect Northern Ireland, not least because of its reliance on public sector employment, and they have enormous implications for policing and justice. I suspect that that now represents one of the better opportunities to strike a deal on financing the transfer of powers.

The building of confidence cannot be achieved overnight; it takes time and requires a process. Part of the frustration in the House and beyond is that, sometimes, processes do not lead to quick delivery. However, the process in itself is beneficial as it moves people forward and allows progress to be made.

As someone whose party has no Ministers in government, I fail to comprehend why everyone who belongs to a party that has Ministers in government is so negative about their performance that they cannot see the benefit of a local Minister delivering policing and justice. It boils down to a fundamental question: do they believe that direct rule Ministers would have done a better job than their Ministers? It would be easy for me to put forward that view, because my party does not have a Minister. That would be an easy get-out clause for me, but that is not my opinion. It is beneficial to have accountability and for local people to have access to those Ministers, each of whom can concentrate on a single portfolio as opposed to working simultaneously on three or four that have been lumped together. I am surprised that parties with Ministers are so reluctant to make progress on that project.

The building of confidence also requires stable devolution. For that to exist, the process of devolution must be complete. The transfer of policing and justice was always going to be the difficult element of that, but it is time to grasp the nettle. As Stephen Farry said, the security of the programme for the new Minister is crucial to confidence, because it relates directly to his or her ability to deliver. If a justice Department is to run smoothly and be capable of delivering, the programme for the Minister must be as widely agreed as possible, so that it can be brought into effect before the powers are devolved. That programme must be part of the process.

As justice lies outside the current Programme for Government, the potential exists for every decision of the justice Minister to come before the Executive. That would not be good for the Minister, the delivery of policing and justice or the Executive. As far as policing and justice are concerned, we are here to serve the public. Therefore, all parties in the House must seriously consider how to work best collectively to meet the priorities of the people in Northern Ireland.

Finally, each of us has it in our gift to create or destroy confidence through our attitudes, actions,

speeches and tone. All of those factors affect people's perceptions of how confident they should be about the Assembly's structures and ability to deliver.

As I mentioned earlier, I have reservations, and those have been reinforced through listening to today's contributions from the DUP Benches. The DUP is endeavouring to create a dual-speed approach, and that has the potential to undermine confidence. Although the Bill creates an illusion of progress, the DUP is also trying to maintain, in its constituency, the belief that there is no real movement. At some point, the DUP must decide on one approach, because it can ride two horses for only so long. The strategy of riding two horses led to many of the difficulties that have been exhibited within unionism since the St Andrews Agreement and the Assembly elections, because people were uncertain as to the DUP's intent. People should confidently state their intent, believe in it, and follow through on it. They are much more likely to build confidence through doing that than through equivocation.

6.15 pm

I understand the Ulster Unionist strategy of trying to row behind and unpick that confidence. However, the DUP should be wise to that because it is exactly the strategy that it used with the Ulster Unionists. Frankly, it was a very successful one because the Ulster Unionists equivocated. Had the members of the Ulster Unionist Party come out more confidently and defended their position, I suspect that the results may have been slightly different. I hope that that is not what is happening because it could be very damaging to community confidence.

**Mr Kennedy:** I am grateful to the Member for giving way. I listened carefully to what she said about the terms and conditions under which the Alliance Party will assume the responsibility of policing and justice, should that be afforded to the party. I also listened carefully to her analysis of the position of the Ulster Unionist Party. The Member failed to genuinely understand the honourable and genuine position that we have taken. Although we are in favour of policing and justice powers being devolved to Northern Ireland in principle, and while we, as a party, worked very hard to achieve devolution in Northern Ireland, we do not think that current conditions — or the example that the Assembly and Executive set — are good grounds for the early devolution of policing and justice. The idea that we are simply playing political games is not correct. I wish that she and her colleagues, and members of other parties in this House, would accept that.

**Mrs Long:** I thank Mr Kennedy for his intervention because it gives me an opportunity to address something that I was going to leave unaddressed. It is the question of whether the UUP's concerns are genuine. If its concern is about timing, the content of this Bill is of no

concern because there is no timetable in the Bill. If that concern were genuine, the party would let the Bill pass and resist its enactment.

**Mr Kennedy:** I am grateful to the Member for again giving way. Like a great many Members of this House from various political parties, it seems that she simply does not understand that the enactment of this legislation would raise expectations that the devolution of policing and justice would take place sooner rather than later. We are simply saying that all of us should pause until the conditions for that are right.

**Mrs Long:** Despite Mr Kennedy's patronising tone, I fully understand that, because I can read the legislation. The creation of expectation is as much down to the pantomime tomfoolery of some people who spoke about this Bill as it is down to anything that is included in the Bill. The Bill does not create a timetable for the devolution of policing and justice powers.

Mr Kennedy said that this matter is not a game, but people seem to be enjoying it very much today. With the raucous laughter, the tee-heeing and the constant witty banter that was going on, it felt like it was a game for some people. However, it is a very serious issue. Perhaps if all the interventions and discourse had been in the same serious tone as Mr Kennedy's last two interventions, we may have been more convinced that this debate was genuine.

When we talk about the conditions being right, we have never really got to the bottom of exactly what those right conditions would look like for the Ulster Unionist Party and what its contribution to creating them will be. I do not see the contribution that the party made in today's debate outlining that or in any way giving us an indication of what its contribution to creating those conditions would be. I am happy to be open-minded about that, but, based on what I have heard, I remain to be convinced that there is more to the Ulster Unionist stance than pre-election tactics.

The other point that I want to raise relates to clause 2 and the election of a justice Minister, because that is the specific issue with which the SDLP has a problem. Some Members think that they ascended the mountain in 1998, and came back with the way in which devolution would look for forever and a day written on tablets of stone. Those Members believe that to change a dot or a comma in that document undermines some great principle. The principles of devolution are about power sharing, fairness, stability and delivery. D'Hondt is not a principle: it is a mechanism.

If a mechanism is treated as a principle, one is saying that what was good for 1998 is not only good for 2008, but is good for 2028, 2048, 2058 and 2068. That tells me that there is no opportunity for betterment, change, progress or development. That is an extremely depressing world view. I would not be

happy if we were to unpick the fairness, the sharing and the recognition of people's participation that underpin the Good Friday Agreement. However, it is not the same to say that there is a principle at stake, simply because a mechanism is going to change.

That brings me to the next issue, which deals with Danny Kennedy's earlier point about the Alliance Party's role in all of this. Some people seem to think that if they shout about that long enough, we will be too embarrassed to rise to our feet to talk about such issues, which actually matter to the people who elected me, David Ford, Stephen Farry and the other Alliance Party Members. Those issues matter to us whether we or any other party end up with the justice Ministry. It is not a matter of who holds the post, but of how they conduct themselves once in that post.

When Stephen Farry cautioned earlier against working on the assumption that we would simply take the post if it is offered, he was serious. I do not expect Members to believe that that is the case, but I caution them against ignoring that we have said it. We want to see devolution working. We want to see it functioning. I suspect that unless we get clarity on policing and justice matters; unless we deal reasonably with the issues in the Bill; and unless we are willing to move forward and deal with timetabling, the Assembly will have much bigger problems ahead.

**Mr Kennedy:** I am grateful to the Member for giving way, because her speech is very interesting. Is the Member saying that one of the Alliance Party's prime concerns is the security of tenure — until 2012 — that is currently offered in the justice Minister's post?

**Mrs Long:** I think it is now Mr Kennedy who does not understand, because I have not raised the issue of security of tenure. To be blunt, there would be no electoral damage to any of my colleagues if they were to be tossed out of their offices by the DUP and Sinn Féin for trying to be an Alliance Party Minister for policing and justice. Therefore, security of tenure would not particularly concern us. That is not the key point. The key point is whether the justice Minister would have security of programme and could deliver what is on the agenda for the people of Northern Ireland.

Mr Kennedy may be worried about grappling for seats and positions, but that is not our primary concern, despite the fact that he wishes to paint us in that way.

**Mr Kennedy:** It made the Member angry.

**Mrs Long:** Yes; Mr Kennedy has again spoken from a sedentary position while enjoying his own joke very much, as he always does. He is always guaranteed at least one laugh: his own. However, the reality is —

**Mr Kennedy:** You have not met my wife.

**Mrs Long:** I have not met your wife, but she gets my sympathy. *[Laughter.]*

I have to say that this issue makes me angry, because there can be misunderstandings about some of these things, and then there is the wilful taunting that adds nothing to the discussion and does not further the debate. Instead, it exposes the fact that some Members have treated today's proceedings as a game, rather than a debate about legislation, and that undermines their position that they are approaching it with anything like a serious attitude. If you want to be taken seriously, behave seriously, and people will read from that what they will.

I mentioned the risks to devolution if we do not deal with these issues, and earlier, the DUP said that it would not be bullied. I agree that it should not be bullied, because bullying is inappropriate and not the way to do business. Neither should the DUP be arrogant or dismissive of the needs of its partners in Government. I say partners, plural, because there are four parties in Government together. At all levels of the Executive, there must be some sense that although parties may be in strong positions due to the mechanisms and vetoes, it will only last as long as everyone else is willing to tolerate it. We need generosity, not because one wishes to be generous to those with whom one has little in common, but because a lack of generosity is likely to cost dear. For that reason if no other, people need to look at how they might co-operate better, and that, in itself, would be the biggest confidence-building measure that we could see in this House.

**Mr Shannon:** I support the Bill. I have been out of the Chamber, because the Agriculture Committee was meeting today, so I apologise for not being here for everybody's contribution. In between times, it became clear what issues were being raised. We have listened to the clear way in which members of the Assembly and Executive Review Committee explained the process and the progress so far, and they are to be congratulated. It is not necessary for me to go over everything that has been said, but I will highlight a few major points that can stand to be repeated so that everyone understands them.

Furst o'vau tae unnerscoar tha fact that this bill isnae tha pittin in place o' policin en justis; it is maer er less tha grun woark that gauns afoar tha basic woark sterts. It is simply apenin tha gaet o' tha fiel tae alloo tha woarkers in. Them that's gaun tae wroucht in it wullnae be allooed in tae tha wricht terms er met oan tha plans, an tha fue plennin permisshun gien along wi' tha green paper regerdin tha go ahead.

First, I underscore the fact that the Bill does not constitute the introduction of policing and justice; it is merely the groundwork that must be done before the foundation work commences. It merely opens the gate of the field to allow the workers in; the workers will not be allowed in until conditions are met on the plans

and full planning permission is granted, along with the green paper of the go-ahead.

In this analogy, the conditions that must be met are those that have been set by elected representatives, and one of the key issues is funding. Devolving policing and justice is a huge undertaking that will need a huge influx of new money, not simply another Budget reshuffle. The DUP will be working to ensure that there is adequate funding to carry out all the obligations that this will bring, including the judiciary and policing matters that go back as far as the claims for loss of hearing from when RUC officers were under fire back in the dark days of the Troubles. There must be enough money to ensure that policing on our streets increases and that confidence in the police force is built up, so that when people ring the police they are sure of a response within half an hour and do not have to wait two hours for the one car to answer a call in Portaferry before it makes its way up to Carrowdore.

Those conditions must be addressed before we get anywhere near devolving policing and justice. However, we are putting the process in place. Another condition will be to ensure that, ultimately, the justice Department is accountable to the electorate in some form or fashion, as opposed to constituents who face problems having no redress and being met with the same answer to all their questions, "this is not in our remit".

6.30 pm

*(Mr Speaker in the Chair)*

A lecturer in law at the University of Ulster has said that it is essential that more accountability be brought to the judiciary, which, at the risk of sounding trite, is a law unto itself. Although it is essential that there can be no political machination mixing with the appointment of the judiciary, the appointment of an Attorney General will ensure that there is greater accessibility and accountability for the public when the occasion demands. That is also very important and is something that we must consider.

We must, and will, ensure that only those who are appropriate to the role are elected to it and that that will not be determined with a political slant, but with a fitness-for-purpose angle that takes into account the character and experience of that Member. That has to be the crux of the matter as well.

The Green Paper that will allow the building of the Department of justice to commence will be a stamp of approval by the majority of the electorate. That will be when the confidence of the community is behind the Department and when enough change has occurred that people believe this to be the way forward. That is the benchmark, and that is when we will be happy for work to begin on the foundations that we have laid today.

It must also be remembered that, just as building control checks for dangers in new developments, there is one final check that will come in 2012. Should the people not be satisfied that this building is a safe one for the people of the Province, there is an automatic dissolve. The sunset clause, which others Members, including my colleague Jimmy Spratt, have mentioned, gives peace of mind for the public to know that this is not an eternal solution unless it turns out to be the right and appropriate one. That is the key.

In the end, public confidence is the most important thing for the DUP, and, as a party, we have given our assurance that public confidence is the Green Paper without which no building work will commence. The DUP continues to hold fast to the fact that our triple-lock veto remains in place and will ensure that no work will commence until the people are ready. That is clearly where we stand on this issue.

The Bill does not set things in motion. It merely allows that, once things are to be set in motion, the mechanism and structure are there, so that we can then begin. We have come a long way, and we should recognise how far we have come — all of us individually, and collectively as parties — but that does not mean that we forget all that has happened before now and do not learn from those things.

I support the passing of the Bill through this stage in the Assembly, which will allow for any of the problems and issues that individual Members have to be addressed and incorporated into the Bill before its later stages and before it becomes an Act. Therefore, there are processes that allow us to bring issues on board. I give the Bill a general welcome, with a view that the devolution of policing and justice will happen. We need to ensure that when that does happen, we are prepared and have safety guarantees and controls in operation to ensure peace of mind for all those involved: ourselves, our constituents and the whole of Northern Ireland. I support the motion.

**Mr Attwood:** The starting point for comment is the DUP speeches on the Floor of the Assembly today. In my view, Peter Robinson and the DUP — that is, the DUP in the Assembly and in the country — hold all the cards when it comes to the issue of the devolution of justice. For that reason, it is important that the issues raised by the DUP in today's speeches be addressed.

It was Dr McCrea's speech that captured the essence of the current DUP conundrum. From my observation, I thought that the First Minister listened very attentively to what was meant to be a definitive statement by elements in the DUP about how they see the issue of the devolution of justice. Although John O'Dowd understandably and, to some degree rightly, compared that speech with previous speeches from that element in the DUP, who eventually signed up to partnership

and going into government with the other parties, the circumstances now are different from those that prevailed when the DUP made those decisions; that is self-evident.

What did Dr McCrea say in his speech? In one way he struck me as being a TUV wolf in DUP undergarments. We should not dwell on that image too long, but that was nonetheless the tone, content, character and conviction of what Dr McCrea was saying, no doubt on behalf of his colleagues in the DUP. Dr McCrea said that neither the Labour Party nor the Conservative Party in London can be trusted to provide honest financial answers. That is tantamount to saying that the financial test set by the DUP for the devolution of justice powers can never be satisfied.

He went further and said that, in his experience in his three constituency offices, the community did not have the confidence or the interest in the devolution of justice powers. That is tantamount to saying that the community confidence test can never be satisfied.

Subsequently, he went further and said that the DUP had a quadruple lock, which they would not hand over. That is the critical point, because the DUP has to make a choice as to how it goes into the Westminster election. Should it go into the election without having agreed to the devolution of justice on the basis that it can tell the unionist constituency that it did not bend the knee to nationalist requirements? The DUP has to decide whether it views that as the position of strength as it goes into the Westminster election. It was clearly the view that Dr McCrea, and whomever else he represents, was taking.

Alternatively, will the DUP make the essential choice that there is a growing majority in favour of partnership, equality and power sharing — about which I have a lot to say later — and proceed on that basis?

If Members read the tea leaves about what happened in London last night, they will see that it is clear that the bottom line has, or has all but, been reached with regard to the London Exchequer's offer to the DUP and Sinn Féin. Martin McGuinness, who was here a minute ago, might say that the financial arrangement can be reached in New York, and Peter Robinson might say that it cannot, but he and the deputy First Minister know that the moment has arrived. Whatever our differences about the Department of Justice Bill and all the other matters that I will comment on, the DUP should make that call and make it quickly.

Jim Shannon made a thoughtful speech, as he often does. He said something that the DUP has never said in the endless Assembly and Executive Review Committee meetings that went nowhere. He said that there was not enough accountability as regards the judiciary. I have not heard that from a DUP spokesperson before, and I have never heard it from a Sinn Féin

member in all those meetings. I, and my colleagues in that Committee, have been talking about it, but that comment captured the very essence of why people need the devolution of justice powers now. There needs to be more accountability around the judiciary. We need to have a sentencing guidelines council that is made up of people who can give advice, but not direction, to our judges about sentencing policy and practice.

We also need to have a new phase of reform of our Public Prosecution Service, which, in hard case after hard case — which, unfortunately, represents too many cases — has proved that it has a culture of plea bargaining; does not tell victims and survivors what is going on; does not outline the height of the evidence to the judge in a trial; and, consequently, hands out inadequate sentences in too many cases

I could go on about the unfinished business of justice and policing reform, which has been denied to the North over the past number of years and which is now so self-evident and compelling that, on those grounds alone, the DUP should go over the wall.

I do not diminish the difficulty that Peter Robinson faces, because as soon as he says that the devolution of justice is on, Jim Allister will say that he has had his four, five or whatever number of vetoes that Sinn Féin has conceded to him, and he did not use them. It is not an easy choice, but it is the rational political position and the position of strength that he must now adopt very quickly during his trip to and from America.

The reason that Mr Robinson should have particular confidence is because of the contradiction in Ian Paisley Jnr's earlier intervention, when he said that republicans and nationalists had failed to deliver agendas on policing and justice. That is self-evidently wrong. For example, the Justice Oversight Commissioner would not have signed off the implementation of the Patten report two years ago to the extent that he felt that 90% was substantially, or fully, accomplished. Furthermore, we would not have had the two pieces of criminal justice legislation that arose from the Good Friday Agreement, and I could go on.

I do not think that the point that Ian Paisley Jnr made is evidence-based, but the more important argument is that which I have said to him privately and in a number of public sessions. I believe that unionism's finest hour in the last seven or eight years was going to the Policing Board with the SDLP and sticking to the Policing Board with the SDLP. Although there was every reason for the unionist parties and the SDLP to fracture and destroy the Policing Board in the period up to 2007, that never happened. That was despite the Police Ombudsman's reports into Omagh, Operation Ballast and the activities of a serial killer in north Belfast; despite the hurt that unionists felt around the severance of so

many officers from the ranks of the RUC and the running down of the full-time Reserve; despite the ongoing threats of terror; despite the fallout from the appointment of Hugh Orde; and despite the fact that toys were thrown out of the pram on several occasions. Despite all of that, unionism never walked from the Policing Board, and the consequence of that was that despite suspension, political turbulence and all of the doubts from 2002 to 2007, the parties on the board stuck to the task. Reformed policing — in our view in the image of Patten; in unionists' view in the image of something else — was delivered by the board. That is why unionism should agree to the devolution of justice.

The SDLP was also tested in the most difficult circumstances in the life of the first Policing Board, when Sinn Féin excluded itself and demonised those on the board and those who signed up to join the PSNI. However, although we stumbled we never fell, and in the most adverse circumstances, and in arguably in the hardest issue of our political lifetime, we succeeded.

Today of all days, when we have a new Chief Constable, and two months after a new Lord Chief Justice was appointed to the High Court, it seems to me that there is a coincidence of opportunity that we should not allow to be missed, and I hope that it will not.

Today, we heard from Martin McGuinness: he was up and down constantly, which was strange to see from such a passive Minister who does not normally get so agitated or involved on the Floor of House. However, he and his colleagues were on their feet constantly, making a fundamental political point in an effort to damage the SDLP legacy and contribution to the devolution of justice. Mr McGuinness thought that it was a good argument, and he essentially asked what the SDLP had done to deliver the devolution of justice when it was the primary nationalist party. For four reasons, that argument is holed with contradictions and holed below the waterline. I shall explain why and, in doing so, I shall expose what Sinn Féin has done.

6.45 pm

The first reason is that we did not have much of an opportunity between 1998 and 2002 to do it, but that was not the point. The point was that the people of Ireland endorsed an approach to the devolution of justice and policing through the Good Friday Agreement, which states:

“the British Government remains ready ... after consultation, as appropriate, with the Irish Government, in the context of ongoing implementation of the relevant recommendations, to devolve responsibility for policing and justice issues.”

That is what the Irish people endorsed in the Good Friday Agreement, and that was the mandate that they gave to the political parties to bring about the devolution of justice and policing.

Is Martin McGuinness saying to the people of Ireland that, in 1998, Sinn Féin endorsed that approach, but that any year thereafter it can change its approach? I know that that is the standard by which Sinn Féin lives with regard to the equality and partnership provisions of the Good Friday Agreement.

Is Sinn Féin telling the SDLP that, in 2000, 2001 and 2002, it should have aborted the provisions of the Good Friday Agreement, usurped the democratic will of the Irish people and gone ahead with the devolution of justice, even though the implementation of relevant policing and justice recommendations had not been carried out? What folly it would have been to devolve policing and justice in those years when Sinn Féin did not have the confidence to go on the Policing Board. Sinn Féin should not berate the SDLP for what it did during those years, at a time when the republic movement was stealing documents down the hill, robbing banks in Belfast city centre and had not decommissioned a weapon.

**Mr Speaker:** I remind Members, as far as possible, to keep to the principles of the Bill. Members have been allowed a fair amount of latitude around the Second Stage. Therefore, I encourage Members, as far as possible, to stick to the principles of the Bill.

**Mr A Maskey:** The Member and I had a little spot on ‘Hearts and Minds’ some time ago, and I want to ask him a question on an issue that we discussed. I am less interested in all the criticism that my party receives from SDLP Members, because that is what they do: they do not do it very well, but that is how they live.

**Mrs D Kelly:** They do it enough to annoy the Member.

**Mr A Maskey:** Not really; we are now looking at a social, democratic and leaderless party. It is all very well to criticise my party, and the SDLP can do that for the next month of Sundays if it wishes. However, the electorate will make their judgement on those matters, and they have recently made some decisive judgements.

Notwithstanding all the criticisms that the SDLP may wish to make of my party's approach to the situation, could it please, for once, address how it would have, or will, secure the transfer of policing and justice powers. Will the SDLP tell us whether it can do it, will do it, or how it will be done? How will the SDLP transfer those powers? Either it adapts the SDLP approach and does its best to ensure that policing and justice are not devolved just because it cannot get a Ministry — that is how that party thinks — or does it want to look after the greater good and do its best to reach an accommodation to have the powers transferred so that we can all get on with developing accountability around the wider policing and criminal justice system with the other twin pillar of the independence of the judicial system? Will the SDLP

please tell us how it will do it? It can criticise Sinn Féin for another week if it wishes, but tell us how it will do it.

**Mr Attwood:** I reassure the Member that I intend to answer those questions in full, consistent with the Bill. Sinn Féin cannot berate one party if what is being said usurps the Good Friday Agreement, and that is what it is saying about what happened during those years. However, it is about more than that.

During that time, because the criminal justice system was not fit for purpose, SDLP members went about the task of making it fit for purpose to prepare it for the devolution of justice at the earliest possible opportunity. That is what we did, consistent with the principle of the Good Friday Agreement about the implementation of the relevant justice and policing recommendations. We went about the business of changing policing and justice in order to create the opportunity for devolution to happen as soon as possible.

Sinn Féin knows that, because the SDLP had to sit down with Sinn Féin in what became known as the “Welly Park tutorials”, whereby the SDLP and Sinn Féin sat down with the Irish Government and had to go through — in a pretty tedious way, I may say — the changes that were required to policing and justice in order to maximise the changes and the timing of the devolution of justice. That has not been publicly known until now, but we had to sit down with Sinn Féin. Mr Maskey was not there. None of the Sinn Féin Members currently in the Chamber was there. However, two Sinn Féin members were there; the junior Minister and one of the party’s senior officials, who, mysteriously, is no longer a senior official — but that is probably another story.

We had to sit down with Sinn Féin in order to persuade and convince that party of what was required. That was done in the run-up to the Hillsborough negotiations, which happened to be in 2003, after suspension. In those negotiations, we in the SDLP won a whole series of changes to criminal justice — not as much as we desired or negotiated for, but we won them. At that stage we stated in document after document, publicly and privately, to the Irish Government, the British Government and anybody who would listen, that we believed that the standards of criminal justice could now be attained in order to fulfil the principle of the Good Friday Agreement to bring about the devolution of justice and policing.

SDLP members are criticised for what we did on our watch, but what we did was consistent with the democratic wish of the people of Ireland. Then we did the heavy lifting to change the criminal justice system and argued, publicly and privately, for the devolution of justice. At the same time, Mark Durkan, as deputy First Minister, went to the then First Minister and tried

to convince him to go in that direction, because we believed, as the policing experience proved, that the earliest possible devolution of justice —

**Mr A Maskey:** How are you going to do it?

**Mr Speaker:** Order, order. The Member has the floor.

**Mr Attwood:** I will come to that. We believed that the earliest possible devolution of justice would demonstrate the stability and strength of the arrangements, and that there was a contradiction in the unionist argument that essentially agreed to the devolution of much policing power but held back on the devolution of justice powers. Remember the context in which all that happened — Sinn Féin had not signed on for policing and was adopting a hostile attitude to the PSNI, the Policing Board and the DPPs.

Sinn Féin has no argument because of its exposure on policing and justice issues during that period, and it has no reason or basis on which to criticise we in the SDLP for the big and difficult work that we were doing throughout that period. Let us not hear any more about what we did when we were the primary political party.

**Mr O’Dowd:** Will the Member give way?

**Mr Attwood:** I will give way in a moment.

I am a democrat, and I always have been; I have always accepted the will of the Irish people, both North and South, about how we conduct our political affairs. When 98% of the people of Ireland, in election after election, adopted the democratic approach, it was a grave error, with immense fallout, that others did not do so as well. Nevertheless, this morning Alex Maskey rightly said that the SDLP had a mandate at one time for the devolution of justice. I have answered that. He went on to say that the mandate from the nationalist community then fell to Sinn Féin, which was, he said “mandated and obligated” to take forward the relevant issues.

If we are to be judged on what we did, let us now judge Sinn Féin on how it has fulfilled its mandate to defend the Good Friday Agreement, secure the devolution of justice, and defend nationalist interests into the bargain. Gerry Adams wrote, not in 2009 or in 2008 but in 2007, to the Assembly to say that there was no reason why a date could not be agreed within a month. Martin McGuinness sent a letter to the Assembly and Executive Review Committee saying precisely that.

You have to hand it to Peter Robinson, although I suspect that he had not necessarily spotted the residual veto power that he may have through the 2007 legislation. I shall return to that in a minute.

When Sinn Féin was given the mandate granting it the obligation to negotiate on behalf of the nationalist



people, Gerry Adams and Martin McGuinness said that a date should be agreed within a month. Sinn Féin sat down with the First Minister, and it emerged with a DUP veto at all times for all times. At that moment, when Sinn Féin's failure to negotiate was so brutally exposed, the history of the devolution of justice was written.

The DUP learned that when you sit down with Sinn Féin and get a veto once, you can do it twice. The DUP learned that even when you do not sit down and get a third veto, you can claim it anyway, as the First Minister did on 7 July 2009 when he came out of his meeting with Gordon Brown and said, essentially, that Reg Empey also had to agree. Having given that level of veto to Reg Empey, the issue is whether Cameron is prepared to provide satisfaction to the DUP on the financial issue.

That is what happened to the devolution of justice and the protection of the Good Friday Agreement when the nationalist community gave primacy to Sinn Féin. There was not one, not two, not three, but a family of vetoes on who makes the decision on when the devolution of justice will happen.

**Mr O'Dowd:** I wish to comment on the history lesson that the Member has provided. The period of history that he refers to, covering the engagement among Sinn Féin, the SDLP, the Dublin Government and others, is an interesting period on which to reflect on the issue of policing. As those negotiations went on, Sinn Féin stated to all the parties around the table that the British Government could be moved further.

The SDLP and the Dublin Government stated that the British Government would not make further legislation on policing and justice. Sinn Féin said that the British Government could be moved if the parties at the negotiations remained united. The SDLP and the Dublin Government broke ranks. The SDLP joined the Policing Board, and real change on policing was delayed by a number of years. The British Government then brought forward further legislation on policing and justice, which is exactly what the SDLP said would not happen.

If the Member wishes to give a history lesson, he should give a complete history lesson. I will sum up what he has said so far: it is Sinn Féin's fault that the SDLP did not ask for the transfer of policing and justice in the first place, and it is now Sinn Féin's fault that the SDLP will not support the transfer of policing and justice. Does the SDLP have a mind of its own?

**Mr Speaker:** Before Mr Attwood resumes, I must insist that, as far as possible, he relate his remarks to the Bill. He may do that in an imaginative way, but it is vital that he does so.

**Mr Attwood:** With all due respect, Mr Speaker, the Bill must be understood in the context of what previously transpired. Therefore, every comment is not only

sourced in the debate but is sourced in clause 2 of the Bill. Everything that I am saying is relevant to that, because the issue comes down to how we got to that point and what that says about the nature of devolution and about who has held the whip hand in negotiations. That is why my comments are so important.

7.00 pm

I want to respond to the issues that were raised by Mr O'Dowd. His comments were contradictory. He said that implementation of real change in policing was delayed for several years because of the SDLP's decision to join the Policing Board. Why then, in the run-up to Sinn Féin's decision to join the board, did Gerry Kelly say, in the 'Belfast Telegraph' and in an interview on 'Hearts and Minds' with me, that there had been unprecedented change during previous years? He is quoted as saying that on the front page of the 'Belfast Telegraph'. He has said that on record. One cannot reconcile the assertion that there has been unprecedented change during the SDLP and the unionist parties' tenure on the Policing Board with the line that Sinn Féin has sold in the debate, which is that real change was delayed for years.

Why did Gerry Adams go to the then chairman of the Policing Board, after Sinn Féin had made its decision, and tell him that, if had not been for the board's work, Sinn Féin could not have made that decision? Sinn Féin cannot have it both ways. Gerry Kelly's words are on record. That is what happened, those are not disputed matters, and they are publicly known.

I want to deal with the Alliance Party's comments. Although they were, as always, well-rounded and developed, they contained two or three essential political flaws that need to be addressed. Stephen Farry said that the Bill's provision for the establishment of a justice Ministry was the lesser of two evils. I cannot reconcile myself with that: I do not understand how giving parties vetoes on ministerial appointments is better than what was guaranteed under the Good Friday Agreement and under legislation on the entitlement to ministerial office. I cannot reconcile how a veto on who becomes a Minister is better and is a lesser evil than the rights and guarantees of the Good Friday Agreement.

**Mrs Long:** Will the Member give way?

**Mr Attwood:** I will give way in a moment; I want to finish my point.

I do not understand why, if the Alliance Party believes that there are flaws in the Good Friday Agreement's architecture, it indulges a bilateral change to the agreement rather than having a conversation with the DUP and Sinn Féin, as the DUP First Minister has suggested.

I do not understand how it is a lesser of two evils to appoint a Minister who will be the captive of the First Minister and deputy First Minister when the powers of Ministers have been eroded further because of the St Andrews Agreement and the ensuing legislation. I do not see how the Alliance Party can reconcile, and describe as the lesser of two evils, a veto, a bilateral change and a Minister's being captive with the provisions that used to exist.

**Mrs Long:** The Good Friday Agreement, which the Member's party has trumpeted as its structures and mechanisms, contained a veto over the appointment of the First Minister and deputy First Minister. That had to be put to a cross-community vote. When that was removed at St Andrews, the SDLP, among other parties including the Alliance Party, believed that that was a retrograde step because it removed collectivity from the Executive. Therefore, the SDLP cannot, on the one hand, argue that the Alliance Party wants to introduce a veto.

If the Member reads the Good Friday Agreement, of which the SDLP was apparently the architect, he will see that it is riddled with vetoes and is, in fact, built on them.

**Mr Attwood:** I note that the Member did not deal with my second and third points, regarding bilateral change and a justice Minister being a captive. However, let us deal with the issue of the veto. The political circumstances in 1998 required that a message be sent out to our community saying that there was a new order of things. In order to demonstrate that, and to show the collective wisdom and will of the people to bring about a transition from pre-1998 politics to Good Friday Agreement politics, there was an election to a joint office of the Assembly. Those were the circumstances that existed then.

The circumstances that exist now for the devolution of policing and justice are very different. The unionist parties, the SDLP and Sinn Féin are sharing responsibility for much of the heavy work that must be done on policing; no one has walked away from the Policing Board, and that board has unanimously appointed a Chief Constable. If the Policing Board has the maturity to do that, the same principle can apply to the devolution of justice and to the appointment of a Minister.

**Mrs Long:** I thank the Member for giving way, and I apologise for not answering his other two points. I held off on answering those, because I indicated that I wanted to intervene on the specific issue of a veto. The Member's last point raises some interesting questions. He suggested that political circumstances can change the approach that is taken. Up to this point in the debate, the SDLP has basically said that what was inscribed in 1998 could never be changed and that the appointment mechanism was immovable and

untouchable. That is precisely the position to which the SDLP has been holding, so there is an issue about political change. I do not think that the SDLP was happy when the appointment mechanism was removed.

I do not believe that a justice Minister will be held hostage. My colleagues and I have said, very clearly, that the security of programme is the key to ensuring that no Minister will be held hostage. The Member is right to say that the justice Minister could be removed from the post. That situation is preferable to the current one, in which an underperforming Minister can continue to underperform ad infinitum and never be challenged directly.

I wish to answer the Member's third point on the issue of unilateral and bilateral change. We have made it crystal clear that we do not see that as either opening the door to wider change or as a Trojan horse. Other people can interpret that whichever way they want. If the Bill is passed, all other posts in the Executive will continue to be filled using the d'Hondt process, until such times as the Assembly chooses otherwise.

**Mr Attwood:** I thank the Member for those comments. I wish to make two points: first, the Alliance Party said that the Bill has a limited precedent. However, the words and comments that have been made in recent weeks indicate that some people are beginning to think that that is not the case. There may now be a situation in which people will try to maximise the opportunity created by the removal of d'Hondt, the creation of exclusion politics, the end of equality and the denial of partnership, all of which are required by elements of Sinn Féin, on the DUP's watch. I suggest that the Member cautions herself very profoundly before she casually concedes and suggests to the House that what has been agreed has a limited precedent. In time, I think that the Member will regret those assertions.

**Mrs Long:** If I am wrong, I will be quite happy to say so.

**Mr Attwood:** Secondly, there was an inconsistency in the Alliance Party's intervention, made during Mr Kennedy's contribution, on the issue of what Mr Empey may or may not have said about who could be justice Minister. Mrs Long's contribution had substance in that regard. It is inconsistent for the Alliance Party to tell the Ulster Unionist Party that Mr Empey was basically saying that no nationalist need apply, when the Alliance Party will today vote for a Bill that will have that consequence.

The Alliance Party cannot berate a party leader for taking such a stance, even though it may be appropriate to do so, unless it, in not agreeing to the Bill's Second Stage, votes down a clause that has the same impact, because it is in the legislation and

referred to in statements made by the First Minister, with the consent of the deputy First Minister —

**Mr Ford:** Will the Member give way?

**Mr Attwood:** I will finish my point first.

That is the inconsistency.

**Mr Ford:** I thank the Member for giving way again — at least there are some Members in the Chamber who give way.

There are other posts in the Assembly, including your own, Mr Speaker, which are filled on the basis of a cross-community vote. None of those posts specifies that no unionist need apply, that no nationalist need apply or even that no member of the United Community group need apply. The suggestion that the inclusion in the Bill of the requirement for a cross-community vote represents a veto against nationalism is simply not borne out by the facts.

That is totally different from the leader of the UUP faction of UCUNF's statement, which made particular reference to me, that the justice Minister must be a unionist. It appears that he meant that the justice Minister must be a unionist if elected by cross-community vote, although the SDLP would be acceptable if d'Hondt were used.

**Mr Attwood:** That confirms my point, and I will explain why. *[Laughter.]* Regardless of the facts in this place, the fact in this case is unambiguous and has been stated publicly — the DUP will exercise its veto on nationalist applicants for the justice Ministry, just as Sinn Féin has exercised its veto on a nationalist's holding the eleventh Ministry in the Government. That is what the legislation does. The Alliance Party can package that in whatever way it chooses, but it will be signing off on legislation that means that no nationalist party need apply for the justice Ministry.

I want to briefly return to the points that Mr Durkan made on the sunset clause. The First Minister will comment on that issue, and I look forward to his comments. I want to repeat that Mr Alex Maskey's interpretation this morning is not correct. He said that the arrangements are temporary, that there is no fallback position and that we do not know what will happen in 2012. He concluded by saying that there is no fallback position in the Department of Justice Bill or in any other previous legislation passed at Westminster. I repeat that our understanding of the relevant clause and the schedule is that there is a fallback position. Sinn Féin either knew that and did not tell anyone, or it did not know, which would show the folly of its negotiating position.

Accepting “at all times” and “for all time” was the biggest strategic error that Sinn Féin made in its negotiations on the devolution of justice and policing powers. Out of that error flowed the strength of the

DUP and the weakness of Sinn Féin in the negotiations. The Department of Justice Bill is at its Second Stage, and we have the shadow of “at all times” and “for all time” over the legislation and back on the Floor.

Sinn Féin was spooked, because it knew that nationalism could not live with a situation in which the DUP had such a capacity to veto. As a consequence, Sinn Féin tried to unpick the clause and conceded even more ground. Having conceded that ground, we are back where we were when “at all times” and “for all time” meant that no nationalists need apply.

7.15 pm

**Mr Hamilton:** The number of Members in the Chamber has swollen, obviously in expectation of my imminent contribution. I want to assure them that I do not intend to keep them long — just about five minutes more than the 41 minutes that Mr Attwood kept us.

It is amusing that the debate on what must be one of the simplest, most straightforward and shortest pieces of legislation to have come before the House is now well into its seventh hour — and the clock is still running. It is a simple and straightforward piece of enabling legislation, as Members have said. It simply names the Department, an issue about which I do not think anyone has raised any concern. Clause 3 refers to the commencement, which is to be carried out jointly at a later date by the First Minister and deputy First Minister; and it refers to the mechanism for the appointment of a justice Minister, which has been a bone of contention during the debate.

The legislation sets out an additional method of appointment, in that the nomination must be approved by a majority of all Members, and a majority of nationalists and a majority of unionists. I hear that method being criticised as if somehow it breaks the principle of d'Hondt, that tablet of stone set down in the agreement. The resounding response to that criticism from these Benches is: so what? The DUP has no love for d'Hondt or any abiding desire to see its continuation. To break that principle, therefore, is something in which we take pride.

Nor is what is in place representative of some sort of unionist Utopia. As much as some of us might like to, we do not get to choose who we want. The appointment of a Minister requires cross-community consensus. There are those who say that that arrangement is not inclusive, but how much more inclusive does it get than to have a requirement that the person who holds that very sensitive and important position must have been voted for in the House by a majority of nationalists and a majority of unionists? That is as inclusive as it gets. The model that the legislation will put in place also strengthens and solidifies the unionist position for which the DUP has

been arguing for a considerable time. As some Members said, it ensures that, given the sensitivity of the position, no member of Sinn Féin can hold it.

There has been discussion — indeed, rancour — about timescales. Again, as has been pointed out, there is nothing whatsoever in the legislation about a precise timescale. Many other major steps are to be taken before the devolution of policing and justice can happen. There are many high hurdles — perhaps that should be high hedges — that we have to get over before we can even contemplate the actual devolution of policing and justice powers to the Assembly.

The Assembly must pass a section 4 motion of the Northern Ireland Act 1998 requesting that we have those powers devolved. Westminster must pass the relevant Orders, and there must be agreement there on that. I find some of the Ulster Unionist Party's criticism curious, given that its Members expect their colleagues, their new-found friends, their paymasters in the Conservative Party, to be in power in the coming months. I would have thought that the UUP Members would have had much more confidence in their colleagues than some of them exhibited today. A Minister also needs to be identified, and there must be a subsequent Supply resolution and Budget Bill to deal with the financial aspects of the devolution of policing and justice powers.

I want to dwell a little on the critical issue of financing. There are, as everyone is aware, serious shortfalls with regard to the financial position for policing and justice. We have all heard about the discussions of the Policing Board, and the NIO demand for further cuts to front line policing. Many of those issues have been teased out and explored in great detail by the Assembly and Executive Review Committee.

Examples include the hearing loss claim, which, at the last estimate, represented a bill of around £120 million and rising all the time; the thorny subject of the cost of inquiries, and the fact that before inquiries take even a single piece of evidence, they can already be sitting with a £15 million bill; and the legal aid bill, which is habitually overspent by £20 million to £30 million each year, and is covered by the Exchequer, year in year out.

Various figures have been bandied about in respect of the actual cost of the devolution of policing and justice powers. I do not think that it is helpful to put a precise price tag on that. Although some of those shortfalls are historical or legacy costs that should be picked up by the Exchequer, others have been put forward in an opportunistic fashion as agencies within the justice sector bid for absolutely the best of everything, with knobs on. I argue that much of that is discretionary expenditure that could be looked at, as

that sort of expenditure is, during the monitoring rounds each year.

However, in the present budget there is clearly a substantial number of significant shortfalls that need to be addressed to create the confidence that we can have, and exercise, in policing and justice powers in a way that does justice to the people of Northern Ireland. It would be foolish to proceed without proper budget cover in place. The ramifications of that could be quite stark, potentially leading to further cutbacks in policing or in other front line services.

Last weekend, there were three consecutive nights of rioting in the Lurgan area. Unfortunately, rioting is something that, from time to time, can plague this part of the world. It does not take too many consecutive nights of rioting in too many places for the existing budget for public order to be well and truly busted, and for money to be sought from other areas. The knock-on effect of that could be in policing — perhaps in the rollback of community policing or some of the educational projects that the police engage in — or, there could be a cut to other budgets, for example health or education. The proper financial package and budget cover must be in place before we can move forward with confidence.

Community confidence is a very important outstanding issue. I have said before that I, and unionists in general want the devolution of policing and justice powers. We want to see the control of those powers placed in local hands and administered by the people whom they elect to represent them in the Assembly. Our forefathers fought for policing and justice powers in the 1920s, and the determination to take those powers away was one of the very reasons why our Parliament collapsed in the 1970s. The devolution of policing and justice powers has always been a unionist ideal. From the inception of the state, unionists have wanted control over those powers.

Through my membership of the Assembly and Executive Review Committee, I have examined some of the financial shortfalls. However, I have seen other shortfalls within the system that can only be amended if control is placed in local hands. For example, there are necessary reforms to be made that could put an end to the inflated level of expenditure on the legal aid bill, and sentencing policy, most Members would agree, could be toughened up, mindful of not interfering with the independence of the judiciary.

Unionists desire control of the policing and justice powers. Although we have that desire, we need to build confidence in the Assembly having those powers, and that will be helped by addressing the financial issues that underpin devolution. This is a fairly simple and straightforward piece of legislation; however, it is clearly not a simple or a straightforward matter.

We still have many hurdles to overcome before we can say with confidence that we want to have policing and justice powers transferred. The Bill in no way advances us, in time, towards that day. It is a necessary step, but we still have some significant distance to travel.

**The First Minister:** The debate was never likely to be easy for you to handle, Mr Speaker, or for the Deputy Speakers. The devolution of policing and justice powers is a sensitive issue, and one that is vital to us all. It is a life-and-death matter for the people of Northern Ireland. That is the nature of its importance, and the discussions in the Assembly and Executive Review Committee and in the House have been critical.

Therefore, I was glad, and I would not have expected anything else from you, Mr Speaker, that you took the sensible line of allowing Members some flexibility. Members may be thinking that I say that because I intend to stretch that flexibility, but I do not. I am responding to the debate and, therefore, to comments that have already been made. As those comments have already been made, they must have been in order. Therefore, I must be in order in responding to them. [*Laughter.*]

It was a bit of a stretch to understand how some issues raised today were relevant to an enabling Bill that essentially has two key elements, especially given that the Second Stage of a Bill is confined to a debate on its general principles rather than its particulars. Of course, Members can object to various elements of any Bill, but they have the opportunity in Committee and at Consideration Stage to propose and table amendments for consideration. Therefore, the Assembly has today been considering the principle of whether the Bill's Second Stage should be agreed. That was the only issue on which the House had to decide, not whether every aspect of the Bill is precisely in place in the way in which Members want. That is for further Stages of the Bill to determine.

The debate did not always reach lofty heights, and elements of it were not edifying. Sometimes, we need to stop and consider where this Province has come from over the past number of years and, perhaps, recognise each Member's important role to ensure that the Assembly continues to make progress. I am a convinced devolutionist; I have always been so, and part of my conviction that devolution is the best way forward for the people of Northern Ireland comes from my 30 years at Westminster, most of which were served during periods of direct rule. I will never agree with anybody who thinks that it is better for the people of Northern Ireland to be part of a system of government that allows people who have no roots in this community to take decisions on its behalf.

Indeed, I will go further. Decisions are taken at Westminster in a way that gives no effective say to the elected representatives from this part of the United Kingdom. My colleague Dr McCrea will know about that, because he and I are both old-timers in the House of Commons. We know the procedures, whereby Orders in Council were passed after an hour and a half of debate, sometimes at 3.00 am. Those matters were shoved on to the end of business because people did not want to keep English, Scottish and Welsh MPs from getting home to their beds.

That was the way in which Northern Ireland affairs were treated. Those Bills went through without any amendments or any opportunity for people to do more than have, perhaps, one Member of their party speak on the issue at hand. No amendments were permitted to Orders in Council. That is what we will go back to if we do not make a go of the Assembly.

7.30 pm

People may be a little bit unhappy about structural aspects, and there are many things that I want to see changed, but we must not start questioning devolution itself. It is very much in the interests of the people of Northern Ireland, and it is our responsibility to ensure that it delivers best for them.

The devolution of policing and justice powers will be initiated when the Assembly alone determines that the time is right. In that context, I have already mentioned that the Bill is preparatory in nature. Clause 3 makes it clear that its provisions will become operative only after the Assembly has agreed to proceed and when the deputy First Minister and I jointly make a formal commencement Order. The Bill is an enabling Bill. It deals with the structures associated with setting up a Department of justice and the mechanism for appointing a justice Minister.

Throughout the debate, I heard a number of Members say that if we expect them to vote for this kind of legislation, we should talk to them. That shows that they do not understand the legislation that they are dealing with. This legislation is not the result of some recent backroom deal or of some negotiations with the Government or between the deputy First Minister and me. The Bill is the direct result of an agreement by the Assembly after the Assembly and Executive Review Committee presented its first report to the House. That Committee considered all the relevant issues and heard evidence from the deputy First Minister and me when we discussed those matters with it. There was a full debate on the Committee's report in the Assembly, in which these issues were discussed.

Perhaps I will go off at a tangent here: I cannot understand the SDLP's position. Throughout the seven-odd hours of the debate, it has said that it will vote against the Bill. Why? It did not vote against the

Assembly and Executive Review Committee's report to the Assembly, which contained those selfsame issues. If it did not vote against that report then, why is it saying that it will vote against the Bill's Second Stage, which is a principle Stage, today? There is no consistency in that position whatsoever. I cannot understand how the SDLP has got itself into that position.

I will go into more detail on the subject of the SDLP and the Ulster Unionists later. However, I listened to Mr Kennedy when he dispensed with the hat that he wears as Chairperson of the Committee for the Office of the First Minister and deputy First Minister and firmly placed his party hat on his head. He seemed offended at the suggestion that the Member for East Belfast Mrs Long might think that the attitude and position that the Ulster Unionist Party had adopted was anything other than a natural and principled stand that was in the interests of the whole community. Well, we must say it as it is: the Ulster Unionist position is entirely synthetic, and there is no degree of truth and honesty in it. It is absurd, given that party's history on this matter.

It might be worthwhile to take a bit of time to look at the Ulster Unionist Party's position. UUP Members have indicated that they believe in the devolution of policing and justice. I knew that they did so, because I can recall during the stewardship of Mr Trimble, now Lord Trimble, and Séamus Mallon, and during the stewardship of the now Lord Trimble and Mr Durkan, that there were all sorts of difficulties for the Executive and that negotiations were held periodically.

During one set of negotiations, the Ulster Unionist Party reached an agreement. At no stage did it publish that agreement because it lost the election that followed and the party was not required to deliver on it. However, it is worth knowing what the Ulster Unionist Party had signed up to; the same Ulster Unionist Party that said today, for point-scoring purposes, that it wants to see the devolution of policing and justice but that this is just not the right time and that it is too soon. What was the Ulster Unionist Party's position? The document that they agreed stated, and I quote:

"Ulster Unionists want to see the devolution of policing and justice on a basis that is robust and workable and broadly supported by the parties. In the next Assembly, we will seek agreement on the practicalities of such devolution, including the necessary institutional arrangements and legislation, with the objective of achieving devolution towards the mid-point of the Assembly's lifetime."

Remember, that was in 2003. The document goes on to refer to the UUP's willingness to:

"support arrangements for consultation and co-operation in policing and justice matters with the relevant authorities in Ireland."

That is from a document that the Ulster Unionist Party signed up to.

My recollection, and I am sure that those who were more intimately involved will tell me if I am wrong, is

that the guts of that were agreed at a meeting in Hillsborough; a meeting in which the then leader of the Ulster Unionist Party took himself off a few hours early, and I am not sure of the reason, leaving the present leader of the Ulster Unionist Party in charge. The document is not something that one can say was due to David Trimble and was in the past: the thumbprints of the present leader are on it, as are those of many of the people who are here in the Ulster Unionist ranks today.

In 2003, the Ulster Unionist Party believed that the devolution of policing and justice should take place at the mid-point of the following Assembly, probably around the end of the summer holidays in October 2005. Does anyone in the House remember what conditions were like in 2003? If Members will permit me, I will remind them. Killings were still taking place that were being attributed to the Provisional IRA; cover names such Direct Action Against Drugs, and so forth, were being used; racketeering, gangsterism and criminality were still going on; Sinn Féin had given no support to the police, the courts, or the rule of law; yet the Ulster Unionist Party was content, at that stage and in those circumstances, to have the powers of policing and justice devolved.

**Mr Kennedy:** What the First Minister has omitted from his historical detail of the events of 2003 is that the leading nationalist party at that time was the SDLP, and that the Ulster Unionists, as the largest unionist party, had a responsibility to create stability for the people of Northern Ireland, and was attempting to give leadership. That was not helped by the antics and the attitudes of the Democratic Unionist Party.

Nonetheless, an important consideration that he omitted was that, generally, the broader Unionist family always considered it somewhat easier, difficult though it was, to negotiate with the SDLP than have to deal with Sinn Féin in the way that the First Minister finds himself doing now.

**The First Minister:** Here we find out how the Ulster Unionist Party got itself into so much trouble. It negotiated for the day without recognising that there is a tomorrow. The negotiation was held, and the decision taken, before an election. Everyone knew what the outcome of that election would be. The trend at that time made it abundantly clear that the SDLP was no longer going to be the largest party. Even if the Ulster Unionist Party missed what everyone else knew to be the facts, would anyone really put into legislation an arrangement that would have allowed Sinn Féin to take the position if the electorate had changed its mind in future years?

It is not a case of it being easier because the negotiations were with the SDLP. The Ulster Unionist Party was negotiating with Sinn Féin as well. Let us be

clear that this was not a deal or a stitch-up that was done with the SDLP. It was an arrangement that would have been set for as long as the Assembly's legislation lasted. It is entirely synthetic for the Ulster Unionist Party to object in the current circumstances. Sinn Féin has given its support to the police, the courts and the rule of law; there has been decommissioning, which had not taken place when the agreement was signed; and it is clear that its campaign is over, if the various bodies that the Government set up to look at weaponry and the role of terrorist organisations are to be believed.

Conditions have changed since 2003, and there is no one who will say that they have not changed for the better. If conditions have changed for the better and it was OK to devolve policing and justice in 2003, why is not OK to do it in 2009? The Ulster Unionist Party cannot answer that question.

**Mr McFarland:** Will the Member give way?

**The First Minister:** I recall sitting with the Member on a Committee. Indeed, it might be worth telling the House about the discussions in that Committee, but I will let the Member speak first.

**Mr McFarland:** I could take the discussion back to the negotiations that took place all the way through the process.

The First Minister talked about people not voting against this in the Committee. In the Committee, all parties agreed that the title of the Department would be the Department of justice. However, we voted against the second bit — the Ministers etc — and I think that it is correct to say that the SDLP voted against. When the report came to the House, we voted against it. The suggestion that we all voted for it is not correct.

Our objection now is that the head of the Government is totally dysfunctional. There is no agreement between the two main parties: they are fighting over education, the Maze stadium and everything else. Policing and justice cannot be devolved to the Executive, the First Minister and the deputy First Minister with any hope that there will be stability, particularly as long as issues such as parading and Eames/Bradley remain unresolved.

**The First Minister:** I will deal with the point about dysfunctionality first, and then the Committee issue. How dysfunctional was the Executive in 2003 when the Assembly was collapsing every other week? The Ulster Unionist Party wanted to have the powers devolved to a dysfunctional Executive in 2003. I will come to more detailed comparisons of dysfunctionality later.

The Member has built a straw man so that he can knock it down, but I think that there is a genuine misunderstanding on his part regarding the Committee issue. I was not referring to the Committee for the Office of the First Minister and deputy First Minister. Rather, I was referring to the Assembly and Executive

Review Committee, which we appeared before in relation to this matter. That Committee brought its report to the Assembly, and the Assembly passed that report after a vote. At that time, the SDLP did not vote against the report. The SDLP now wants to vote against the principle of something that it agrees with because of the details of something that it did not previously object to.

7.45 pm

Mr McFarland put his head above the parapet. I recall the Preparation for Government Committee during the good old days of the Assembly. The Member for North Down Mr McFarland and I were members of that Committee when the issue of policing and justice was discussed. Through its spokesman, Mr McFarland, the Ulster Unionist Party said that it acknowledged that confidence in the unionist community was not yet there, and that it was not possible to agree to the devolution of policing and justice at that time. However, he went on to say that if the barrier of Sinn Féin announcing support for the police were removed and devolution was restored — both of which have happened — that would provide the necessary confidence. Those were the conditions that he laid down. On that same occasion, he then had the audacity to attack the DUP for its reluctance to provide a time frame to assist Sinn Féin. He regarded that as a misguided position. Therefore, the party that claims that it could not touch the principle of the Bill is the same one that chided us for not giving a timetable for the devolution of policing and justice during meetings of the Preparation for Government Committee.

**Mr B McCrea:** I am grateful to the First Minister for giving way. I am the third person to put my head above the parapet. *[Interruption.]*

I hear a lot of yahooping and cavorting. However, having listened to the First Minister's explanation, I want to make a serious point. Does he agree that circumstances have changed since the time that he referred to? Does he agree that the Executive have faced difficulties? Does he agree that there has been some difficulty with dissident republican activity? Does he agree that there have been difficulties with education, with parades, with the Maze and other issues, all of which have served to undermine public confidence in these institutions?

I was not an MLA during the days that the First Minister referred to. Therefore, I know about the optimism that existed outside this place. People had can-do attitudes and were eager to see what could be achieved.

The First Minister spoke most eloquently, and I mean this most sincerely, because he has the privilege of rank and he can talk with a command of the detail. He agreed that some of the issues that were raised by

my party deserve serious consideration. Our opposition at this stage is aimed at sending the message that we are concerned about the long-term future. We are quite happy to work with people to try to resolve the issues, but we feel that we are missing a trick. There is a danger of winning the battle but losing the war.

**The First Minister:** Again, I will address the dysfunctionality argument, because it has permeated the debate. It probably came to a crescendo when Dolores Kelly spoke. During her tirade, as she threw her arms in the air, she indicated that the Executive had agreed nothing and that they could not take decisions that will benefit the people of Northern Ireland. That argument was followed up by the Ulster Unionist Party. None of that is new; they have been pumping out those same arguments every day for a long time. As soon as there is a difficulty — and difficulties will always occur in government — they talk about a dysfunctional Executive that cannot agree and about the Assembly not working. They do, of course, have a ready audience in the form of the media, which looks for any issue on which they can cause controversy.

Let us have a more objective consideration of the exact nature of that dysfunctionality. Such consideration is within the context of the debate on the Bill because a dysfunctional Executive has been suggested as one reason for not proceeding with it.

Comparisons can be made with the SDLP and the Ulster Unionist Party, which are the two parties of the centre. The message that they seek to send out is that, if only they were in government, everything would be peace and light, the sun would shine every day, the children would be skipping in the streets, and life would be wonderful.

Let us, however, consider the facts. The SDLP and the Ulster Unionist Party jointly led the Government during 31 months of devolution, whereas the current period of devolution stands at 29 months. The Ulster Unionists and the SDLP, therefore, had more time as leaders of the Executive than the DUP and Sinn Féin. What was accomplished? How many agreements did the SDLP and the Ulster Unionists reach at the Executive during that period? I will tell them: when Seamus Mallon was the deputy First Minister, they reached 194 agreements, and, when Mark Durkan was the deputy First Minister, they reached 126 agreements. Over a period of 31 months, they reached a total of 320 agreements.

Surely the current lousy, dysfunctional Executive could not meet the standards set by the Ulster Unionist Party and the SDLP. Surely the 320 issues on which they reached agreement was such a benchmark that it could never be beaten. However, in less time than it took the SDLP and the Ulster Unionists to reach agreement on 320 issues, the current Executive have

reached agreement on 451 issues. We have, therefore, significantly increased the standard.

**Mr McFarland:** Is the First Minister referring to the number of pages?

**The First Minister:** The Executive have reached agreement on 451 issues.

**Mrs D Kelly:** Will the First Minister give way?

**The First Minister:** I will do so in a moment.

Very few of those 451 issues went to a division. Those two parties, over a longer period, accomplished about two thirds of the number that we have achieved. Despite that, they sit there, sanctimoniously pointing the finger and saying that dysfunctional parties cannot run the Executive — we have done a better job than them.

**Some Members:** Hear, hear.

**Mrs D Kelly:** Mr Speaker, I note the latitude that you gave to the First Minister, given that he made little reference to the Bill.

It is a matter of record that the legislation that was approved, the agreements reached and work done amount to much more happening during the tenure and leadership of the SDLP and the Ulster Unionist Party.

Does the First Minister not agree that one of the most important problems in society is the cancer of sectarianism? That must be addressed, but what did the dysfunctional Executive do last week? Sinn Féin published its document, and the DUP subsequently published on its website the document on which it thought it had secured agreement with Sinn Féin.

**The First Minister:** In 31 months, the Ulster Unionists and the SDLP did not produce any document. *[Laughter.]*

**Mr Kennedy:** Will the First Minister give way?

**The First Minister:** I will, but it is better that I answer one intervention before taking another.

I find it slightly offensive that the Member attempts to chide the Speaker for giving me the flexibility to respond to remarks that she made earlier. The Member allows herself the flexibility to talk about a dysfunctional Executive but, if anyone dares to respond, she complains to the Speaker about his allowing similar flexibility.

**Mr Kennedy:** I am grateful to the First Minister for giving way. I accept that the landscape is different from what it was in 2003. I also accept that the DUP is now the leading party in unionism, although I hope that that will be temporary. However, let me bring matters up to date: based on the comments of the First Minister's senior colleagues here today, some of whom hold dual mandates in this House and in Westminster, and given the not insignificant warnings that were posted today from this House; assuming that the enabling power will pass through its various stages and will be



granted to the First Minister; how optimistic is he of achieving the devolution of policing and justice soon?

**Mr Speaker:** Before the First Minister responds to that point and to the issue that was raised by Dolores Kelly, I make it absolutely clear that every Member has had an opportunity to speak during the Second Stage of this Bill. All Members on all sides need to be honest: they received quite a bit of latitude in going outside the Second Stage of the Bill. Let us have a wee bit of honesty: the First Minister is answering comments that were made in this House by a number of Members. Let us not have double standards; let us protect the integrity and the business of this House, because that is what this is about and what my job is about.

**The First Minister:** I make it clear to the Member who asked the question — to those in the Chamber and those outside it — that, from the earliest moment of the prospect of devolution to Northern Ireland, documents from the Democratic Unionist Party were submitted to Government that argued the importance of the devolution of policing and justice powers. It is not a new position for us: it has always been our position.

As was mentioned in the debate, it was of particular importance to Carson and Craigavon during the negotiations that saw our Stormont Parliament being set up that the critical functions of policing and justice would be part of the Government's responsibilities. Brian Faulkner did not think it worth having a Government without those responsibilities for the reasons that a number of Members set out. We want policing and justice powers to return to Northern Ireland.

However, our consistent position, which was laid down in manifestos and in policy documents, is that because of the life-and-death, vitally sensitive issues that touch on the lives of every citizen, which I set out at the beginning, it had to be done right. It had to be done in a way that inspired community confidence. Community confidence was put at the heart of our manifesto. It was put at the heart of all our policy documents not to obstruct the devolution of policing and justice but because it was regarded as the essential ingredient.

Think what would happen if we were to have policing and justice powers with a justice Minister, and a significant section of our community could not stomach the fact that that was the position. All sorts of scenarios could be played out. It is vital that we have community confidence. It is also vital, as soon as we have all the other ingredients in place, that we all go out and win that community confidence; we should not sit back and hope that it comes along.

We recognised that two elements were central to achieving community confidence: the institutional arrangements and the financial arrangements. They

would be critical in convincing the public that devolving policing and justice powers was the right thing for us to do.

8.00 pm

If I had a blank piece of paper and I were left on my own to write the scheme, I would not come up with that which we have. It is not the best scheme out, any more than our devolution structures are perfect; indeed, they have their imperfections.

I feel no embarrassment or any disloyalty to either the deputy First Minister or the Assembly. If I see ways of improving how we do business in the Assembly to get better delivery for the people of Northern Ireland, I have a duty to speak out. That is not to degrade or denigrate the great deal that we have achieved already. I believe that we have secured agreements where nobody expected us to. I believe that we have been able to deliver for the people of Northern Ireland; however, we have perhaps not sold properly what we have delivered. I believe that changes that have benefited the people of Northern Ireland over the past two years would never have been seen under direct rule.

Coming back to policing and justice, it is essential that we deal with the issues of institutional arrangements and finance to ensure that we build the community confidence, which, in our view, is essential.

As far as the institutional arrangements are concerned, broadly speaking, I believe that the arrangements in the Bill are fair and workable. If I did not believe that, I would not have recommended them to the Assembly and Executive Review Committee or, perhaps more importantly, to my colleagues. Therefore, I believe that the institutional arrangements can get the support of the community.

The financial arrangements are not yet in place. Indeed, for months we have been talking to officials and to Ministers without much movement on the matter. Most of the work has been in identifying where the pressures were and the extent to which those pressures were inescapable. I think that we now have thorough engagement with Government about what they will do to be able to meet the financial pressures that, unquestionably the police and justice agencies, prisons probation boards and the other bodies will face.

However, we are not there yet. We are still interrogating those figures, and we are almost in a stand-off position, because we are leaving it to officials in the Department of Finance and Personnel to advise us on whether the proposals meet the necessary criteria. That is a responsible position for us to adopt. Rather than attempt to impose a political will to push on to get devolution quicker than the finances would allow us or to hide behind finances as a reason to hold back, we are allowing officials to look at the finances

realistically and to tell us the position that we would put the Province in.

I point out to Members that finance is no small issue. Any member of the Assembly and Executive Review Committee who has looked at the details of the finances knows that they represent very considerable pressures. The Government identified those pressures in some way when they gave us £27 million or whatever it was in the past weeks, only to effectively take £17 million back again by tightening the screw on spending.

Issues that are related to hearing loss could cost hundreds of millions of pounds, and it would be madness for the Ministers who are responsible for making recommendations to ignore those. We must deal with big-ticket items such as legal aid and equal pay, and pensions are no small matter. We also have to deal with a long list of what might be considered in simple, one-line terms to be small items. However, their cumulative effect makes them bigger than any of the big-ticket items.

Finance is not an easy matter to manage, but in my view, the Prime Minister and his officials are now dealing with it seriously. I believe that we made real progress on a number of those issues not just last night, but in previous meetings. Therefore, we are making progress. We are not going to the United States to have a meeting about policing and justice, but if the Prime Minister is there, and we are there and time is available, we will want to try to make further progress, because we want to see what the Prime Minister is prepared to do on some of those issues. Therefore, I hope that we can make more progress than we have made so far on the financing of policing and justice.

But that still leaves us with the matter of community confidence. The Ulster Unionist Party seems to be feeling a little sensitive about being left out, but, as I have pointed out publicly — and I do not retract one word of it — when the Democratic Unionist Party put into its manifesto that it was essential to be satisfied that there is community confidence, it did not say that it wanted the confidence of the leader of the DUP, the DUP Assembly group or the party as a whole; it said that it wanted community confidence.

The Ulster Unionist Party is part of that community, and we will want to hear exactly what it has to say on these matters. However, it will not be able to duck the serious questions that we have to face. If the UUP wants to give me plenipotentiary powers and allow me to take decisions on its behalf, I will do so, but, in my view, the matter is such that the Ulster Unionist Party, the Alliance Party, the SDLP, Sinn Féin and anybody else in the Assembly should have their say about whether the time is right for devolving policing and justice. They will not be ignored during the process.

**Mr B McCrea:** I listened with interest to what the First Minister said. Throughout the debate, we have been signalling that we have concerns and opinions about which we would like to engage with him. However, we have been royally vilified, and some Members even laughed and called into question the points that we brought forward. It seems to me that if there is to be a way to build community confidence, it could be ably demonstrated in the Chamber by how people respond to heartfelt and genuine concerns; concerns that I happen to know are shared by many people, not just members of the UUP. Therefore, I say to the First Minister that I hear what you say, but actions speak louder than words.

**The First Minister:** First, I do not believe that anybody was laughing, scoffing or otherwise screaming at him about any concerns that he may have. I rather suspect that some of those concerns are shared on these Benches. The inconsistency in the Ulster Unionist Party's position is that having and expressing those concerns is a reason to vote against an enabling Bill, which does nothing to determine the date for the devolution of policing and justice. That is the gap between our positions.

Similarly, I cannot understand why the SDLP did not vote against the Assembly and Executive Review Committee's report, but claims that it will vote against the Bill tonight. Likewise, the Ulster Unionist party says that it believes in principle in the devolution of policing and justice, but, like the rest of us, has concerns, and therefore will vote against having the legislation in place that, at a later stage, will enable that to happen. Surely we have enough confidence in ourselves to know that the issue will come to the Assembly, which can then determine whether the moment is right. I have said publicly — now for the fifth or sixth time — that we will not reach that stage until we have had the very conversations that the Member suggests should take place.

This is a community issue. In fact, I will go further; it is not just a matter for the parties in the Assembly. If Members look at the process paper that the deputy First Minister and I handed over to the Assembly and Executive Review Committee, they will see that a consultation process with the community as a whole is one of the process points that must be followed. Would it not be wrong for us to ignore what the community has to say about such an important matter?

Again I go back to the issue: I do not object in any way to Members expressing concerns about timing or, indeed, the mechanisms that will be used, but that is not the subject of the Bill that is before us tonight.

**Mr Kennedy:** I am grateful to the First Minister for giving way again. We accept that the legislation is enabling legislation, and it is a fact that it contains no

time or date. However, it is very important that the First Minister and all Members of the House understand that, crucially, it is also a fact that the Ulster Unionist Party and other parties have been excluded from the detailed negotiations that are ongoing in Downing Street and that will undoubtedly continue in Washington, New York or somewhere else in the United States of America this week. That raises the fundamental concern that we cannot and will not, as a political party, give a blank cheque to those negotiations.

**The First Minister:** I do not think that anybody would ask that of anyone in the House; I would not ask my own party colleagues to give me a blank cheque on those matters. Every one of them will want to see exactly what the financial arrangements are; they will want absolute open and transparent disclosure in the course of the further discussions that we have, as indeed they will for any other issues that are of concern to them.

**Dr W McCrea:** I ask my honourable friend to think back to the talks at Weston Park in which the Ulster Unionist Party took the lead. The only news that we were given was drip-fed to us from people who were in the talks. Certainly, the leader of the Ulster Unionist Party did not tell the people of Ulster what was agreed there.

**The First Minister:** That applies not just to what happened at Weston Park, it has to be said. The Ulster Unionist Party even attempted to stop me, as a Minister, from getting Executive papers. I had to go to court to get financial and other papers that were going to the Executive and that they withheld from me. Therefore, I will not take lectures about the lack of consultation and so forth.

I am being open. I have indicated publicly that I am willing to set up a mechanism, both for the SDLP and the Ulster Unionists, to talk about the issues that the Executive have to deal with and about any other matters that they want. I have asked my special advisers already to see whether arrangements can be made with the special advisers of the Ulster Unionist Party and the SDLP to ensure that we have a better relationship.

Let us be very clear: this is not a matter of Sinn Féin and the DUP keeping the Ulster Unionist Party and the SDLP out. Up to now, it has been a matter of the SDLP and the Ulster Unionist Party seeing themselves as being opposition in the Executive. I hope that we will see a change in that situation. Indeed, we have heard an example of that today. There has been talk about huckster shops and people getting Executive papers at the last moment. What happened when the papers were given out with plenty of time? On the same day that the Finance Minister sent a paper to other Ministers, it was leaked to the BBC. If we are to have an Executive in which there is a proper functioning partnership —

**Mr A Maskey:** Where did the leak come from?

**The First Minister:** The Member should not ask where the leak came from; he might get an answer.

The facts are that the SDLP and the Ulster Unionist Party have gloried in being opposition in the Executive. It did not really matter what the issue was; they wanted to be against it. If they thought that there was going to be the least bit of hardship over a decision that was to be made, they wanted to be against that general principle. That is OK for an opposition party; we expect such parties to do that. However, if we have parties in the Executive, particularly in circumstances where greater responsibilities are going to be handed over, we expect a team to be playing together. That is not simply a case of Sinn Féin and the DUP allowing greater disclosures to the SDLP and Ulster Unionists; it is a matter of those parties playing as part of a team.

**Mr Kennedy:** Will the Member give way?

**The First Minister:** I will give way in a moment. We had a second example in the Chamber today, with an Ulster Unionist Minister. Can anybody imagine a Minister in any Cabinet anywhere in the world coming to an Assembly about a financial matter in the way that that Ulster Unionist Minister did today? That Minister has 50% of the block grant, which is all the money that is available to us in Northern Ireland. He has a better settlement than any Health Minister has ever had. What is his reaction to the first difficulty that comes along, the first hard decision that he has to make? He said that it is the Finance Minister's fault.

That is not the way that Executive Ministers should be acting. The Health Minister signed up to the Budget; he agreed to it, and we expect people to work together in the Executive as a collective. That is even more important.

If we have not moved too far away from the point that Mr Kennedy was going to raise, I will give way to him.

8.15 pm

**Mr Kennedy:** I am grateful to the First Minister for giving way, yet again. Methinks the First Minister doth protest too much, particularly on the issue of the role of what are called "opposition" parties operating in the Executive. It seemed to me and to a large number of people, including Members of the House and people outside the House, that he and his party successfully deployed such tactics in the period when the DUP was not the leading party and when he did not have the full responsibilities that he has now. It is a bit rich of him to lecture us in those terms today.

**The First Minister:** The Member's memory is a little defective, because we held exactly that kind of role, and we made it clear that our objective in relation to the Belfast Agreement was to bring it down. That was our deployment, and since we made the changes

that were required due to the unsuccessful negotiating of the Ulster Unionist Party and managed to get a better deal for the unionist community in Northern Ireland, we have succeeded. The electorate supported us because of the programme that we were developing. Is the Ulster Unionist Party saying that it is adopting the tactics of the DUP because it wants to bring the agreement down? That is where those tactics were bound to lead, and that is why we deployed them.

*(Mr Deputy Speaker [Mr Molloy] in the Chair)*

If the Member is against the structures that we have here and the form of devolution that we have, I recognise that he has a right to carry on with the wrecking tactics, if that is the idea. However, we have got a better deal now to stand over the kind of structures that we have. If the Member wants the system to work, I hope that he will join with the rest of us as full members of the team, working with his Executive colleagues as part of a collective, and not leaking information and trying to damage the Executive by handing out stories to journalists that might be of interest in order to undermine the Executive and their work. I am not suggesting that the Member leaked the information, because he was not there.

**Mr Kennedy:** I am grateful to the First Minister for giving way. Why would we want to wreck something that we created and worked hard to create? Let me reassure the First Minister and other Members, lest they may be in any doubt: the Ulster Unionist Party worked hard to create the conditions for devolution, and we will continue to work hard to create proper conditions for the devolution of policing and justice. We are not in the business of wrecking, and we never have been — unlike some parties in the House.

**The First Minister:** I get around the Province as much as, and perhaps more than, most Members. I meet people of every shade of opinion and at every level of our society. If the Member thinks that through his party's constant references to dysfunctionality, comments about the Executive not doing particular things and decisions not being taken, it is supporting and building up the credibility of the structures that we have here, he is mistaken. In the community, there is an unhealthy disrespect for the Assembly and for the work that it does. It is our responsibility to show that we can act responsibly and that we want to make the Assembly and Executive work. That is a job that every one of us has to do, and we will not do it if we try from the inside to act as saboteurs or fifth columnists and try to bring it down.

**Mr Durkan:** We, on these Benches, are not trying to wreck anything: we have never sought to wreck anything here. We have tried to make the Assembly and Executive work, and we have done that by proposing motions that suggest better ways of handling issues in

relation to public finances and that suggest that all the parties work together in a new Committee to deal with a lot of the structural problems in the Budget. All of those motions contained positive proposals to deal with those issues, and we proposed them in order to play our part and not to wreck anything. However, each proposal that we made to deal with serious issues, and deal with them collectively, was voted down by Sinn Féin and the DUP.

**The First Minister:** I could tell an entirely different story, but I do not think that it would help to bind the wounds that exist.

Some Ministers sit at the Executive table, texting people outside to get details of confidential discussions to the press, and I do not believe that that is the best way forward for the Executive. Furthermore, some Ministers record their dissent in the minutes on every issue that is a little bit controversial or that might have a downside to it. Being in the Executive is about taking difficult decisions, and it is about being unpopular at times because of those decisions. One cannot be in a four-party mandatory coalition, and take all the benefits of being in that coalition, but, at the same time, use one's position to make out that the other members of the coalition are responsible when things go wrong. If an Executive are to function properly and take the responsibilities that we are talking about, there must be more collectivity within it, and a more responsible attitude must be taken.

I will not make any more of that point, but I want to make it clear that there is not a one-way process that the SDLP and the Ulster Unionist Party are being kept out of. Those parties' actions have created a gap between them and the two leading parties in the Executive. I hope that that gap can be closed, and I hope that there is a will on the part of the Ulster Unionist Party and the SDLP to do that. If there is a genuine desire to be a more collective Executive, and to move forward, I believe that that will be reciprocated by both Sinn Féin and the DUP.

I must move on now, because I have spoken for almost an hour, and I am not even halfway through my responses to comments. *[Laughter.]*

On four occasions, Members referred to the devolution of policing and justice powers not occurring in "a political lifetime". I have sourced the original reference to that and the context in which it was said. The references that were made in the House of Commons were made during a discussion of legislation that specifically designed a ministerial role for Sinn Féin in policing and justice. Nigel Dodds, and possibly others, made those comments in that context. Those remarks were clearly made in that context, and they were also set out in the DUP's policy document in the same context. However some people in the House, and other

mischievous and malevolent people outside it, have chosen to use those comments without being honest enough to give the context in which they were made.

During an intervention, Mr Kennedy made some remarks about his concern about the financial package — Members will note that I am still dealing with the first person who spoke in the debate. Mr Kennedy's remarks related to the financial package, and, to paraphrase his case, he is looking forward to learning the outcomes of the current financial discussions while telling us to look at what happened the last time.

Well, let us be clear what has happened. No other part of the United Kingdom has had a better deal on financing than Northern Ireland. When we go to the Westminster Government to discuss issues on which we require financial assistance, they are not slow at pointing out that they will talk to us about those matters, but that repercussiveness is such that they have problems when they make such gestures to Northern Ireland, because other places in Scotland, Wales and elsewhere will ask for the same.

When the original settlement was made, we were granted a guaranteed flat real growth, plus an additional £100 million each year, over the comprehensive spending review (CSR) period. That was at a time when many Whitehall Departments were facing reductions in their budgets. Furthermore, we were given an additional £100 million in 2007-08 to manage the delay of introducing water charges, and to provide funding for innovation.

Moreover, we had access to additional spending under end-year flexibility of £320 million; a £400 million contribution from the Irish Government for a substantial new roads programme; and a breaking of the link between access to borrowing under the reinvestment and reform initiative, with a requirement to close the gap with other GB councils in tax rate. Indeed, had that latter point not been agreed, we would not have been able to freeze rates, as we have done, over the last three years of the Budget settlement.

As Finance Minister during the negotiations on the comprehensive spending review, I was able to secure additional funding over and above that which was previously agreed with the Chancellor of the Exchequer.

That included an additional £443 million over and above the CSR guarantee; access to additional end-year flexibility over and above the previous agreed figure of £295 million; and access to £106 million of reinvestment and reform initiative (RRI) borrowing. That was the nature of the package that was agreed when we entered into devolution — a very good package for Northern Ireland. If the figures are added up, we have had access to a figure of around £1 billion, which we have used.

However, that is not where the Executive stop. Even after we got into Government, we were prepared to go back to the Prime Minister when issues were at stake. I remember going to Downing Street with the Finance Minister and the deputy First Minister to argue the case, and we came back with agreements from the Government worth about £900 million, which allowed us to have money available for the equal pay issue and to have funds available for a further deferment of water charges. We negotiated very good financial packages from the Government in the past, and we will not settle for a financial package for policing and justice that is second best.

**Mr Durkan:** Will the First Minister tell us exactly how much of the £900 million was to go towards the equal pay issue and why the matter has not been resolved?

**The First Minister:** The Finance Minister was intending to talk about that today, but I do not know whether he has managed to do so yet. An offer has been made on equal pay, and we are waiting for — *[Interruption.]* The Member says no and the Finance Minister says yes. I suspect that the Finance Minister knows an awful lot more about it than the Member. The offer has been made. Obviously, it has to be considered by the unions on behalf of their members, and they will come back with a response.

Again, it was this Administration that recognised the inequality and sought to put it right. That inequality was there when the Ulster Unionist Party and the SDLP were the main parties in Government, but it was this Administration that decided that the issue had to be tackled, and I hope that it can be dealt with as speedily as possible. If the Member will forgive me, I do not want to get into the figures while the Department and the unions are in the middle of negotiations.

I come to the issue of the sunset clause, which will interest the Member for Foyle. The sunset clause is as much a challenge to the Executive and the Assembly as it is an attempt to ensure any particular outcome thereafter. We will be working until 2012 under the system that we have agreed. With the benefits that the Executive, the Assembly and its Committees will have of seeing any operation of policing of justice under those structures, they will be able to determine what the most appropriate future structure for policing and justice may be. They might decide that they want to change it, or they might decide that as it has worked so swimmingly they want to keep it, but whatever happens, they will decide from a position of experience.

I am not planning for failure. I want us to succeed, and not only with regard to the operation of the function. I want any negotiations to succeed in working out where we go in 2012, as far as a permanent resolution

to the structures is concerned. It is not surprising, and it is not wrong, for any Member to say "OK, one can plan for success but failure may be the result whether one wants it or not". Therefore, what do we do in circumstances where, although we want an outcome in 2012, we cannot agree on one? It is absurd to suggest that if we were unable to agree in 2012, that the judges and the police will not be paid and that there will be no ministerial responsibility. We all know that the Government have a back-up plan in mind. I suspect that the Government would step in after a time, anyway. We do not intend to get to that stage. We do not plan for failure. We want those negotiations to reach a successful outcome.

The Member for Foyle has a particular view of what the legislation might mean.

I am aware of the section that he is referring to, and I am aware that it is possible to put on it the construction that he puts on it. However, neither he nor I knows what the courts would decide in those circumstances. I suspect that if he is using the same lawyers to advise him as advised the Minister for Social Development in the past, it might be as well if he does not place too much reliance on the advice that he has received thus far.

8.30 pm

Our advice thus far is not in line with the view being expressed by the Member for Foyle. Indeed, whether it was or was not would not concern me, because I want to see agreement reached on a way forward, and if it is not reached, I rather suspect that, before that legislation is used to map the way forward, the Government will have considered other possibilities rather than imposing a resolution on us. Although, in some legal sense, the Member may be able to construct an argument that that is what might happen, in a political sense, it is very unlikely that that route would be taken by a Secretary of State.

I will now turn to the other SDLP consideration. Alban Maginness, Mark Durkan, and, particularly, Alex Attwood dealt with the issue of the departure from d'Hondt. At times, I wonder whether anybody really thinks that the heart and soul of the Belfast Agreement is the d'Hondt mechanism; that somehow it is the indispensable part of the Belfast Agreement; that somehow it is of such import and such moment that nothing else can exist unless d'Hondt is in place. There are Members who treat d'Hondt as if it were the law of the Medes and Persians, which changeth not. It is a mechanism: that is all it is. It is a mechanism to achieve proportional representation.

I want to know what the great sin is. What is the draconian measure that the deputy First Minister and I were proposing to the Assembly and Executive Review Committee should be deployed in order to get a justice Minister appointed? Clearly, it must be dreadful. It

must be some bigoted system that we have concocted. It must be partisan in the way that it is presented, because nothing can compare to d'Hondt. What is this system? It is that we want to ensure that both sections of our community are supportive of the new justice Minister, to the extent that we not only require a majority of Members of the Assembly to endorse it; we want to ensure that it is endorsed by a majority of the nationalist Members and a majority of the unionist Members. That will ensure that the person appointed will have support across the community and not simply the confidence of a nominating officer, which is all that such a Minister would have if he or she were appointed through d'Hondt.

The position is of such importance that we believed that the second mile was necessary to ensure that the person appointed has the confidence of the widespread community. I admit, from a party point of view, that I do not have the kind of adherence to the d'Hondt system that the Ulster Unionists have declared themselves to have, as has the SDLP. It is a system that can give a result through proportional representation, but I would rather be a justice Minister who is appointed by the cross-community vote of the Assembly than one who is simply appointed by the nominating officer of my party. That would give me a lot more force, strength and influence in the community.

**Mr Durkan:** The key principle of the Good Friday Agreement is democratic inclusion according to mandate. The d'Hondt system was one mechanism to achieve that, and there are others. However, the key principle is democratic inclusion according to mandate. This Bill bypasses that, because it creates a situation in which one party is able to deliberately discriminate against a party that is entitled to a further Ministry and pick another party that does not have the mandate for that entitlement. The principle is democratic inclusion according to mandate. That is the issue.

Upstairs, the First Minister told me that the DUP wants that option so that it can permanently veto Sinn Féin. It is intended as a permanent veto; he told me that directly and honestly in discussions. Let him not pretend that it is otherwise.

**The First Minister:** The issue of Sinn Féin's holding of the Ministry has already been dealt with. Sinn Féin already indicated that it would not put anyone forward for it. Sinn Féin and the DUP were in a structure in which we had the ability to put someone forward but, in spite of having that ability, we decided that this was the fairest possible system and one that was likely to bring the widest level of support for the person who is to hold the post.

The methodology that we are using is not unique. It is used for critical votes in the Assembly, the Speaker is elected according to it, and the deputy First Minister

and I are required to have that level of support. There is nothing new in the fact that some positions are appointed by a system that is different from Mr Durkan's precious d'Hondt system. That system is not the only show in town, and I cannot think of any issue other than the matter of policing and justice for which it is more important to have cross-community support and to have a Minister who has support that is drawn from both sections of the community.

**Mr Durkan:** Will the First Minister give way?

**The First Minister:** I will give way again to the Member shortly; I have not denied anyone the right to an intervention.

In relation to Mr Durkan's mathematics, if we had decided to use the d'Hondt system, an additional Minister would not have been added; the Minister could have come from the existing 10. Therefore, it would have had no impact on the number of SDLP Ministers. We reckoned that because the final decision on the way that we would operate would not be made until 2012, that was a good step to take because we could see how it worked and could make judgements based on that.

**Mr Durkan:** The First Minister may recall that, in our discussions, the SDLP made it clear that if parties were to choose the option of keeping 10 Departments by creating one new Department and merging some others, we would have no problem with that on the basis that d'Hondt would be run. That is what the Good Friday Agreement requires and envisages; we never opposed that, and, in fact, we wanted that. He is the man who says that he wants to reduce the number of Departments, and he is the man who rejected that option. He did so because he did not want d'Hondt because it is based on democratic inclusion according to mandate. That was in the Good Friday Agreement, but it would not allow him to veto Sinn Féin or any other nationalists that he chose to.

**The First Minister:** The Member should not get excited. He is not going to hear me denying the fact that I have no attachment to d'Hondt; I hold my hands up to that. I do not believe that d'Hondt has any exceptional powers or provides any exceptional outcomes compared with any other proportional system. In many ways, d'Hondt distorts the outcome.

I return to my initial proposition. The current Executive have been able to agree much more often than their predecessor Executive, and reach more decisions and operate more smoothly than they did, without interruptions because of suspensions and collapse. The fact remains, however, that improvements can still be made.

I have still not dealt with the issue that affects the "cross-Benchers", whose votes effectively do not count on certain matters. Of course, I am ready, through the

Assembly and Executive Review Committee and elsewhere, to look at all the issues, such as how appointments are made, including appointments to the positions of First Minister and deputy First Minister. All of that can be in the mix, and we can consider how we might go forward. Perhaps, some day, we will get change that is beneficial and that normalises the democratic rules in the Chamber.

**Mrs Long:** During the debate, some Members have talked about the agreement as though it were the end point of a process. Will the First Minister agree that the Good Friday Agreement was put in place so that we could facilitate further agreements and developments in this place that would be democratically challenged, just as is happening with today's debate, so that we can further democracy and progress, rather than simply enshrining everything according to what was agreed in 1998 and failing to see that any further progress can be made?

**The First Minister:** The Member is absolutely right. Some people treat politics and political ideology as though they were theology, in that they must not change and they are fixed. Politics moves, and circumstances change. Improvements can be made, and new systems can be recognised. New conditions apply, and changes are, therefore, necessary. Even if the agreement did not allow for change, politics would require it. Politics can never stay at one fixed point.

Even if the Assembly could improve on what has gone previously, it would be nonsense for it to say that what has gone previously is so special and important that not one word, jot or tittle of it can be changed. No sensible politician would ever take that position. If improvements can be made, they should be made, regardless of whether they offend the architects of the original structures. We must recognise that politics is about change, improvement and better delivery for all people. That requires the machinery of government to be modernised continually.

I want to discuss the remarks that Mr Farry, a Member for North Down, made. He talked about the removal of a justice Minister. He also made certain remarks that, effectively, asserted that an Alliance Party Minister, in those circumstances, would not be anybody's patsy. If the House felt that it was electing a justice Minister who would be a serf, or subservient, or any of those other terms that were being used by certain Members in a derogatory fashion, I do not believe that it would vote for such a person.

The justice Minister will have to perform a difficult role. That person will require my support and that of the deputy First Minister and, I suspect, that of every one of our Executive colleagues and the Assembly itself. Therefore, that Minister's role will not be one in which he or she is isolated.

Under the legislation, the justice Minister will play a full part in the workings of the Executive. He or she will be able, and be entitled, to ask for my support and that of the deputy First Minister on matters that he or she believes to be important. The Minister will be able to go to the Finance Minister if he or she believes that there are pressures that require him to go back to the Treasury, for example.

Therefore, no matter what the final result of the Assembly's vote might be, we do not consider that the person who is appointed will be some kind of hand puppet who will be manipulated by the deputy First Minister and me.

As regards Mr Farry's point about the Minister's removal, I do not believe that anybody would consider it right that, because we have some political disagreement with the Minister who is appointed, he or she will be turfed out. We are talking about the removal of a Minister for real reasons, regardless of whether they are to do with his or her behaviour outside the political arena, or with a matter of trust, for example.

Protocols can be worked out by the new Minister and his or her Executive colleagues. Therefore, we can look at protocols to deal with functioning, and not just for removal, incidentally. If I were justice Minister, I would want to know much more about the decision-making process to ensure that if action needed to be taken, I would have the necessary support to do that. Protocols will have to be put in place for that.

Dealing with policing and justice will require decisions to be made now, not in weeks' or months' time. Unquestionably, we will want to ensure that we give the Minister whatever support we can to ensure that he or she can do his or her job to its full potential.

8.45 pm

**Dr Farry:** I am grateful to the First Minister for giving way. I appreciate that the Assembly has yet to finalise and discuss the issue of timescales. However, will he comment on the importance of trying to reach as much consensus as possible on policy matters from all political parties in advance of devolution to assist in its smooth running? That way, we can prove to people that devolution can make a real difference to people's lives.

**The First Minister:** The Member has a valid point. We cannot have a Programme for Government to deal with the existing Departments, and not have an agreement on the programme for policing and justice. Obviously, a new justice Minister will have to operate within the status quo of the existing structures, unless there are agreements on how those can be changed. Just as there is a Programme for Government for other Departments, we will want a programme for policing and justice. We will want to start work on that as soon

as practicable. Our only difficulties are that we are still outside the Department in that we do not know exactly which issues it will face. We know that some of the big issues will be set in the community; however, I think that we probably need a greater deal of knowledge about the internal issues of the Department.

The Member for North Down Alan McFarland, who has since disappeared from the Chamber, started off his contribution by making some very helpful comments about the level of devolution that has already taken place. Some people believe that we are moving into new territory with the devolution of policing and justice. However, as Mr McFarland pointed out, the Chief Constable and the judiciary are already independent, and they effectively take care of the operation of the police and the courts, respectively. The Policing Board, which has been functioning for some considerable time, is also independent. There has been a high level of agreement in its decisions. I believe that it is entitled to the respect of the community for the job that it is doing.

On behalf of the Assembly, I take this opportunity to wish the new Chief Constable every success in the job. I know that he will have the support of Assembly Members. He is undertaking a difficult task, but it is good to know that he was selected unanimously by the panel. That puts him in strong position as he takes up the post.

Mr McFarland was right to point out that a high level of devolution of policing and justice matters has already taken place in Northern Ireland. We are looking at taking over the last vestiges of that: the policy and legislative role that exists.

**Mr Attwood:** I thank the First Minister for giving way, and I apologise for missing his earlier comments. On the issue of the Executive taking over the vestiges of policing and justice policy, will the Minister reassure the Assembly that the posts of the permanent secretary and senior directors will be subject to public and open competition?

Is the First Minister in a position to confirm whether senior NIO officials, who work down the road from here, will move across en masse to become senior officials in a Department of justice? If that is the case, does he think that that is a good way of building confidence, given how the NIO has handled certain issues in the past?

**The First Minister:** The powers have not been devolved. Ipso facto, we have not taken any decisions on those issues, and the Executive have not considered any paper on those matters. However, NIO officials might have a view on that, and the NIO itself might well have a proposal.

The Northern Ireland Office and officials here might be making some working assumptions. Ultimately, if



the powers come here, those are matters that we will have to consider in due course, and I am sure that the Executive will want to look at them. However, no paper on that matter has come to the Executive.

There was a slight change in tone from the Member who raised the issue; he started off by talking about staff in general terms before referring to heads of Departments and higher level staff. If there were to be a complete clearout, and present staff were to be replaced by some — I was going to say virgin figures, but I do not want to be misunderstood — fresh faces who have no experience of the issues that have been dealt with in recent weeks, months and years, there would be very real problems. Therefore, there has to be a transfer of staff, but the extent and level of that is something that we have yet to deal with.

**Mr Attwood:** Will the Member give way?

**The First Minister:** I am not sure what benefit there is in asking me further questions when I have not been able to answer in full the one that he just asked.

**Mr Attwood:** Should there be an open competition for the post of permanent secretary in the new Department of justice, or has someone already been identified for the post, who will drop into place at the relevant moment?

**The First Minister:** Now that the matter has been taken down to a particular individual, it would be entirely wrong for me to comment on it publicly. We are happy to discuss with the SDLP and others the processes that we can go through. I reiterate that we need people with experience and knowledge of the operation of policing and justice, particularly in circumstances in which we do not have experience of operating those systems.

**Mr Kennedy:** I thank the First Minister for giving way again. If the legislation completes all its stages, will that facilitate a situation in which persons could be appointed to a potential policing and justice Department in shadow form?

**The First Minister:** The passage of this piece of legislation will not make one bit of difference to what could happen as regards an existing Department. Until a commencement Order is signed, powers will not be devolved. If any Minister in the Northern Ireland Office wants to act before the Assembly makes a decision, he or she will be accountable to the Public Accounts Committee at Westminster for any expenditure that takes place. Having some knowledge of the Public Accounts Committee at Westminster, I would be loath to take that burden upon myself. There has to be a legal basis for the expenditure of money.

If movement were taking place, it would not be unnatural for preparations to be made. No doubt, there are people who are applying their minds to that at the

moment. Whether that is the final outcome is something that time alone will tell.

The issue of parading was raised by a UUP Member. I agree with him; it would be the worst of circumstances if a new justice Minister had to go into a post and have to deal with controversial parading issues. If it is possible to make progress on that through the work of the Ashdown review group, it should be done. Parading is one of the issues that my colleagues and I have been pressing with the Prime Minister and the Secretary of State, and we will continue to do so.

It is essential that we get agreement on parading, because it exercises the minds of the people whom I meet more than the devolution of policing and justice. That is a fact. Parading is raised more often with me than the devolution of policing and justice powers. That does not take away from my desire to see policing and justice powers devolved, but if we are talking about issues that resonate with the community, parading is a problem in our community that has to be tackled. A review group has been looking at the issue and has brought in a considerable amount of expertise. That group has looked in depth at the options over a very long period, and it is close to achieving an outcome. I hope that that outcome will be supported and that we can get the necessary changes on parading.

The Eames/Bradley group is not separate from the Historical Enquiries Team (HET) or the general issue of inquiries, as regards the pressures that could be applied on the funding for policing and justice.

I have my own views on the Eames/Bradley proposals, as does my party, and we will publish them before too long. We are not altogether sympathetic to the general proposals. There are ways of dealing with the past, but if we are somehow expecting to reach an agreement on a common history of Northern Ireland, we will wait for a very long time, spend an awful lot of money, and still not have a result.

**Mr McFarland:** My understanding is that, in discussions that the First Minister and deputy First Minister no doubt have had, the Government have accepted that they will fund the inquiries that are ongoing. My understanding is that their proposal is that anything coming out of Eames/Bradley and the HET will come across with policing and justice. How does the First Minister see policing and justice, which will be complicated enough when it comes, being able to settle if, in the middle of it all, we are dealing with, and funding dealing with, the past?

**The First Minister:** Let me deal with the funding issue. We have identified all the pressures that we can at present conceive that the Department of justice would face in this comprehensive spending review period and beyond. That clearly takes into account the kind of issues that the Member raises.

Every Department will have pressures on it for more expenditure. However, as a former Finance Minister, I know that there is very often an easy answer, which is that Departments should fund those things themselves. Therefore, a number of bids that were made could be absorbed within the Departments. However, policing and the courts, for instance, do not have slack in their budgets. Therefore, if there is a long list of items that are additional pressures, and there is no likelihood of slippage, one needs to be very clear that there will be some way to fund those additional elements.

I do not want to go into the details of what the costs may be, but if there is no agreement on the outcome of Eames/Bradley, it is difficult to quantify its costs. As far as I am concerned, a lot of the stuff in Eames/Bradley would go into the waste-paper basket, and the cost for the kind of arrangement that I would envisage would not be great. Others in the Assembly might have a different view. Those are the sort of difficulties that we face, because we are facing pressures that we cannot at present quantify, but we recognise that we have budgets that do not have the degree of slack to deal with those issues if the Assembly or the Minister decided to proceed. Therefore, the Member has identified one of our difficulties in relation to financing. At the end of the day, it is not an exact science, and we simply have to make a best-faith effort.

I spoke earlier about dysfunction. Statistically and conclusively, I showed that there was greater dysfunction in the previous Executive than in this one. However, one issue that goes to the heart of people's belief that there is that level of dysfunction is the total exaggeration in some Members' remarks. For instance, Dolores Kelly said that there were 53 Executive papers stuck in the system. Well, there are not. There are only 28 draft Executive papers being considered in the system, four of which were received in the past fortnight alone. When we receive those papers, there is a process for approving them and putting them to the Executive. Ministers will have their say on those issues, and they will want to make comments and to see the extent to which those comments are taken on board by other Ministers. Therefore, the not 53, but 28 draft Executive papers that are there do not mean that we are stuck on 28 matters. There are 28 works in progress.

9.00 pm

Of course there are delays. It is inevitable that there will be some differences, not just between the DUP and Sinn Féin, but between Sinn Féin and other parties, or between the DUP and other parties. That is the nature of coalition government. Live with it, folks. In a coalition, issues will arise on which the coalition partners do not agree: that is a fact of life. Therefore, the extent to which a Minister is prepared to compromise to get his or her paper or Bill through will determine exactly how much progress is made in that Department.

There was double exaggeration concerning the papers in the system. There was exaggeration of the number of papers blocked in the system and exaggeration of the extent to which they are blocked. For the most part, those papers are working their way through the system. As one who believes that there are ways in which to improve the existing blockages in the system, I want to make it very clear that the extent to which there are blockages is nothing close to that claimed by the SDLP Member.

**Mr Attwood:** On 7 July, a letter, on the important matter of the Child Poverty Bill that is going through Westminster, was sent to the First Minister's office by the Committee for the Office of the First Minister and deputy First Minister. Seventy-one days later, a response came back, and was received by the Committee 36 minutes before its meeting began at 2.00 pm last week. Does the First Minister think that that is an exaggeration, or does he concur that that is not a very efficient or effective way in which to do business?

**The First Minister:** I am happy to look at the individual case that the Member raises. However, I am pretty sure that there is a bit more behind it than what he simplistically outlined. There will be papers and issues on which considerable work has to be done by the time they are received in OFMDFM. However, that is not to say that OFMDFM is dysfunctional. We have shown that OFMDFM is less dysfunctional than it was during the time that the Ulster Unionists and the SDLP were in office; that it has managed to get more decisions through; and that it has had fewer suspensions and stoppages.

Instead of saying that there are problems here and there, people should recognise that we have improved our processes. However, there is more that we can do, and I am happy to respond to suggestions. I want delivery to be as fast and effective as possible. Clearly, if it was as simple as the Member outlined, that is an example of where greater expedition would have been more appropriate. However, I rather suspect that as soon as I look into the matter, I will find that there were other circumstances, of which the Member has neglected to tell the Assembly.

**Mr Durkan:** I remind the First Minister that the periods of suspension that affected a previous Assembly and Executive were not a result of any failure of any function at Executive level or inside OFMDFM. Those suspensions were entirely to do with issues, faults and failings elsewhere in the process, not faults in the institutions. The First Minister seems to be blaming the SDLP and the UUP for those suspensions. To nail that lie, they were no fault of ours at the time. The fault lay elsewhere.

**The First Minister:** I could stand at the Dispatch Box and, to justify the decisions that I make, say that

all the issues delayed in the system are somebody else's fault. It is very easy to pass the buck. The Member knows that, on his watch, the system ground to a halt. He was not able to find ways forward, and that is what he is expecting us to do. Whether the problem was created in our Department or not, Mr Durkan says that we should resolve those problems. However, when he held the office of deputy First Minister, he and the then First Minister were unable to resolve problems. We have been able to resolve more problems in a shorter period, and we have not had any suspensions. One issue held back business; however, that did not stop any Ministers from doing their work in their Departments, and it did not stop for one day the Assembly from meeting.

**Mr O'Dowd:** It appears that Mr Durkan wants to rewrite the history books before he leaves this place and moves on to bluer pastures. He has given us a history lesson during today's debate. His former partner in government, David Trimble, insisted that the British Government brought down these institutions on numerous occasions. In the SDLP's workings with David Trimble, it failed miserably to ensure that we had a working Executive and that David Trimble lived up to his obligations under the terms of the Good Friday Agreement.

**The First Minister:** I will not step into the middle of this internecine battle in the nationalist community without wearing a coat of armour. I would get peppered if I did. I see that Mr Durkan wants to lobby further.

**Mr Durkan:** I want to correct Mr O'Dowd. Let us be clear: suspensions happened as a result of the failure of so-called agreements and breakthroughs that were negotiated by Sinn Féin, the Ulster Unionist Party and the British and Irish Governments, not the SDLP. Moreover, I remind Mr O'Dowd and the First Minister that, when suspension came in October 2002, I refused to agree to the exclusion of Sinn Féin, which Tony Blair sought. He gave us grounds, and he named names. I refused because we insist on standing by the principle of democratic inclusion according to mandate. We stood by it and never buckled. Sinn Féin has buckled and is buckling again in its attitude to the Bill.

**The First Minister:** As you can see, Mr Deputy Speaker, the election has started. I suspect that we will hear more about those issues as time goes on.

I want to mention some issues that Mr Basil McCrea raised. He believes that, if he smiles and speaks gently, he will come across as reasonable and give the impression that everything that he says has a real element of sincerity and importance. He said that the Bill was being presented as a *fait accompli* and that Members simply had to accept it. As I already said, far from its being a *fait accompli*, it is a proposal that came from

an Assembly Committee after it had considered and taken evidence on the matter. Thereafter, the Committee brought the report to the Assembly, which voted to approve it. It is not a *fait accompli* presented by the deputy First Minister and me; it is a full-blown Assembly process that ensures everybody's involvement and further ensures that everybody knows the issues and has the opportunity to have a say on the matter. Can we rubbish completely the idea that it is a *fait accompli*?

Mr McCrea continued by saying that the matter is proceeding with undue haste. He knows how many months ago the Assembly and Executive Review Committee brought the proposal to the Assembly. That does not constitute undue haste when bringing a Bill to the Assembly. It did not come out of the blue, because it was in the process paper that we provided to the Assembly and Executive Review Committee. Moreover, we published it and made it available to everyone so that people knew the exact steps.

I want to point out to Mr McCrea that we arranged the 37 steps — it feels like 90 steps — into six groups. He must have known about that because, as an assiduous Member, I am sure that he ticked each box as we dealt with the matters and knew the outstanding issues that still had to be addressed. Therefore, the matter was not presented with undue haste, it did not take him by surprise, and it certainly was not presented as a *fait accompli*. The Ulster Unionist Party is hanging on to those excuses to justify opposing a principle that it has supported in the past. That party knows that it is a principle that has nothing to do with timing. Therefore, it should vote in favour of the Bill today. However, for party political purposes, it wants to go outside and tell the people that it did not approve the devolution of policing and justice.

That is what it comes down to. That is not a responsible position for any serious political party to adopt, and it requires the Ulster Unionist Party to rise above those issues. If that party agrees with the principle — the Member is smiling, and, no doubt, saying to himself that the DUP did not do that when the Ulster Unionists were the largest party —

**Mr B McCrea:** Absolutely. *[Laughter.]*

**The First Minister:** As the Member said, his party did the heavy lifting, but, unfortunately, he got ruptured in the process. *[Laughter.]* The DUP did not agree with that process. However, the Member tells us that he agrees with what we are doing, and he agrees with the devolution of policing and justice powers. Therefore, he is not in the same position as we were, and he should support the legislation, which has the clear purpose in principle, at its Second Stage, of agreeing to the devolution of policing and justice powers when, eventually, the proposition comes to the Assembly, and the time is right.

**Mr B McCrea:** I apologise if I have smiled too much and been too friendly in the debate, which was not in any way intended to minimise the seriousness of its content.

There has, perhaps, been a misunderstanding, and I may not have made myself clear. When I spoke about a fait accompli, it was not necessarily about the enabling legislation; it was about the whole debate on the devolution of policing and justice. The point that I wanted to make, whether in this gathering or elsewhere, is that it would not be possible for our party to be brought in at the final stages of a discussion only to be presented with a case that had been sorted out between the two larger parties, and to be asked our opinion about a proposal that had already been agreed by those parties.

I listened to the First Minister's comments about the need for consultation and involvement on the issues. For the purposes of clarity, we were not talking about a fait accompli in relation to those issues. When it comes to the use of the phrase "undue haste", I realise that matters have been talked about and that proposals have been discussed in various Committees. However, I said earlier that I thought that there is a window of opportunity, in certain circumstances, to deal with this matter sooner rather than later. If such a thing were to be contemplated, however, I believe — my party colleagues agree with me — that this legislation is being pursued with undue haste. It may be that there are other reasons of which we are unaware, but we are prepared to engage on those matters.

I have tried to articulate a general point. People level accusations about political opportunism: let us be honest, that has been done before in the House but not by me, I hasten to add. Despite that, I want the First Minister to consider, and reflect on, the critical issue of trust so that we can determine how to move forward. The reason why we object to the Bill at this time is because we do not trust that we will have another opportunity to influence this discussion. I am quite happy for the First Minister to disabuse us of that idea; the way forward is to have proper dialogue.

We are interested in hearing what the First Minister has to say. We are fully committed to devolution and to this place. We have done the heavy lifting, and, as my colleague Danny Kennedy said, we are not the wreckers. We are the people who made this place happen, and we will continue to work for the betterment of all the people of Northern Ireland.

**Mr Deputy Speaker:** I remind Members that, in general, interventions should be short, but, particularly at this time of the night, they should be even shorter.

**The First Minister:** I do not think that I have ever given way to a longer intervention, Mr Deputy Speaker. That shows my willingness and preparedness

to hear what the Member has to say and to take his concerns on board.

The Member for Lagan Valley cannot blame us if the Prime Minister wants to meet the deputy First Minister and me but does not ask him to come along. However, I have no doubt that the Assembly and Executive Review Committee will want to talk to the deputy First Minister and me about the financial issues. I would be very surprised if the Government do not want to talk to other parties as well about those issues. However, I am sure that the Government want to make progress by talking to the deputy First Minister and me before they talk to other parties, because we have a particular legal responsibility in relation to policing and justice.

9.15 pm

I do not want to proceed with policing and justice and agree to the finances without having openness, as far as the Committee and the Assembly are concerned, about what the propositions are. In my view, if we are to have the kind of confidence that we want, it is essential that people are content that we have the funds necessary to do the job.

I will be honest with Members: nobody expects that all the items on the long list that we received from the Assembly and Executive Review Committee will be delivered or that the figures that the Committee has produced will be replicated. In some cases, the figures have turned out to be greater than the Assembly and Executive Review Committee expected but in many cases they are less.

As a former Finance Minister, I do not believe that I ever went into any monitoring round or, indeed, the Budget, without being in receipt of bids that were two or three times greater than the amount of money that was available. When we ask the agencies and divisions of the Departments where the pressures are, it is inevitable that any cute civil servant will think that it is their chance to get their pet issue dealt with and will throw that into the mix. Work must be done by the Assembly and Executive Review Committee, the Treasury and the deputy First Minister and me to ascertain the strength of every bid that is submitted. We have been doing that, and it is a process with which we are presently engaged.

As we get to the stage where we have something to report, I am happy to talk to the Ulster Unionist Party, the SDLP and the Alliance Party, as I am sure that the deputy First Minister is.

**Mr Kennedy:** Will the First Minister give way?

**The First Minister:** I will give way in a minute.

I want to make it clear to Mr Kennedy that he has no more information about what went on last night than any of my party colleagues have. The meeting

only took place last night, and Department of Finance and Personnel officials are still examining the figures. Therefore, it would be wrong of us to indicate what we have been able to achieve unless we are absolutely certain that we are dealing with real figures and that the issues stand up.

I am happy to be as open as possible in these matters to ensure that when a decision has to be taken, people do so with the full knowledge of our financial preparedness to deal with the matter.

**Mr Kennedy:** I thank the First Minister for again giving way. He has clearly indicated that he expects that he and the deputy First Minister will attend the Assembly and Executive Review Committee, which is charged with examining some of those issues. Equally, as the Chairperson of the Committee for the Office of the First Minister and deputy First Minister, I seek his commitment that he and the deputy First Minister will make themselves available to appear before the Committee at the relevant stage of the Bill.

**The First Minister:** I was not touting for an invitation to the Assembly and Executive Review Committee, but we have always been happy to go along if it wants to speak to us. It is always a pleasure to appear before the Member for Newry and Armagh's Committee and we can certainly do that, not only to discuss the issue of financing for policing and justice but to discuss the wider issue.

I am always happy to open up a debate on these issues. The debate will allow for some misconceptions among the public to be removed. There are people who are deliberately attempting to mislead the public. One person in particular, who is no longer an elected representative, has said that Sinn Féin would be in control of the police, the courts and the appointment of judges and that policing was going to be a North/South issue. The list went on; lie after lie was peddled. The more discussion that there is on the issues, the happier I am because I believe that we have adopted a perfectly defensible position.

Finally, the Member for Lagan Valley Basil McCrea remarked that the deputy First Minister indicated that this was all going to be settled on Wednesday. The Member may have a different interpretation of what the deputy First Minister was talking about, but, in my view, the deputy First Minister was saying that he hoped that the financial issues will be resolved on Wednesday. I do not think that he was referring to the wider issues of confidence, which are part of the process paper.

I would love to think that the financial issues will be resolved on Wednesday, but my advisers and the deputy First Minister's have been working on the figures with financial officials for most of the day. I expect that there is still more work to be done. If the

Prime Minister makes us a very generous offer, which we think settles the financial issues, we will be happy to come back and tell colleagues about that and we will hope to gain their support.

**Mr Kennedy:** Is that a shared understanding of the current position? Perhaps, the deputy First Minister will indicate whether that is the case via the First Minister.

**The First Minister:** I am not even sure whether the deputy First Minister heard the remarks that we were discussing. However, I am sure that he will read the Hansard report and have a word in the Member's ear. The interview outside 10 Downing Street was conducted on the basis of the financial negotiations of which we had been a part, and which the deputy First Minister indicated will be carried forward in the US on Wednesday. I do not think that there was any doubt that he was talking about a resolution of the financial issues.

The Member for West Belfast Mr Attwood has left the Chamber, but I must say that I found the first 10 or 12 minutes of his speech particularly rich. He felt that it was appropriate to lecture the DUP about its apparent opposition to the devolution of policing and justice. With a straight face, he stood there and named one DUP Member after another and said that they were apparently against the devolution of policing and justice. He said that that was dreadful, given all the good things that would happen if policing and justice powers were devolved.

However, the people at which Mr Attwood was pointing the finger will go through the Lobbies and vote in favour of the Bill. He is pointing the finger, yet he will be voting against a Bill that provides enabling powers for the devolution of policing and justice. I was about to use unparliamentary terms about hypocrisy that you would not allow, Mr Deputy Speaker, so I will not use them, but it seems out of sorts for someone who is going to vote against the Bill to chide those who will be voting in favour of it about their commitment to the devolution of policing and justice.

I thank Members for their contributions to the debate, and I understand why so many of them wanted to take part. We have had a very considerable debate, and, as we approach 9.25 pm, it is almost like being at Westminster. The length of the debate indicates the sensitivity and importance of the issue to Assembly Members and to the wider community. I thank Members for the questions and points that they have raised.

The devolution of policing and justice will bring significant additional responsibilities but, more importantly, it will carry enormous potential for all of us here and for all our people. It will bring real local accountability and real local leadership and provide genuine synergies between policing and justice

policies and the wider social and economic initiatives of the Executive and the Assembly.

We are determined to work faithfully through the steps that remain to be taken, which we identified last November, and to secure the community confidence that is necessary for the devolution of the policing and justice functions. It is vital, therefore, that we get the preparations right. The Bill will put us in a position to respond decisively once the Assembly resolves that the time is right to initiate the transfer process. With my speech having almost reached the two-hour mark, I commend the Bill to the Assembly.

Both parties that indicated that they will oppose the Bill accept and support its principles. Therefore, I hope that they change their minds, act according to the principles that they say are consistent with their positions and go through the Lobby in support of the Bill.

*Question put.*

*The Assembly divided: Ayes 54; Noes 26.*

#### AYES

*Ms Anderson, Mr Boylan, Mr Brady, Mr Bresland, Mr Brolly, Lord Browne, Mr Buchanan, Mr Butler, Mr Campbell, Mr T Clarke, Mr W Clarke, Mr Craig, Dr Farry, Mr Ford, Mr Hamilton, Mr Irwin, Mr G Kelly, Ms Lo, Mrs Long, Mr A Maskey, Mr P Maskey, Mr F McCann, Ms J McCann, Mr McCarthy, Mr McCausland, Mr I McCrea, Dr W McCrea, Mr McElduff, Mrs McGill, Mr M McGuinness, Miss McIlveen, Mr McKay, Mr McLaughlin, Lord Morrow, Mr Moutray, Mr Murphy, Mr Neeson, Mr Newton, Ms Ni Chuilín, Mr O'Dowd, Mrs O'Neill, Mr Paisley Jnr, Ms S Ramsey, Mr G Robinson, Mr P Robinson, Mr Ross, Ms Ruane, Mr Shannon, Mr Simpson, Mr Spratt, Mr Storey, Mr Weir, Mr B Wilson, Mr S Wilson.*

*Tellers for the Ayes: Mr Brady and Mr Hamilton.*

#### NOES

*Mr Attwood, Mr Beggs, Mr D Bradley, Mrs M Bradley, Mr P J Bradley, Mr Burns, Mr Cobain, Mr Cree, Mr Durkan, Mr Elliott, Mr Gallagher, Mrs Hanna, Mrs D Kelly, Mr Kennedy, Mr Kinahan, Mr A Maginness, Mr McCallister, Mr B McCrea, Dr McDonnell, Mr McFarland, Mr McGlone, Mr McNarry, Mr O'Loan, Mr P Ramsey, Mr K Robinson, Mr Savage.*

*Tellers for the Noes: Mr P J Bradley and Mr McCallister.*

*Question accordingly agreed to.*

*Resolved:*

That the Second Stage of the Department of Justice Bill [NIA 1/09] be agreed.

## EXECUTIVE COMMITTEE BUSINESS

### Rates (Amendment) Bill

#### Accelerated Passage

**The Minister of Finance and Personnel (Mr S Wilson):** I beg to move

That the Rates (Amendment) Bill proceed under the accelerated passage procedure

The First Minister set me a challenge to beat his record — I think that he spoke for one hour and 45 minutes. I will do my best to rise to that challenge. I hope that Members will understand why my speech will take so long.

**Mr Deputy Speaker:** Order. The Minister has the Floor. Members should leave the Chamber in an orderly fashion.

**The Minister of Finance and Personnel:** I am grateful for the opportunity to address the Assembly on this motion. I will be as brief as possible. I am obliged to bring this Bill to the Assembly and seek accelerated passage. I repeat that that is not the best way to deal with legislation. It is not the way in which I, as Minister, prefer to deal with legislation. Having been the Chairman of a Committee and a Back-Bencher, I know the value of line-by-line scrutiny of legislation. When I bring legislation to this House, I endeavour to ensure that it is dealt with in the normal way. However, as I explained to the Committee for Finance and Personnel a couple of weeks ago, this is a piece of legislation for which there has been widespread support.

The provisions in the Bill were put forward by a number of groups as the kind of responses that they wanted to see from the Executive during the economic recession. If the provisions, particularly those relating to business rates allowances, are to be in place for the next financial year, and in time for the issue of the rates bill, it will be necessary for the Bill to proceed by accelerated passage. That will enable us to meet the deadline of passing the Bill by November, which will allow the necessary changes to take place in Land and Property Services (LPS) in time for the collection of rates in the new financial year.

For those reasons, I seek the Assembly's permission for the Bill's accelerated passage. I am pleased that after a long session with the Finance Committee two weeks ago, during which I explained the reasons for my request, there was unanimous agreement that the Bill should proceed in that manner. I now seek the Assembly's permission for that.

I know that the hour is late. I do not want to go through the measures contained in the Bill now; I will do so in detail during its Second Stage. The Bill

contains measures that are important to businesses and domestic households at a time when they are under financial pressure. To get those measures on the statute book so that all of the necessary administrative changes can be made, it is essential that the Bill is dealt with using accelerated passage.

Although there will not be the opportunity for line-by-line scrutiny by the Committee, I have made provisions and commitments that I believe will, at least, help to alleviate some of the shortcomings of accelerated passage. First, officials have been made available to give the Committee detailed briefings on the detail of the Bill, which has started. That will allow the Committee to ask detailed questions. I have also said that proposed amendments that improve the Bill will be considered, provided that they do not change policy, which would require consultation.

*(Mr Deputy Speaker [Mr McClarty] in the Chair)*

Some Members have asked whether the introduction of the Bill could be delayed because of the lateness of the hour. We have sought to time the Bill's passage through the Assembly to provide good time from Second Stage to Consideration Stage and Further Consideration Stage to allow any points raised to be properly considered.

In closing, I ask for the Assembly's permission for the Bill to proceed by accelerated passage. I have made it clear that I will not seek to introduce legislation in that way as a matter of course. Indeed, I will do all that I can in the future to ensure that legislation clears the Executive in time for proper scrutiny by the Committee. Therefore, I look forward to the Assembly showing the same all-party support for accelerated passage that was demonstrated in the Committee.

**The Chairperson of the Committee for Finance and Personnel (Ms J McCann):** Go raibh maith agat, a LeasCheann Comhairle. As the Minister said, he attended the Committee for Finance and Personnel meeting on 9 September. At that meeting, the Minister explained the reasons for the Rates (Amendment) Bill to proceed under the accelerated passage process. He outlined what the consequences would be if accelerated passage were not granted. The Minister also assured the Committee that he will do everything in his power to minimise the future use of the accelerated passage procedure. The Committee welcomed that assurance, and it was content with the Minister's explanation.

9.45 pm

For some time, the Committee has been engaged in scrutinising the rating policy. In November 2007, it produced a comprehensive response to the '2007 Executive Review of Rating Reform'. Since then, the Committee has continued to scrutinise closely domestic and non-domestic rating systems.

During the policy-development stages, the Committee received regular briefings from departmental officials, including briefings on the outcome of consultations that were undertaken by the Department on various policy aspects of the Bill. Previously, the Committee agreed to prioritise the Bill's Committee Stage in its work programme. Regrettably, however, the Bill was not introduced in the spring as anticipated, and Committee members expressed concerns about the delay in the process for bringing the Bill to the Assembly.

When considering the proposal for accelerated passage, the Committee was mindful that Committee Stage is a key element of the legislative process and that scrutiny of a Bill is a key Committee function. The Committee is aware that accelerated passage means that that in-depth scrutiny and consultation with stakeholders will be bypassed. On the other hand, the Committee is conscious of the need for many of the provisions in the Bill to be in place by April 2010 to ensure that much-needed help can be delivered to businesses and households in the current economic climate.

In addition to the Minister's explanation to the Committee, members were assured by Department of Finance and Personnel (DFP) officials that, although the Department did not publicly consult on the draft Bill, the high-level policy changes that are reflected in the Bill have been consulted on. Members also received a detailed written briefing on the delegated powers in the Bill, and they were assured that the Committee will have an opportunity to scrutinise the detailed subordinate legislation that will follow in coming months.

On behalf of the Committee, I support the motion that the Rates (Amendment) Bill be granted accelerated passage. I would add that that was not the Committee's preferred option. Obviously, we would have preferred a detailed scrutiny process, but, given the time constraints, we feel that accelerated passage is the only way forward. Go raibh maith agat.

**Mr Weir:** I had intended to speak for only a couple of minutes about what is essentially a procedural motion. However, having indicated that intention when I approached the Bench, I was advised to take my time, so perhaps I should consider taking up the gauntlet that the First Minister threw down by giving the longest speech since 1998. In the past few years, other speeches in the House may have seemed longer, but his speech tonight was the longest. However, mindful of the fact that I hope to get home alive, I will curtail my remarks.

Committee members share a degree of frustration and disappointment that accelerated passage has had to be used, and that has been mentioned. Indeed, the causes for the delay are a discussion for another day.

Nevertheless, the Committee had a mature and frank conversation with the Minister and displayed a mature and unified approach to the proposal.

We will discuss the merits of the Bill during its Second Stage, which will follow in a few minutes. Without going into details at this stage, I will mention the strong consensus in the Committee that aspects of the Bill are worthy of being pushed forward. In addition, we want to ensure that the measures in the Bill are processed in time, so that constituents in a range of guises and from across the board, in domestic and non-domestic sectors, will benefit in the next financial year. Consequently, the granting of accelerated passage is necessary, and the Committee unanimously agreed that position. I look forward to the debate, and I support the proposal to grant accelerated passage.

**Mr McNarry:** The Ulster Unionists also welcome the introduction of this legislation, even though we are disappointed that accelerated passage has been employed. The Chairperson of the Committee has detailed the extent of the views expressed by the Committee's members on that issue, and she has dealt with it particularly well. I accept the Minister's wish, as he has asked for accelerated passage today. He is clearly not dealing with figures; therefore, he is being very convincing. I have accepted his approach, and I hope that we can move as quickly as possible to the next stage this evening.

**Mr O'Loan:** It is entirely improper and out of order that this Bill is coming before us with a request for accelerated passage. I will quote the Minister when he came before the Committee. He said that:

"Standing Order 42(3) requires me"

— note that he said "requires me" —

"to explain the reasons for seeking accelerated passage, the consequences of it not being granted and the steps that are being taken to minimise the future use of accelerated passage."

In words similar to those he used this evening, he continued that:

"Having been a Committee Chairperson, it is my opinion that the best way of dealing with legislation is to have a full Committee procedure in which it can be scrutinised. It is the best way of bringing forward legislation and making sure that it contains no mistakes, that all of the issues are properly dealt with, that it can be properly amended and that there is intensive scrutiny of it."

He went on to say that:

"good legislation requires proper scrutiny; therefore, accelerate passage should be used only in the most extreme circumstances. I believe that this is an extreme circumstance."

Naturally, we waited with bated breath to be told exactly what the reasons and the extreme circumstances were. He went on to tell us that:

"The draft Bill went to the Executive in March, and I know from my predecessor that the details of the draft Bill were discussed with all of the parties. When I took over as Minister of Finance and

Personnel, the draft Bill had not been approved. I approached the parties and it received approval and clearance at that stage. I am not aware of what the specific difficulties were that meant that it was not given quick approval by all the parties. All that I can say is that when I made those approaches and explained the situation, it was approved."

He also said:

"I am sorry that I cannot be more specific. Members may want to know whether there were specific parts of the draft Bill with which Executive members had issues; I do not know whether that was the case. All I know is that the Bill is unchanged from how it was presented in March."

We did indeed want to know whether there were specific parts of the draft Bill with which Executive members had issues. We were not given reasons beyond one of process. Evidently, this Bill went before the Executive in March; it was not approved until June. Some three months were lost; time that should have been used for the Committee Stage of the legislation. We were not told any reasons.

I am given to understand — correct me if I am wrong — that the Bill was held up by one party in the Executive. Our First Minister gave us a very complimentary report on the excellent relationships in the Office of the First Minister and deputy First Minister (OFMDFM) between his party and the other party that occupies OFMDFM, but I am told that it was that party that held up this piece of legislation. I do not know why it did that, because evidently nothing was changed. Perhaps it was a hostage that was taken, and, unlike some in the past, this hostage was given away without anything being achieved. We have known that to happen on a number of occasions, and it appears to be yet another of those. We cannot say that this Bill has been handled properly, and accelerated passage should not be required or sought.

I need to comment on the Bill itself to explain my ultimate position. I will comment on individual clauses, but, by and large, the Bill is sound. It is important that many of these measures are brought into operation in April 2010. In order to meet that timetable, it is necessary that the Bill now have accelerated passage. Therefore, I am not going to hold that up, but it is quite irregular and improper that we have reached that position, and there is culpability on the part of those who held it up. I will not oppose the motion, but this is not a good example of leadership parties behaving well.

**Dr Farry:** I should say at the outset that I will not detain the House too long at this late hour either. Similar to other Members, I am prepared to support accelerated passage, albeit with great reluctance. The Committee's conclusion on accelerated passage was reached unanimously, even though members shared the same degree of frustration. I share Declan O'Loan's analysis of what may have happened, but when the Minister came to the Committee, he was fairly clear about the reasons for requesting accelerated passage,



although he did not spell them out in graphic terms. I think that all the Committee members were able to read between the lines of what he said. I respect the fact that the Minister came to the Committee to make a personal appeal for accelerated passage. Such a task is normally left to officials, so the Minister's attendance was recognition of the significance of our situation.

It goes without saying that the situation is not satisfactory. The Executive do the Assembly a disservice when they take their time over the consideration of a piece of business and then, subsequently, the Assembly and the Committee are asked to sacrifice the normal scrutiny opportunity to enable something such as this Bill to pass because of deadlines that have to be met.

We are faced with a dilemma. On the one hand, we are entitled to demand our rights and to have proper scrutiny. On the other hand, however, we must appreciate that tight commencement dates are planned for some aspects of the legislation. Do we compromise those tight commencement dates so that we have scrutiny in the Assembly or do we ask ourselves how much added value there will be from that process?

A pattern is developing whereby important legislation in particular progresses slowly through the Executive and is rushed through the Assembly. We should be conscious of that. I think that every aspect of the Rates (Amendment) Bill has been subject to consultation at some stage or another. Even the Bill's explanatory notes set out when those consultations occurred. Some of them occurred some time ago. The process has been lengthy, and it is a shame that the final Stages of the legislative process have to be rushed.

Although I am not endorsing every aspect of the Bill, I recognise its importance. I am frustrated that accelerated passage is being used, but I do not think that it is for me and for my party to hamper the Assembly's opportunity to do some good for people, particularly in these difficult economic times.

**The Minister of Finance and Personnel:** I will be as brief as possible, because we want to get on to the main content of the Bill. I thank the Members who have taken part in the debate and for the endorsement of my request for accelerated passage. All the Members who spoke have expressed the view that I expressed to them, which is that I would have preferred to have seen the Bill dealt with differently. However, and despite what Mr O'Loan said, I believe that these are extreme circumstances. The Executive indicated to the business sector and to ratepayers that they would seek to bring forward a package that would help to deal with the current economic situation.

The Bill is a response to the necessary measures and to requests that were made. I believe that the Bill will provide necessary help, as we will see when we come to debate its Second Stage. The extreme circumstances

are pertinent, because if we do not use accelerated passage, we will not be able to deliver the package for the next financial year. Therefore, we have a situation where it is necessary to move in this way.

Many of the measures have been well canvassed across the community already. They received a positive response both in the consultation exercise and from the Committee. Therefore, I do not believe that the detail of the Bill will be controversial in any way.

For that reason, and bearing in mind that there will be an opportunity for Members to raise the points that they want to raise during the Second Stage and the Consideration Stage of the Bill, I ask that the Bill proceed through accelerated passage, although I accept that it is not the best mechanism.

10.00 pm

In conclusion, I thank Members for their support, and I move that that the Rates (Amendment) Bill should proceed through accelerated passage.

**Mr Deputy Speaker:** Before we proceed to the Question, I remind Members that this motion requires cross-community support.

*Question put and agreed to.*

*Resolved (with cross-community support):*

That the Rates (Amendment) Bill [NIA 2/09] proceed under the accelerated passage procedure, in accordance with Standing Order 40(4).

## EXECUTIVE COMMITTEE BUSINESS

### Rates (Amendment) Bill

#### Second Stage

**The Minister of Finance and Personnel:** I beg to move

That the Second Stage of the Rates (Amendment) Bill [NIA 2/09] be agreed.

I want to say, by way of introduction, that there has been some criticism of the responses by the Assembly and the Executive to the current economic situation. Without rehearsing all the arguments and reviewing all the things that have been done, the Assembly and the Executive have already sought, whether at the level of businesses or domestic households, to address the very real concerns that people have. That has been achieved through various methods such as the freezing of the regional rate, which affects businesses and households; the capping of the rates to the manufacturing industry at 30%; the introduction of heating allowances; the farm nutrient scheme; and the £1.7 billion — an increase of about £1 million per day — that the Executive have spent this year, which has helped the construction industry. All of those things have been done, in spite of what all the whingers and the economists who are now crawling out of the woodwork are saying about the Executive not doing enough. This Bill is a further step in delivering for people in Northern Ireland in these difficult circumstances.

As Members will see as we go through the detail of the Bill, the following measures are contained in it: a reduction in rates for small businesses; a possibility for the elderly to defer their rates payments; a postponement of rates on vacant properties; a postponement of the revaluation of business properties; and the introduction of data-sharing functions to help people to claim for entitlements and allowances, which will help them to deal with their rates bills. All of those features represent a very positive reaction to the issues that have been brought to the Executive's attention and are further examples of how the so-called "dysfunctional" Executive have actually delivered for people in Northern Ireland.

I welcome the opportunity to open the debate on the Bill, which includes the range of measures that I have outlined. The rating system provides the Assembly with the means of raising additional revenue, over and above what it receives through the Barnett formula, and that extra revenue is used to fund essential services. However, through the provision of reliefs, it can also be used to fulfil wider policy objectives, and there are measures in the Bill that have been afforded even more importance as a result of the current economic downturn. Those concessions do not impose a greater burden on other ratepayers.

Many will say that the measures in the Bill do not go far enough. However, within the limits of what is affordable and within the terms of the Executive's public expenditure position, they represent real measures that will deal with some of the difficulties that people have drawn to the attention of the Executive.

There are limits to what is deliverable by Land and Property Services. It is a key public service agency and its performance has not been helped by the scale of recent reforms and the constant changes to the structure of rates in Northern Ireland.

The Bill represents the final outworking of the Executive's review of the domestic rating system and gives effect to a number of matters concerning business rates. The Executive agreed the reforms, which the Committee for Finance and Personnel endorsed. They aim to strike the right balance between protecting those most affected by the reforms introduced under direct rule and helping those most in need — for example, our pensioners — as well as attending to the wider policy objectives and concerns.

As a result of the Executive review, we have delivered a 20% rates discount for pensioners over 70 years of age and living alone, and that is worth around £3.4 million to date. There is a continuing emphasis on helping our most vulnerable, with the savings threshold for pensioners under the low income rate relief scheme's being increased from £16,000 to £50,000 last April. In April this year, there was a further review outcome that saw a reduction in the maximum capital value for domestic properties from £500,000 to £400,000, which reduced the highest domestic rate bills by £450.

Other measures that have been introduced since the return of devolution have also made a material change to the bills that local households have incurred, including the regional rate freeze and the further postponement of water charges. The current freeze in the non-domestic regional rate also provides vital support for businesses at this difficult time, while the reduced cap acts to curb the excess that would occur through unadulterated rates bills based on the full capital value of the property. Together, those measures have resulted in considerably lower rate bills for many, providing assistance of between £15 million and £20 million this year.

The measures contained in the Bill give effect to the remaining Executive reforms, and provide targeted help and assistance to a wide range of businesses and households. They include a number of new schemes, as well as amending powers that are already in place. Among those will be the small-business rates relief scheme, which provides help of between £8 million and £9 million for more than 16,000 small businesses; energy efficiency and zero- and low-carbon rate

reliefs, which will target assistance of around £1.5 million a year; and new data-sharing powers, which are aimed at ensuring that more people get the help to which they are entitled and that they do not continue to miss out. That is of particular importance to our pensioners. There will also be the powers necessary to introduce a rates deferment scheme for home-owning pensioners and their partners.

The Bill will also ensure that last year's reduction in the maximum capital value will not create a difficulty for those councils with a high proportion of high-value properties by allowing transitional arrangements to be put in place before the final settlement, and that will be worth around £1.5 million to councils over this rating year and the next.

Before turning to the commercial sector, it is important that Members be made aware that I believe that the rating of empty homes should not be introduced in April 2010, and that was highlighted during the debate on the Bill's accelerated passage earlier. I have listened carefully to the views expressed by the Committee for Finance and Personnel and, although I am awaiting its final confirmation, I know that all the early indications from the discussions that I have had with officials suggest that there is a sympathetic view to postponing rating of empty homes until April 2011. By that time, I expect the property market to have stabilised and the conditions for introducing that measure to be much healthier.

It is important to stress that the Bill's provisions do not create any new substantive powers for the rating of empty homes; rather, they amend the existing legislative powers. More importantly, the Bill does not commit the Assembly to the April 2010 implementation.

On the non-domestic front, the Bill provides for the introduction of the small-business rates relief scheme, which was, and is, a key feature of the Executive's package that was announced in December 2008 in response to the economic downturn, as well as for technical changes relating to industrial derating and the non-domestic revaluation. The revaluation of non-domestic property was scheduled to take place in April 2010. However, I have decided that now is not the time to revalue the non-domestic sector, given the uncertainties that businesses already face, as does local government, which would, of course, also be affected by that revaluation. I have decided to postpone that exercise until April 2011. That decision had to be made quickly, given the late stage that we are at in the process, but it is my view that it is an unavoidable course of action in order to look after the interests of councils and many businesses. There are no significant revenue implications because the purpose of the revaluation was merely to redistribute the rating burden.

I now turn to the detail of the legislation. The Bill contains a range of provisions that have the effect of both amending and supplementing the current primary rating legislation. Clause 1 will enable a small-business rates relief scheme to be introduced. It is intended that that scheme will cover commercial properties that fall within certain net annual values. The percentage reduction, the years to which it applies, and the net annual value limits will not be set out in the Bill, but will instead be given effect through subordinate legislation. Provision is also made in clause 1 to allow the future extension of the scheme, with enhanced relief for specific sectors on the grounds of wider social need, subject to state-aid conditions. It is intended to limit the scheme for five years.

Clause 2 of the Bill also provides the power to enable the Department to make regulations introducing a scheme to give full rate relief to the first occupiers of new zero-carbon and low-carbon homes for up to five years and two years respectively. Although the life of the schemes will be limited to 31 March 2016 in respect of new zero-carbon homes, and 31 March 2013 in respect of new low-carbon homes, those dates can be amended. The remaining aspects of the clause allow regulations to define certain key terms, provide for how the relief will be claimed, and the circumstances in which it can be withdrawn. They also deal with eligibility, appeals, exclusions and retrospectivity.

Clause 3 will enable my Department to make recommendations providing a one-off reduction in rates for owner-occupiers who make certain energy efficiency improvements to their homes, such as the installation of loft or cavity wall insulation. The life of that scheme is limited to 31 March 2015; however that date can be altered to allow for a second phase, should it be decided, following a review in a year or two, to either broaden the scheme or include other measures, such as solar panels. The powers provided by the legislation also mean that it will be possible to extend the scheme to other sectors in the future through subordinate legislation, including the social rented sector, should circumstances change and that be required. I know that that was a matter of particular concern to some members of the Committee for Finance and Personnel.

The issue of industrial derating is dealt with at clause 4, which removes the reference to 1 April 2011 as the specified date for its ending. It also allows the percentage liability for industrial hereditaments to be set by the Assembly from 1 April 2011 by means of affirmative resolution.

Clause 5 makes provision for a rates deferment scheme, amending and substituting current legislative powers. The provision will allow my Department to make regulations to enter into a deferment agreement with an owner-occupier of pensionable age, that is,

aged 60 and above, as well as the surviving partner of such a person. All must own and occupy the property on which the rates will be deferred. Owing to the risk of debt recovery, deferment will not be permitted where all owners are not eligible, or the property is rented. The deferred debt will take the form of a statutory charge on the property, with regulations setting out the terms of the deferment agreement, provisions for the recovering of the debt and the payment of interest, and termination. Interest will be charged at the Bank of England base rate, -1%, subject to a minimum 1% threshold. On trend data, that would broadly equate with the rate of inflation. Paragraphs (5) to (11) of proposed article 29A deal with the retrospective deferments to the start of the rating year, and subsequent legislative modifications for the purposes of the deferment scheme and the definition of a partner.

10.15 pm

Clause 6 makes provision for the scope of rating of unoccupied properties to be extended to the domestic sector through primary rather than subordinate legislation, with separate provision for any reduction in the level of liability in the domestic and non-domestic sector. Although the rating of empty property will not be introduced next year, when it is in place, the rates will be levied at 100%.

Clauses 7 and 14 also deal with the rating of empty homes, enabling the Department to deal with anti-avoidance measures through amending valuation assumptions and extending the current completion notice process to domestic properties when the rating of empty homes is introduced.

Clause 8 deals with the provisions of the principal Order, which relate to the former public utilities. Those will no longer be valued by methods set out in subordinate legislation but will be assessed in the same way as any other property. Subsections (1) and (2) deal with the reference date on which the valuations are based for a new valuation list. The current provision does not apply to former public utilities; the clause provides for the reference date to apply to them. Subsection (3) sets out the parts of the principal Order that will cease to have effect as a result of moving the utilities from prescribed to conventional assessments.

Clauses 9, 10 and 11 provide for improved data-sharing powers, allowing relevant Government agencies to share social security information for the purpose of better targeting of, likely recipients of, and verifying claims relating to, rate relief, the disabled person's allowance and the lone pensioner allowance. The provisions will also assist with assessing housing benefit claims for owner-occupiers and will form part of a wider package of measures that are aimed at improving the take-up of reliefs and ensuring that people receive the help to which they are entitled.

We are all, of course, conscious of the very valid concerns that people have about security and about the appropriate use of their personal details. For that reason, the Bill creates a new offence of unauthorised disclosure of shared information. That will be accompanied by a number of administrative actions relating to data security, audit trails and independent scrutiny.

The remaining clauses of the Bill deal with a range of miscellaneous provisions. As part of the council package of assistance, the impact of the cost of the Northern Ireland Housing Executive landlord allowance in councils was reduced for this and the last rating year. Clause 12 provides the power to change the level of allowance that is awarded to landlords when they enter into agreement to pay rates on their property. It also enables the level of allowance to be separately altered for certain classes of property. The level of allowance for Northern Ireland Housing Executive properties is being reviewed, and any change will apply from next year.

I also intend to reduce the general level of allowance for the private-rented sector on the introduction of the rating of empty homes, given that the allowance reflects the fact that vacancies are paid for that otherwise would not be. Any changes will, of course, be subject to affirmative resolution in the Assembly and could save in the region of between £2 million and £2.5 million.

I now move on to the more technical issues. Clause 13 provides that regulations made to amend the list of registered housing associations whose properties are subject to standardised rating liability will be subject to negative, rather than affirmative resolution of the Assembly. That simply involves an administrative change.

Clause 15 is a provision that I know that various members of the Committee for Finance and Personnel were keen to see introduced. It will enable compensating payments to be made to district councils that are affected by the reduction in the maximum capital value from £500,000 to £400,000. That will apply at 100% and 50% of the difference in the product of the rate respectively for the current year and the next rating year.

Finally, clauses 16 to 20 and the two schedules deal with minor and consequential amendments, repeals and the commencement of the Bill's provisions. Although the Bill is, necessarily, not being progressed in the normal manner, which all Members would prefer, I ask them to support its passage through the House so that assistance can be provided to households and ratepayers as soon as possible. The Bill's measures will ensure that direct financial assistance of some £10 million is provided to households and small businesses. Those steps will be greatly welcomed by households and businesses that are currently struggling.

**Mr Deputy Speaker:** I am grateful to the Minister for being so succinct.

**The Chairperson of the Committee for Finance and Personnel (Ms J McCann):** Go raibh maith agat, a LeasCheann Comhairle. I intend to speak initially as the Chairperson of the Committee for Finance and Personnel and then to make a few comments from my party's position. I thank the Minister for explaining the Bill's general principles. I welcome the debate.

For some time, the Committee for Finance and Personnel has engaged closely with the Department on rating policy and the development of the Bill. As we heard, one of the Bill's main purposes is to give effect to a number of decisions that have arisen from the Executive's review of the domestic rating system in 2007.

As Chairperson of the Committee for Finance and Personnel, I am pleased to note that many of the recommendations in the report on the Committee's response to that Executive review have been taken into account in the Bill's development. I will deal with those recommendations later.

The Bill makes provision for a number of measures that relate to the non-domestic rating system, most notably a rate-relief scheme for small businesses. On 9 April 2008, the Committee received a briefing from departmental officials and representatives from the Economic Research Institute (ERINI) on the review of rate relief for small businesses. Although the Committee recognised that there are associated cost implications, it subsequently called on the Minister not to rule out such a scheme, given the importance of the small-business sector to the local economy.

Included in the Committee's suggestions was a proposal that consideration be given to a model that is similar to that of Wales, which includes enhanced relief for post offices. The policy intentions behind the enabling power that is included in clause 1 in respect of reliefs for small businesses are broadly in line with the Committee's recommendations.

In the non-domestic sector, the Committee has noted the provisions in clause 4, which relate to industrial derating. In 2007, the Committee examined the findings of the ERINI review of that policy. Members noted that scope exists to review the percentage liability in the future. In that regard, clause 4 will allow the percentage liability to be set from 1 April 2011 by means of affirmative resolution.

I want to turn to domestic rates. As I have already mentioned, in 2007, the Committee produced a comprehensive response to the Executive's review of the domestic rating system, which included 33 recommendations. Since then, the Committee has received a number of oral and written briefings from departmental officials, including briefing sessions on

the outcome of several consultations that were undertaken by the Department of Finance and Personnel on the detail of a range of rating policy issues.

In its 2007 report, the Committee made recommendations about rate reliefs for pensioners, which included the introduction of a lone pensioner discount. It was introduced in April 2008 for ratepayers who are over 70 years of age and who live alone, together with an increase in the savings threshold for pensioners. A further Committee recommendation — the deferred payment scheme for pensioners — is provided for in the delegated power in clause 5.

In its report, the Committee also noted that there is a widespread problem with the uptake of rate reliefs. It recommended data sharing with other agencies as one way to address that issue. The Committee is pleased to note that the Bill includes provision to allow data sharing between relevant Government agencies to better target potential recipients of rate reliefs. During an evidence session on 9 September 2009, the Committee also received assurance from departmental officials that the associated data sets will be able to be used only for the purposes specified.

In 2007, the Committee also called on the Department to consider the option of rate credits for environmental measures, such as energy efficiency improvements in the home. Clause 3 makes enabling provisions for one-off reductions for measures that are taken to make homes more energy efficient. Furthermore, clause 2 will enable first-time occupiers of new zero- or low-carbon homes to benefit from rates relief for up to five years and two years respectively.

In 2007, the Committee recommended that the rating of empty properties be introduced to help address the shortage in housing supply and raise revenue at the same time. In that regard, on 9 September, Committee members considered the provisions in clause 6 and discussed the changed circumstances, including the Minister's indication that he was considering the timing of that measure with a view to postponing its introduction, given the current economic climate.

On 16 September, the Committee considered seeking a formal request from the Department of Finance and Personnel for its view on the issue and agreed to seek further information from the Department, particularly with regard to the cost implications of deferment. The Committee will consider the Department's response on the issue at its meeting tomorrow.

It has been noted that the Bill contains a range of enabling or delegated powers, under which subordinate legislation will be brought forward to introduce a number of rates relief and schemes. That subordinate legislation will provide the all-important detail of the various measures that have been outlined today. The Committee looks forward to scrutinising the forthcoming

statutory rules and expects the Department to provide sufficient time for it to do so. I support the principles of the Bill.

I now wish to make some comments as a member of Sinn Féin. My party supports a number of aspects of the Bill, particularly the small-business rates-relief scheme, as that will help small businesses that are experiencing economic difficulties.

I fully understand that the economic crisis is the reason behind the proposal to defer the rating of empty properties until next year. However, Government must make it their priority to immediately house the thousands of homeless people here. If developers hold onto properties until prices go up, properties will remain vacant. People need quality, affordable homes now. I am concerned that the deferment of the rating empty properties will allow developers to hold onto those assets and that, as a result, people will remain homeless.

Several Committee members raised the issue of enabling powers for the future consideration of people who live in the social-rented sector and who choose to install energy efficiency measures. We felt that people in that sector were being discriminated against because they were not being given help to install energy efficiency measures to help reduce the cost of their fuel bills. I am glad that those enabling powers are now included.

I believe that rates relief for students normally benefit the landlord. Therefore, I welcome the fact that the Minister indicated that any savings from that scheme will be given to the Department for Employment and Learning to help students.

The Bill is good and contains a lot of provisions. I am just concerned about the proposal to defer the rating of vacant domestic properties.

**Mr Weir:** I declare an interest as a member of North Down Borough Council. Like others, I welcome the Bill. As the Minister indicated, it is important to realise that this is not simply a one-off piece of legislation; rather, it is part of a continuum of work that the Executive are doing to address rating issues and to try to ease the financial burden in these difficult times. Indeed, the Bill should sit alongside measures such as the Executive's decision to freeze the domestic and non-domestic regional rates.

The Bill sits comfortably with the decision to cap rates, which will ensure that no one in Northern Ireland pays more than anyone else in the United Kingdom. It sits alongside the action on industrial rating, which freezes manufacturing rates at 30% and prevents the increase that was intended under direct rule. The Bill also sits very comfortably with the 20% rates discount for pensioners over 70 who live alone. Therefore, the Bill is one piece of a large jigsaw in the help that it

gives to both businesses and individuals in the rates process to ensure that an undue burden is not placed on them, particularly in these difficult times.

10.30 pm

As the Minister and the Committee Chairperson said, there is much to be welcomed in the proposals. I will address a number of those issues briefly. As has been indicated, some provisions are designed to increase energy efficiency and to target low-carbon and zero-carbon homes, particularly through one-off actions. In many ways, the embracing of that measure explodes the caricature of the Minister as an environmental sceptic. The legislation shows him to be a green champion — the “green giant” of the Assembly. While others talk about taking action to improve the environment, Minister Wilson actually delivers. Aspects of the Bill show that he is at the cutting edge of environmentalism. In addition to being environmentally friendly, the provisions that promote energy efficiency will benefit people in the long run, and in these times of difficult financial circumstances, they will ensure that energy bills are kept to a minimum. We should welcome that.

A number of the other measures are also welcome. The somewhat technical way in which clause 4 deals with industrial rates will ensure that we will have a lot more flexibility in the future in our ability to hold back potential increases in industrial rates. In a European context, there are particular reasons why we are not in a position to cut those rates. However, the opportunity to be flexible in holding back increases will be an important device in ensuring that manufacturing rates are kept to a minimum.

Mention was made of the postponement of the non-domestic revaluation, which is welcome, and the situation with empty homes. From a party-political perspective, the Committee Chairperson included a caveat about her concerns about the rating of empty homes. It would be concerning if the Bill proposed that empty homes remain derated in the long term. For a number of reasons, it is good that we will move to the rating of empty homes in the long run. We do not want to create a situation in which people buy up property simply to speculate. The problem is that in a situation where there is a high level of rates on occupied homes and less of a financial burden on empty homes, there is a disincentive for people to rent out houses that they own. That can have an impact. However, we should realise that the current financial circumstances more or less rule out the situation that occurred in recent years in which people were buying up property simply for investment purposes. It is right that the Minister has signalled that the rating of empty homes will be postponed for a year. Postponing the rating of such homes is being done for timing reasons; it sends out a signal that we should not be adding to people's burden

at a time of severe economic pressure. Given that, I support the measure.

The deferments option for the elderly is somewhat complicated. It is likely that elderly people will be reluctant to take up that option because it is a deferment rather than a rate relief. There was quite a low level of take-up of that option when it was introduced in other jurisdictions. Therefore, it is something of a leap into the unknown. It is anticipated that about 2,000 people will take up the option. That might suggest that there is an element of swings and roundabouts in deferment. However, it is worth retaining the option and giving people the choice. Even if few people take it up, it can make a major financial difference to some who are put in very difficult financial circumstances. Deferment has a lot of merit, although it will need to be examined more closely as the scrutiny of the Bill continues.

A major concern that was raised with us as elected representatives is that take-up is always an issue, regardless of the help that is given. Whether that help is delivered through Government schemes, social security or even through organisations such as the citizens advice bureau, there is always a gap between what is available, people's rights and entitlements, and the level of take-up. Therefore, I welcome the data-sharing proposals, which, although limited in purpose, are designed to increase the level of take-up. It may affect a small number of people, but it will be welcomed across the Chamber if it means that more people get what they are entitled to.

The cap on rates meant that there was some transitional relief for councils. I am glad to see that the Department acted to ensure that councils were given transitional relief as early as possible; essentially, that action was a jump ahead of the legislation. I welcome the fact that the Bill is a tidying-up process that gives legislative effect to transitional relief, which provides additional support to councils. As a local councillor, I was glad to hear that when the Committee questioned the Minister and his officials on the matter, they gave assurances that the money that will be lost as a result of the relief will be borne by central government and that local government will not bear an additional financial burden. It is right that local government is not penalised as a result of the unforeseen consequences of decisions that central government make. That will be welcomed by local government.

Finally, the biggest element of the Bill, and that which has attracted most attention, is the relief for small businesses, which is expected to help about 16,000 small businesses. That has been welcomed universally, particularly by business organisations such as the Federation of Small Businesses and retailers' associations. At a time of economic pressure, it must be realised that small and medium-sized enterprises

have traditionally been the backbone of the economy in Northern Ireland. Giving them that level of help and relief as part of an overall package is welcome.

Therefore, I welcome the Bill. The issues that it tackles will benefit constituents, particularly ratepayers in domestic and non-domestic properties. I support the Bill and commend it to the House.

**Mr McNarry:** I would like to offer the Minister some advice.

**Mr Brolly:** Brief advice.

**Mr McNarry:** The advice will be brief.

The Minister should know when he is winning, and he was winning from the start of the debate on the Bill's accelerated passage. Therefore, when he began the debate on Second Stage by mentioning colleagues who had referred to a dysfunctional Executive in a previous debate, he suddenly forgot that he is here only because he has introduced a dysfunctional accelerated passage. That is how the Bill got to the Chamber. The Minister came to the Committee and made a special request that it facilitate part of that dysfunctional action. I assume that he could not resist making the point; however, it was not one of his better points. The Minister is winning on the issue, and the Committee, and, I imagine, the House, will be with him during the process.

I am particularly happy that the Minister is introducing a measure providing rates relief for carbon-neutral homes. That is, perhaps, an intriguing introduction given the Minister's experience in his previous Department. However, we are publicly acknowledging that although we have limited powers to use tax incentives in this place, we are going to use them to encourage low-carbon and carbon-neutral technologies. That is an illustration of what we can do and of how we can be innovative. I am quite sure that that will go a long way towards moving Northern Ireland forward.

I am concentrating on the things that I want to say at this stage of the Bill's passage; I will have more to say at later stages. I especially welcome the special rates relief provided for businesses. Provision is made for industrial derating to continue after April 2011, and that is particularly welcome if we are to rebuild our manufacturing base, as we will need tools such as that well into the future. I am sure that the Minister's colleagues in other Departments will use that as an encouraging and enabling selling tool.

I welcome the provision for the small-business rates relief scheme. At Committee meetings, I asked the Minister to consider going further than what is being introduced, and that is because I see a need. However, let us bank what is coming forward and be grateful for that, particularly at a time when there is at least a challenge because public finances may be in trouble through what amounts to mismanagement — although

the Minister may not agree. Nevertheless, that does not take away from the fact that it is incumbent on us to do all that we can to send out the right message and to help small businesses through the recession.

We have no idea how long the recession will last. People from small businesses in my constituency and other constituencies that come to see me are in the grips of the recession. From my own experience of having endured two recessions in business, I know that small businesses do not come out of a recession until many other building bricks are in place. The squeeze on credit and cash flow is essential to that. Where small businesses can see savings, they will, undoubtedly, welcome them. I will welcome that on their behalf, because the legislation will go a long way towards helping them.

10.45 pm

*(Mr Speaker in the Chair)*

In that category, sub-post offices will be provided with an enhanced rates relief scheme. Small post offices are at the heart of many rural and urban communities. It is clear from recent evidence that the National Federation of SubPostmasters has signalled an uphill struggle. It is fighting for its members' livelihoods and their contribution to small local communities. In particular, it seems that post offices have been losing much of their business over the past 10 or 20 years. In a sense, they will greet the legislation as a means to consider their business and to continue that service and provision. They will welcome the legislation, which will go a long way towards helping to keep small post offices open.

I appealed to the Minister at Committee, and I am sure that he knows what I will talk about now. I appealed to him, during the stages of the Bill, to at least consider — perhaps by way of an amendment that I have not yet produced — factoring carers into the rates relief arrangements. The Minister kindly offered me the opportunity to talk to his officials, and I will do so in the near future. I want to make a point about the elderly, and I welcome the potential to help that category of people. As the Minister has said, that is a wide category. However, some elderly pensioners are carers. Approximately 4,500 elderly people will lose their carer's allowance when they reach pension age. No one in the House will disagree that that is an injustice that we all want to turn around.

I appreciate the difficulties with that suggestion. However, there might, perhaps, be some space to help the elderly in that way in the knowledge, as the Minister said at the Committee, that many of those people are carers. I want to identify that group as a category within the overall elderly category, particularly the 4,500 people who will lose their carer's allowance when they reach pension age. That is not right, and I

see an opportunity to right a wrong. The Department for Social Development cannot help with the issue, and the Department of Health, Social Services and Public Safety is unable to help. It would be an achievement if the Department of Finance and Personnel could assist without spending too much money. If the Minister can provide the figures, it would be interesting to know how many elderly people could benefit from that relief and what the uptake might be. How many of the 4,500 people whom I am talking about might benefit from such a relief?

I hope that the Bill will have a successful and reasonably easy passage to its enactment. I recognise the speed behind it, and it is now up to the Assembly to help the Minister to catch up. We are prepared to play our role in that.

**Mr O'Loan:** I support the Bill in general. Obviously, it will require closer consideration in the immediate future, and, therefore, I will reserve my ultimate position on all its clauses. On first reading, some clauses are opaque and will need closer examination. However, I will make some initial comments, which will, for the most part, be positive.

I welcome the introduction of a small-business rates relief scheme. I will not repeat what other Members have said, but I welcome what the scheme will do for small businesses, and, in particular, small post offices, again, particularly, in rural areas.

I want to correct remarks that were made either by the incumbent Minister or his predecessor in the Assembly to the effect that had the recommendations in the Economic Research Institute of Northern Ireland's report of March 2008 been heeded, the scheme would not have been introduced. That is not a correct reading of what ERINI said. It said that if the scheme were to be subjected to a strictly economic test, it would not have stood up to such a test. Revenue foregone is included in the measure, and ERINI said, essentially, that there would not be an economic payback from that investment if one were to treat such revenue as investment. ERINI said that if the measure were to be introduced, it would be for social reasons. It is precisely for those social reasons, particularly the preservation of businesses in rural areas, that the measure stands up, and that was made clear in ERINI's report.

I support what is being offered with respect to relief for new zero-carbon and low-carbon homes. Full rates relief to the first occupiers of new zero-carbon and low-carbon homes for up to five years and two years respectively is a good measure.

I will return briefly to the small-business rates relief scheme because I intended to mention that the intention is to limit the scheme to three to five years. I have some anxiety about that. Does that mean that primary



legislation will be needed again after that short period has elapsed?

Clause 3 deals with reliefs on energy-efficiency measures, which I wholeheartedly support. My only query on that clause concerns reference to a one-off reduction. Of course, one can debate as to whether those should be necessary at all as incentives, because the payback on those measures is quite good, and one could say that enough incentive already exists. However, people do not always behave fully rationally, and it may be — and I hope that it will be the case — that the presentation of such measures as a rates relief may operate as a significant additional incentive. I wonder whether simple one-off reductions are an adequate incentive.

The scheme is quite tricky when it comes to the design of the details. Loft insulation is a relatively inexpensive measure, while cavity-wall insulation is obviously considerably more expensive. That is not in the enabling legislation but will be included in the rules that are made later.

I wonder why there is no reference to energy-efficient heating systems in the guidance. They would be considerably more expensive, and would justify there being rates relief more. Those points do not particularly concern the enabling legislation; they relate more to what happens after the legislation is enacted.

I am glad to see agreements for a deferred payment of rates on dwellings included at clause 5. I have argued for that measure, and I was pleasantly surprised when officials stated that their current estimate of take-up could total 2,000 cases. Considerable costs are involved in the operation of that scheme — we must be realistic about that — but I would call 2,000 cases a substantial demand. The actual demand will be tested when the scheme comes into operation.

I support the extension of rating of empty properties to the domestic sector. The Minister has sought opinion, and my thoughts were that the measure should not be introduced immediately. In principle, it is a good measure, in that it encourages the use of empty property and ensures that property is well maintained so that its condition does not cause disturbance to neighbours. However, this is not the time to introduce that measure. Moreover, I do not think that it should be introduced in 2010. As to its being adopted the year after that, we should adopt a waiting position and re-examine the situation a year from now.

I am concerned by correspondence that has come from the Department. The Committee for Finance and Personnel will deal with that correspondence tomorrow, which states that another reason for not introducing rating for empty properties is that Land and Property Services (LPS) would not be ready to do so.

I realise that very substantial work was done. A contract was entered into with local district councils to map vacant properties with much greater accuracy. That would appear to indicate that councils did that work, but LPS did not have the capacity to store that information on its system. That is a further worry about LPS's capacity. In some senses, however, that is academic, because the Committee's advice will be that we do not want rating of vacant properties to be introduced next year.

I want to raise a related point about rates payable on vacant non-domestic property, which was introduced in 2004. Just as the imposition of rates on domestic vacant property would be a burden that the sector could not currently cope with, considerable difficulty arises for people who have vacant non-domestic property and who pay rates on that property. Those people would be only too glad to be able to bring that property into active use but are unable to do so in the economic climate.

If he is so minded, perhaps the Minister will consider that matter, because I feel that it should be addressed. I do not know whether that would require legislation to be amended. The matter should be seriously considered, because many people are experiencing considerable pain.

We have spoken about data-sharing powers and about how relief systems can be made more automatic. The Committee probed officials closely on that issue to ensure that the sharing of information was for the benefit only of persons concerned, in order to enable them to obtain rates relief. We have been given strong assurances on that matter. I assume that that relates to clause 10 on penalties for the unauthorised disclosure of information. I welcome and support that provision.

I have no great sympathy for the plan to reimburse councils in the short term, but the cap is a done deal. It is a regressive measure, but, given that it has been included in the legislation, it is good that compensation be given to councils for a limited period.

I support the legislation in principle.

*11.00 pm*

**Dr Farry:** As the Minister said, this process goes back to the very early days of the Assembly, and it is worth reflecting on that. My colleague Brian Wilson and I tabled a motion calling for a comprehensive rates review. That was accepted by the Department, and we have seen it being worked through. The process has been extremely comprehensive, as can be seen in the sheer scope of the legislation and the whole range of issues concerning rates. My party prefers a local income tax to a rating system. Rates are regressive, whereas income tax is progressive and is linked to people's ability to pay. That is a wider debate that can

be had on another occasion, because we are discussing the system as it is today.

I will be supporting the Second Stage of the Bill, but that does not mean that I do not have concerns about some of its clauses. I am prepared to support the small-business rates relief scheme; although I must confess that I am among the sceptical supporters of that measure. Like Mr O'Loan, I recognise that the scheme has an economic and social rationale. As things stand, the social element is probably the clincher.

It must be recognised that the economic arguments are disputed. I appreciate that the Minister and some of his colleagues are sceptical about the benefits of economists as a profession, but their arguments need to be given due consideration. There is some concern regarding the proposal and issues such as dead weight and value for money. However, the importance of small businesses to our economy must be recognised. They constitute a disproportionate element of our economy compared to most of our neighbouring regions and countries.

I want to make a point about the wider context. The Minister placed great emphasis on the Bill's fitting into the Executive's wider response to the economic downturn. He criticised the comments that have been made about whether that response has been effective, particularly the comments of Mike Smyth in this morning's newspapers. I am concerned that the Executive have essentially put all their eggs, or measures of a similar nature, in one basket. Every scheme that the Executive have produced to address the downturn has been directed at the cost issues facing individuals and businesses. They have talked about the deferment of water charges, freezing the regional rate and different aspects of this Bill. There is talk about industrial rating being held back, and now we are talking about the small-business rates relief scheme. There is also the scheme for business support, which is operated by the Minister of Enterprise, Trade and Investment.

Those measures all recognise that businesses and individuals are having difficulty. During the recession, we must ensure that demand is kept up and that the economy is turning over. It is perfectly logical to do that. However, the Executive is not looking at how they use the resources at their disposal to modernise and rebalance the economy. As we moved into recession, it was perfectly clear that there were some major structural weaknesses in the Northern Ireland economy, such as the size of the public sector and a dependency on low cost businesses.

Hopefully, we will move out of recession in the near future, but those structural weaknesses will remain. We have simply tried to tide ourselves over in the difficult times. We have not taken advantage of the opportunity

to access additional resources, which will be changing radically in the near future. We have missed the opportunity to make our economy more sustainable and to modernise and rebalance it so that we will be in a better position to take advantage of the recovery and stand on our own two feet in the future. In several years' time, with hindsight, we will regret things that have not been done on this occasion. I appreciate that that is a broad comment, and, in some cases, we have to judge things in their own right. I do respect what has been done for small businesses, and there was a demand for that. It is worth putting it in that context and posing that challenge to the Executive.

Like others, I welcome the measures in clauses 2 and 3, which are about zero-carbon or low-carbon homes and energy efficiency. I noted Peter Weir's comments lauding the environmental credentials of the Minister. I was almost tempted to suggest that we put the Minister on the plane to New York in the morning to see whether he can broker an agreement at the climate change talks that are taking place at the UN this week. However, the Minister is thinking of his carbon footprint, which is to his credit.

I do not want to open up the wider discussion about climate change and its causes, but the Minister will concur with the views of most Members that there are financial and economic incentives for taking a lot of these measures, irrespective of people's views on climate change. That is the rationale behind clauses 2 and 3. Declan O'Loan asked whether we need to go that far, because people may already have incentives to move in that direction. I have a different question: is this enough to move us in the direction of, and encourage, greater energy efficiency? We do not know. I would be interested to hear from the Minister whether any modelling has been done by his Department on the impact that the measures are going to have on our ability as a society to meet our climate change targets, to reduce our reliance on carbon, and to meet the different targets that we have to meet.

Through building control regulations, the Minister also has the power to make an impact. Financial incentives are one way in which greater environmentalism and energy efficiency in businesses and homes could be encouraged, but regulation is another way. However, I am not sure that we want to put all our emphasis on one approach. Perhaps a balance of approaches is required.

I note that the Minister has not yet brought forward new building regulations based on the legislation that was passed by the House. Discussions have taken place about Northern Ireland signing up to the 2016 target for building regulations under the code for sustainable zero-carbon homes, as has happened elsewhere in these islands. Hopefully the Minister can update us on that.

I am a sceptic about industrial derating. I have made comments before, and people can read them in Hansard if they so wish. In brief, industrial derating is not the most efficient way to assist businesses in Northern Ireland. Property costs are certainly a challenge for businesses, particularly in the manufacturing sector. However, the biggest competitive disadvantage that we face in comparison to other regions is not the cost of property; rather, it is energy prices. I appreciate that industrial derating is an option that is available to the Executive, and one that we can address, whereas energy is less within our control. I understand that it is a limited tool that we have at our disposal. It is worth making the point, though, that it is not the most efficient way to address the problems that are faced by the business sector. It tends to ossify our economic structure and does not encourage diversification, particularly moves towards a service-based economy, because incentives exist for the status quo, rather than for change. Some types of companies are not covered by industrial derating, whereas others are. Again, that maybe locks in a retrograde set of incentives or disincentives for particular sectors. Those are wider issues that we have to reflect upon.

What we are doing, essentially, is giving the Assembly the option to do whatever it wants about industrial derating in the years to come. There is no fundamental problem with this legislation. I appreciate that if we are to move away rapidly from the 30% rating, or even go up to 50%, we cannot go back down, because of European Union state aid rules. I ask the Minister to share his thoughts about the likely sustainability of that approach under the European Union and whether there is going to be an eventual day of reckoning for that type of project in the future. Does he see this as something that we can do indefinitely, or will the European Union force us to reconsider it some time in the future?

I support the rating of empty homes, but, equally, I support its deferral. Given the current economic climate, that makes sense.

As my party made clear during the relevant debates, it is opposed to capping rates. If people want more detail on our position, they can read the previous debates. Before making two points on the transitional relief proposal, I must declare my membership of North Down Borough Council.

First, the relief applies only to the £400,000 cap; it does not apply to the £500,000 cap that was, I accept, introduced under direct rule and not by the Executive. However, that cap remains part of the financial regime that councils face. It particularly affects my council in North Down, and those in Belfast, Lisburn and Ards are in a similar situation whereby it takes a large slice

off the tax base. That must be made up by raising everyone else's rates or by making cuts in services.

When the cap was introduced, which was, to be blunt, during the final days of direct rule, no transitional relief was offered. However, it is in the gift of the Department to introduce that relief today, should it choose to do so. Although the original decision was not made by the Department, it made the move to a cap at £400,000. By implication, therefore, it supports the cap at £500,000. For transitional relief not to apply to that as well is an anomaly.

Secondly, I want to highlight the tapering of the relief, which is offered for only a two-year period, with 100% relief in the first year. Incidentally, councils have already applied relief to this year's finances on the assumption that the legislation will be passed. That is another reason for the Bill to be progressed as quickly as possible. The question is whether the tapering will be sufficient to assist councils, particularly in the context of the economic downturn and the uncertainty about property values and the rates base of councils. Perhaps we need to rethink and be slightly more generous with the wind-down, and extend the tapering period from only two years to three or four years.

Those are some questions to ponder and some food for thought as we move forward. That speech was 20 minutes shorter than my first one today, so we are making progress.

**Mr Campbell:** That man needs a calendar, not a watch.

**Dr Farry:** I appreciate that there is another debate to come. On that point, I will, therefore, sit down.

**Mr Hamilton:** Mr Speaker, I assure you that I will not be heckled into submission in the same weak manner as the previous Member; I intend to see my remarks through, no matter what utterances are made from behind me. The hour is fairly late; we have been here for so long that, earlier, I asked some Members whether it would be rude to start shaving when others were making their speeches. The breakfast buffet is due to be served any moment.

As I stand here at such a late hour, and after everyone else has made thorough speeches, Members will rightly ask what this boy can possibly add. The answer is, of course, nothing.

**Mr Weir:** Will the Member give way?

**Mr Hamilton:** I fear that this may be the beginning of something, but I will give way.

**Mr Weir:** The Member asked what he could add. May I suggest repetition?

**Mr Hamilton:** As you know, Mr Speaker, repeating what everyone else said has never prevented me from making a contribution in the House before, and it will

not do so now. I want to contribute to the debate because it deals with an important subject. It has a long history that pre-dates the return of devolution. The Assembly inherited an exceptionally unpopular rating system.

As a result of the review that was initiated by Peter Robinson when he was Finance Minister, some of those initial, very quick, wins that he was able to put in place, and some of the commitments that have been made, which the Minister is now bringing forward in this Bill, we now find — not delight, because I do not think that anybody likes having to pay rates — a general acceptance that the system is moving towards being much better than it was before devolution.

11.15 pm

This is very good legislation, taking us further along that path. In many ways, it deserves a better hearing than it is getting at this time because it is of such importance to so many people. I will talk about some of those people in a moment or two, but it is deserving of much better time in this House than it is currently getting. However, we are where we are in that regard.

I argue that this is a good piece of legislation that is not the product of a dysfunctional Executive. In fact, it is a product of a very responsive Executive who have taken on board a significant number of the criticisms that were made about the ratings system. The Executive have addressed how the rating system that was inherited from direct rule adversely impacted upon particular sectors and groups of people. They have made changes and sorted out a lot of those problems to the point at which we do not hear a lot of dissent about the system of rating that we have in Northern Ireland.

There are two broad areas that I want to talk about. One is assisting businesses, and the other is assisting the vulnerable. I view what are referred to as green rebates — for loft and cavity wall insulation, and for zero- and low-carbon homes — as being good for business in Northern Ireland. Obviously, they are an incentive; they help those individuals who take them up to insulate their lofts and walls, and they help builders and developers to develop houses that are low- or zero-carbon.

In some ways, I see them as a stimulus for our economy because all of that work will have to be carried out by local contractors who do that sort of work, so there is a stimulus for the companies, which are often small, that carry out that sort of work. It will stimulate that sector and will encourage better behaviour and greater energy efficiency. In response to what Dr Farry said, it is not an example of a cost-based measure taken by the Executive. It is something that will help to stimulate a sector of the economy. It is a small stimulus, but nonetheless it is one that will help the people who do that sort of work.

We should not overlook the fact that this Bill will ensure that the cap on industrial rating at 30% will remain and not, by default, slip to 100%. I particularly welcome, as have most sensible people in the business sector, the small-business rates relief scheme. I heard some criticism on the radio last week, which was given succour by the BBC, that it did not go far enough and was not coming in quickly enough. I was appalled by the sloppiness of the reporting, although some Members may say that that is nothing that we should be surprised about. *[Interruption.]*

I think that most of its reporters will be in their beds by now, while we work on.

**A Member:** They are part-timers.

**Mr Paisley Jnr:** They have cut you off.

**Mr Hamilton:** I have been censored at this hour, although I fear that I turned things off a long time ago.

There has been some criticism of that scheme, but most sensible people in the business sector have been lobbying for a measure of that very kind, so there is a broad welcome for it. There is a 25% relief — upwards of £9 million — for some 16,000 businesses. That works out at an average of over £560 for each business. That may not sound like a lot in itself, but the scheme is directed at small businesses. Small-shop owners could benefit from it, and that amount of money deducted from their rates bills could be a significant amount of money. In these very difficult times, it could be the difference between keeping somebody in employment and not. Indeed, even though it is a small amount, it may give them an incentive to keep trading for a bit longer and keep their business going.

That measure is to be very warmly welcomed, as is the focus on sub-post offices. We have all had experiences of closures in our areas, or foresee in the future the closures of small, rural post offices or ones in vulnerable communities in our constituencies. Anything aimed at sustaining Northern Ireland's post office network is to be warmly welcomed.

I also welcome the Minister's announcement that he intends to postpone the revaluation of non-domestic properties. That will be necessary in time, but its postponement is wise and prudent in the difficult circumstances in which we find ourselves.

I want to talk about how the Bill, once passed, will assist vulnerable people. I know from my constituency work and from chairing the Social Development Committee that one of the biggest problems that we face in helping vulnerable people through benefits and reliefs is targeting those people. It has proved difficult in the past to target and to deliver benefits and relief to people who deserve and need them. We often hear of people who defraud the system, and the debate can be dominated by that issue. However, for every person

who defrauds the system, at least one other is failing to take up relief to which they are entitled.

I welcome the power in the Bill for data sharing, which is particularly aimed at rates relief, disabled persons allowance and lone pensioner allowance. Anything that allows data to be shared across the Government Departments and agencies in Northern Ireland to better target those people will be most beneficial to vulnerable people in our society. We must have a concerted effort, through the rating system and the social security system, to encourage take-up. The Department has worked closely with the group Access to Benefits, which does a lot of work in that area. Many of the measures that the Department and Access to Benefits worked on are being implemented, and that will make a big difference in this area.

I also note the rates deferment scheme. In the past, I have expressed personal unease in the Committee about the idea of adding a rates burden onto a legacy or onto somebody's estate, but I appreciate that some people may find it a useful device to have at their disposal. As Mr Weir said, a small rather than a massive number of people will probably avail themselves of that, perhaps because they have to. For that reason, I welcome the introduction of the rates deferment scheme.

Although the rating of empty homes is wise, and at the time there were good policy reasons for looking at that, the postponement of its implementation is very wise at present. Declan O'Loan mentioned the rating of non-domestic properties. I, like him, have heard people in my area express concern about incurring rates liabilities on non-domestic properties that have become vacant and simply cannot be let again. Given the expenditure already entailed by the Bill, I appreciate that doing something about that might be a push too far, but the concern being expressed in the community is worth noting.

In conclusion — *[Interruption.]*

That is the only bit that has received a cheer, Mr Speaker.

**Dr Farry:** We are too tired.

**Mr Hamilton:** Just wave your hand or something.

In conclusion, the Bill is a good piece of legislation for which I feel there is a consensus of support. It is a Bill of which we should be collectively proud, because the Minister and his Department are responding positively to community concerns about the rating system by targeting reliefs and targeting assistance to sectors and groups of people in Northern Ireland who need help. I very much welcome the Bill and hope that the Assembly joins Members on this side of the Chamber and the Minister in giving the Bill a safe passage through the House.

**Mr Speaker:** I call on the Minister of Finance and Personnel to conclude the debate.

**The Minister of Finance and Personnel:** Mr Speaker, you said that with a tone of resignation. I know that you are hoping that I do not emulate my party leader in concluding the debate, or we will be here until about 2.00 am.

At this hour, I salute all the stalwarts in the Chamber for the Second Stage of the Rates (Amendment) Bill, and I thank everyone who made a contribution. It is late, but Members have made a number of points, so, given that the Bill is going through under accelerated passage, and although I will try to be as brief as possible, those points deserve a response.

The Chairperson of the Committee for Finance and Personnel indicated her concerns about a number of matters. First, she welcomed the introduction of business relief for post offices. The good thing about the business relief scheme is that it enables us to target particular sectors. Last Monday, in the Long Gallery, I addressed the Northern Ireland branch of the National Federation of SubPostmasters, which saluted the Assembly and the Executive for the provisions in the Bill that will give considerable rates relief to sub-post offices. Indeed, the sub-postmasters said that the relief will help to sustain post offices in local communities and will bring us into line with similar schemes in Scotland and Wales. In particular, the scheme is welcomed in the current economic climate. Therefore, the industry already recognises the point that the Chairperson made.

The Chairperson, in her capacity as a public representative, raised concerns about the decision to postpone the rating of empty homes. Quite rightly, she pointed out that the rating system has an important role to play in trying to bring those homes into use to alleviate the homelessness problem. However, this is a balancing act, so, although the introduction of rates on empty homes was supported by my predecessor and by the Committee for the reasons that the Chairperson gave, we must, nevertheless, be mindful of current economic circumstances. Given the decline in the housing market and the difficulties that the downturn has presented for homeowners, we must be careful about introducing a policy that was devised in totally different economic circumstances. Such a policy might exacerbate problems that are being experienced, cause further price reductions in the property market, and hamper the market's stabilisation. That is why the introduction of the policy has been postponed; we are not turning our back on it, but it behoves us to bring it in when it is most likely to be effective.

The Chairperson also asked about extending green rebates to the social sector. The Committee expressed concerns to my predecessor, and there has been

widespread consultation on the matter with the Housing Executive, the Northern Ireland Federation of Housing Associations, the Energy Saving Trust and others. My predecessor concluded, and I agree, that, for a number of reasons, it does not make sense to extend the scheme to the social-rented sector at this time. Indeed, I would point out that even the Department for Social Development's warm homes scheme does not extend to the social-rented sector. If one looks at that sector, one can see the reasons: only 0·4% of the Housing Executive's housing stock do not have loft insulation, and only 7·1% of Housing Executive stock and 6·4% of housing association properties do not have cavity-wall insulation; whereas, in the private sector, that figure rises to 23·9%.

11.30 pm

We seek to introduce this policy to try to promote energy saving while targeting the money that is available. If resources are limited and the problem exists mostly in the private sector, that is where those resources should go. For those reasons, we decided to exclude the social sector. However, there will be a review of the circumstances, and we have not ruled it out forever.

The last point that the Chairperson made was about data sharing. Again, we have given assurances that data sharing will be used to try to reach those people who are entitled to benefit and will ensure that we catch them more effectively in the net.

I will now turn to my colleague Peter Weir, who has described me as a "green giant". I am not sure that that is a compliment. In fact, it is perhaps risky to be called a green anything and to be a member of the DUP. However, he made an important point that, despite what people have said — I do not want to get into a debate about causes of climate change and everything else — it makes perfect sense to introduce policies that help to save energy.

**Mr I McCrea:** Does the Minister agree that organisations that are set up to give advice and inform people on how to save energy would spend their time better doing that, rather than wasting it arguing the pros and cons of climate change?

**The Minister of Finance and Personnel:** As far as I am concerned, I am introducing practical measures that will not only give people the incentive to save energy but will partly finance their ability to save energy in their homes. That makes good sense. We do not want to be wasteful, and, if we can reduce energy bills for individuals, we reduce the consumption of fuel in our economy. It makes good sense to reduce energy use. If by promoting that I become a "green giant", I am very happy to be a "green giant". It is an illustration of the pragmatic and sensible approach that we are using to deal with the issue.

Peter Weir raised the issue of deferment for elderly people in their own homes and the fact that there may be a low take-up of that. We estimate that, once the scheme is entrenched after, I think, four years, about 2,000 people will take it up. It will not be an easy choice for people. It will involve costs for them to get the information together for the scheme, and a determination of the scheme will require a claim on their property. It will not be entered into lightly by many. However, it will give those who wish to stay in large family homes, but who do not have the means to pay high rates bills, the opportunity to live out their lives in the homes that they have had for a long time. From that point of view, I believe that it is worth it.

Peter Weir mentioned the cost of administration. It is estimated that administration costs will be quite high. However, in discussion with Land and Property Services, even the figure that I gave to the Committee has been reduced significantly already. I have been trying to tease out from LPS where those administrative costs came from and how we can keep them down. We will, of course, review that particular aspect once we have seen the scheme in operation for some time.

Peter Weir and Stephen Farry raised the issue of councils and the impact of capping on councils, and they mentioned a rates implication for councils that have a large number of expensive properties. A case was made for that. We recognise that there is an impact on those councils, and, for that reason, we have introduced a transition allowance over the two years, which will amount to about £1·5 million available to those councils. Stephen Farry has indicated that he does not believe that that goes far enough and that it should be extended. However, we have got to balance that against the limited resources and the fact that there will be less income for central services if we forgo rate income, because the income from rates finances a lot of what Departments do at central level. The transition allowance will, at least, give councils the chance to adjust, and the £1·5 million of relief has been included in the Bill.

I see that Mr McNarry has left the Chamber. He said that, since I am ahead, I had no need to annoy him. I enjoy annoying Mr McNarry. It seems that my reference to the earlier comments that were made about the dysfunctional Executive have annoyed him. However, I have been able to show that what his party describes as a dysfunctional Executive have been able to produce this range of measures. If he gets annoyed as easily as that, I do not think that I will have too much difficulty in winding him up in future debates.

The mechanism that we have used here is not an example of the Assembly being dysfunctional. In fact, if anything, it is a good example of where we have put in place, within the Assembly, mechanisms for dealing

with urgent issues that we need to get through quickly. That shows that the Assembly can function, even when things that we do not want to get slowed down, do get slowed down. There is still a way to catch up.

Mr McNarry mentioned the carbon-neutral homes scheme and said that it was an innovative policy. I think that other Members mentioned it as well. That policy is designed, primarily, to save energy. He also talked about the rates relief for businesses and asked why it was to be in place for only five years. A number of other Members mentioned that as well. No policy is going to continue indefinitely. These policies were introduced in particular circumstances. The Assembly and the Executive might decide to extend it after five years, but, in five years' time, it may well be that, with a reassessment of the policy, we will see that economic circumstances have changed. For instance, it may become apparent that the resources that are being used for the small-business rates relief scheme or, as Mr Farry mentioned, the rates on manufacturing businesses, could be used in a better way. For that reason, we have given a five-year life to the scheme, and it will be reassessed in five years' time. That is not to say that it will end in five years, but at least that will give us an opportunity to ask whether it is the way that we should be spending resources in whatever circumstances we might be facing in five years' time.

Mr McNarry also raised the issue of carers and asked whether the Bill could provide relief allowance for them. He accepted that I have asked officials to discuss that with him. The rates system is not the answer to all the kinds of problems that people in Northern Ireland face. There is a limit to what can be done through the rates system. The more complicated we make the system of collecting rates, the more expensive it will be.

Certain information is not readily at hand, and although departmental officials will explore the issue of carers with Mr McNarry, there must be an initial definition of a carer. Very often, the person who is the carer will change, and it is not easy to track those changes within the current rates system. What also must be defined is how many hours a particular carer is caring for, whether they are full-time or part-time carers, and what those terms actually mean. Therefore, a whole range of information and issues must be captured and made available to the administrators of the rates system before the Department could consider whether the introduction of rates relief for carers would be feasible. There are other ways of dealing with the carers issue, but that would involve the creation of a completely new policy, which would require consultation. I am fairly sure that rates relief for carers cannot be included in the Bill, but departmental officials will discuss that with Mr McNarry.

Mr McNarry also raised the issue of elderly carers, and provision has already been made for such carers through the benefits and rates relief scheme, with, for example, the lone pensioner allowance containing certain categories of carers that are treated as not occupying a property. It must be remembered that any additional changes to the system will increase complexities and the cost and operational pressures, and that there are limits to what the Department can do.

Mr O'Loan asked a number of questions, including why the scheme has been limited to a duration of between three and five years. As I have indicated, it is limited to that period, but that does not mean that it will end then. Indeed, following the end of that period, the Department will re-examine the scheme in light of the particular circumstances of the time. The total cost of the scheme is between £8 million and £9 million, and in three to five years, it could be felt that that money could be directed in a much more effective way. By limiting the time for the scheme, the Department is at least allowing for a re-examination of a policy that is right for today, but may not be right in the future.

The second issue that Mr O'Loan raised was the one-off allowance for energy efficiency, and whether that should be limited to loft or cavity-wall insulation. This is the first phase of the scheme, and it will be reassessed, but in the first phase it was felt that the quickest way of making energy savings was to limit it to those two types of insulation. Some of the other measures that Mr O'Loan talked about, such as energy-efficient boilers or solar panels, could be included in the allowance following the departmental examination of the first phase, and, after a year or two, the Department will examine how that measure has performed, and whether it should expand it to include those technologies. Members should note that the warm homes scheme has been extended to include renewable-energy schemes, and the Department will examine that in the future, when examining the green rebates.

Mr O'Loan and other Members also raised the question of reconsidering the rating of empty commercial premises to support businesses that are struggling as a result of the recession. The Department has carried out an evaluation of the impact and effectiveness of the policy of rating empty non-domestic properties, and it has always been the plan to do that at this time. However, that evaluation was given added importance because of the recession, and the impact that it is having on the commercial property market. Indeed, I know from speaking to my constituents that many people own commercial properties that had previously lain vacant only for a few months at most, but which have now been vacant for much longer because of the recession.

11.45 pm

As part of the evaluation, we have taken soundings from a number of stakeholders to get their views on what the impact of the policy will be, and we will also be taking on board the views of the Committee for Finance and Personnel. I want to consider all those matters, as well as look at a detailed analysis of what is being done as part of the evaluation, before I make a decision on how best to proceed. We are not closing the door on that, but it is important that we obtain some facts. As with all such matters, we must remember that if the policy is changed, it will have implications for the revenue that we collect from rates.

Dr Farry presented me with something akin to an A-level paper on rates, which contained a number of questions, and I will try to answer him as briefly as possible. His first point was that he and his party were not happy with the rating system, and he asked why we were not looking to introduce a local income tax. All the studies that have been conducted on replacing the domestic rate with a local income tax have shown that the administrative costs would be quite high: around 7p from every pound collected would go on administration. Dr Farry, who has an economics background, will know that, when he wrote about taxation, Adam Smith listed what he called the “canons of taxation”. One of the canons of taxation was that any tax should be cheap to collect. If it is not efficient to collect, it is not a good tax. Moving towards the introduction of a tax that would take 7p in every pound to collect might not be the wisest option. Indeed, it is significant that, although the Scottish Government started off contemplating a local income tax, they have dropped that idea. Therefore, concerns have already been raised about the introduction of such a tax.

The second point that Dr Farry made was whether the small-business rates relief scheme and the cap on industrial rating was the wisest way in which to give help to industry. He asked whether it would cause businesses to become ossified, and so on. Dr Farry made the argument that the scheme deals only with the cost base of businesses. However, I have had representations from businesses, and they have told me, the Assembly and the Committee what they would like to see happen during the recession. Their fixed costs are crippling, especially when their customer base has been reduced. That is why the measure has not been set in concrete and why we have said that it will be reviewed. When we look at the matter in the future, in different economic circumstances, we may decide that the cost base is not what we should be going for and that, instead, we should be looking more at the structural changes or the supply side aspects to promote expanding industries. People who are operating in business are saying that that is the kind of help that they need.

Dr Farry asked a number of questions on energy-efficiency measures. He wanted to know whether we believed that the relief of £150 that will be given on expenditure of £300 would be enough — around 50% of the expenditure will be covered by the rates relief. The level has been set at the same level as is available through the Northern Ireland Electricity cashback scheme, which attracts around 2,000 applicants a year. The £150 incentive has clearly been sufficient enough to attract a number of applicants. Indeed, the scheme is oversubscribed. It is estimated that there could be around 3,000 to 4,000 applicants for the scheme, which is quite a large number. If it attracts people, gives them an incentive and gives them some help to insulate homes that are not insulated, that would appear to me to be a big step forward.

Dr Farry also asked whether any modelling had been done to assess the impact that the schemes may have. The answer is no, but the schemes will be reviewed when they have been up and running for a while. We will see how successful they have been in meeting their aims. If they are successful, there will be scope to extend the legislation. If not, of course, we will have to look at the legislation to see whether there are other ways of applying the rebates.

The Member also raised the issue of industrial derating, and whether that was likely to run contrary to EU rules. The answer is that if it were introduced today, it probably would run contrary to EU state-aid rules; however, it qualifies as pre-accession aid. If we were to revert to a lower level — for example, to 25% liability — the legal advice is that there would be a high risk that that policy reversal would not be allowed, but the current level is not likely to be challenged, or run contrary to state-aid rules.

I have already answered Dr Farry’s plea, from his perspective as a councillor, for the relief for councils because of capping. I hope that I have explained the thinking behind what we have done, namely that what is available is a temporary and transitional relief.

Finally, I will address the comments that were made by Simon Hamilton. I know that that word “finally” has caused great joy in my colleague Gregory Campbell. Simon Hamilton raised the issue of non-domestic properties and the small number of people who may apply for a deferment of rates. I think that I have covered both those points, and, therefore, I am now coming to the end of the questions that have been raised.

**Some Members:** Hear, hear.

**The Minister of Finance and Personnel:** I look forward to the Consideration Stage of the Bill. I thank Members who have stayed until this late hour. Breakfast will be served shortly. *[Laughter.]* I commend the Second Stage of the Bill to the Assembly.

*Question put and agreed to.*



*Resolved:*

That the Second Stage of the Rates (Amendment) Bill (NIA 2/09) be agreed.

*Motion made:*

That the Assembly do now adjourn. — [*Mr Speaker:*]

## PRIVATE MEMBERS' BUSINESS

### Civil Service Equal Pay Claim

The following motion stood in the Order Paper:

That this Assembly notes with concern that the Civil Service Equal Pay claim remains unresolved despite the Assembly resolution of 1 June 2009 calling on the Minister of Finance and Personnel to ensure that the staff affected receive their back pay within three months; welcomes the assurance by the Minister that the financial implications of a resolution to this matter will have to be faced in a manner compatible with the Department's legal obligations; and calls on the Minister to state an early date by which a comprehensive settlement offer will be made to the Trade Union representing the staff concerned. — [*Mr O'Loan.*]

*Motion not moved.*

**Mr Speaker:** I thank the Member for his co-operation in not moving the motion at this late hour. I know that the motion will be on the Order Paper next week.

## ADJOURNMENT

### Sectarianism in Coleraine

**Mr Speaker:** Before we begin the debate, I remind Members of their general duty to behave responsibly. I strongly recommend that they exercise extreme caution to ensure that nothing that they say during the debate may prejudice any matter that is before, or may come before, the courts. The proposer of the topic will have 15 minutes in which to speak, and all other Members will have approximately seven minutes.

**Mr Dallat:** I am sure that Members will not thank me for insisting that the debate go ahead, but it is very important, because an event is due to take place at Stormont tomorrow, and there was a meeting of political leaders in Coleraine Borough Council last night. This debate is part of a sequence. I am sure that this is the type of debate that people wish were not necessary, but it is a reality of life, which has caused much heartache to those at the receiving end of the awful curse that still afflicts society in Coleraine.

The death of Kevin McDaid was, I believe, a defining moment in a long period of sectarianism, which many predicted would end in grief. Unfortunately, it did.

During the debate, I shall listen carefully to what other Members have to say, because it is only when we talk to one another that we are most likely to reach a resolution. Regrettably, the kind of engagement and dialogue that is necessary for a resolution is not taking place, certainly not at the pace that it should. So far, the victims have not been asked for their opinions, and those who are engaged in sectarianism still do not understand that, in such circumstances, everyone is a loser.

The 'Chambers Dictionary' defines sectarianism as:

"of or relating to a sect, or between sects; ... motivated solely by a hatred derived from religious bigotry".

In the days after the murder of Kevin McDaid, I met clergymen representing the main Churches, and they are in no way associated with, or contributing to, bigotry because they belong to a particular sect. Indeed, I salute the clergy for their courage and inspiration at a difficult time, when others in positions of political leadership were nowhere to be seen.

'Fowler's Modern English Usage' is more succinct. It describes sectarianism as:

"Now almost inevitably followed by the word 'violence' ... suggestive of killing or destruction, in Northern Ireland, the former Yugoslavia, or elsewhere in the world."

That is certainly not something that we want. That kind of definition should surely set alarm bells ringing, because this society has seen enough violence over the years, and no one wants to see another cycle of troubles, which solves nothing and fails everyone.

In the weeks and months since the death of Kevin McDaid, it was expected that engagement in dialogue would take place. That has not happened, certainly not at the pace that it needs to happen. Indeed, the problem has worsened, with children and young people cocooned in their homes during the school holidays, too afraid to go to the town centre, where sectarian elements gather regularly. People from those elements are equipped with their mobile phones to alert their cronies, should others appear whom they regard as the enemy. The Bann Bridge, which should unite people, has become a symbol of fear where sectarian groups gather regularly to chant bigoted slogans in the direction of the area of the town where Kevin McDaid lost his life. Those slogans are clearly heard, and they hurt. Sometimes, the slogans are in support of individuals who are on remand for alleged involvement in the attacks of 24 May. At other times, the chants are purely to hurt the feelings of those who are already hurt. That is sectarianism at its rawest, and it piles fear on fear. It must end.

When I visited the area last Friday, I found that the streets were very quiet and peaceful. There was not a sound, and the good weather gave the impression that it was heaven on earth. However, that silence had an eerie feeling about it. No children were playing in the streets, and the silence was broken only by the occasional bark of a dog. You could smell the fear. I did not know that, a few hours later, the police would deliver yet another death threat to a local family, which had 12 hours to get out. That is not civilisation, and it cannot continue.

Around the corner, a community art project depicts normal life in a normal society. It has brightened up the place, but even that has not pleased some people. A picture of a fisherman is somehow linked to the late Kevin McDaid, because he took young people from both communities fishing. The image has been the subject of complaint. That is how bad sectarianism can get, particularly if it is not addressed. All of that is adding fear on fear.

### *12.00 midnight*

“Fear” is the single most common word that is used by people from both communities who live in the area. A man who was born and reared in the Killowen area told me that a police officer advised him to take a different route home. He does not understand why that should be. After all, he said, he had taken the same route home for more than 50 years. Now, it seems that

it has become too dangerous. That is intolerable and unacceptable in a modern part of the European Union.

When people are looking for reasons for the unrest, it is often pointed out that alcoholism and drug abuse are the problem. The word “criminality” is used glibly to explain almost anything that happens. Questions should be asked as to why families feel the need to go to other towns to do their shopping because they are too afraid to do it locally. That is not a good situation, and it must end.

Has anyone gone to the area to find out what the problem is and to find out how people feel about being in the spotlight constantly because their homes are attacked and their friends are beaten up, as happened again last week? The people to whom I have spoken have not been approached for their views. They are more than willing to talk, if only those people who took exception to them, their culture and their way of life, would engage with them. However, to date, they have not.

People in that beleaguered community ask for nothing more than to feel secure and to have a regular community police service that will protect them. Somebody asked why it is OK to bedeck their streets with flags, including those that are sometimes associated with loyalist paramilitary groups, but lynch mobs attack them when they fly the flag of Ireland on a day when their beloved Celtic Football Club is playing. Those are the kind of challenging questions that are being asked. Although we may not feel comfortable with those kinds of questions, we must think about them.

At present, local people have the telephone number for a police liaison officer. He is contacted to ensure that police come to their aid when strange cars descend on the neighbourhood or dogs begin barking incessantly in the middle of the night or, indeed, when their homes are attacked. There is a lack of resources, and that must be addressed.

I must say that I am disappointed that the Office of the First Minister and deputy First Minister has not agreed a way forward for the strategy for a shared future. With that kind of failure at the top, it is, dare I say, much more likely that there will be failure at ground level.

On a positive note, I want to mention the Workers’ Educational Association (WEA) and to thank it for putting together a challenging training course that will help public representatives to develop leadership skills. Indeed, enrolment levels on that course have been healthy, not just from people in the Coleraine Borough Council area, but from those in the Limavady Borough Council area, the Ballymoney Borough Council area and the Moyle District Council area. Last night, we met the chief executive of the Community Relations

Council. It is hoped that progress will begin to be made locally.

On Wednesday 23 September 2009, there will be a meeting with the junior Ministers in the Long Gallery, which other representatives and I have been invited to attend. Again, I keep my fingers crossed that the seriousness of the problem will be acknowledged and acted on sooner rather than later.

Recently, the principals of two local primary schools wrote to the First Minister and the deputy First Minister to seek help for their children. They were extremely disappointed with the reply that they received. They have written again to OFMDFM in the following terms:

“We have deep concerns over the extremely high tensions which are currently running in our community and how every indication shows that the situation is likely to continue for some time.

Our children are under threat, suffering emotionally and physically due to what is happening so it was with great disappointment we received your letter. Who else can we appeal to for help before this state of affairs gets even worse and another generation is tainted with bitterness and regret?

People in our community have stepped back 20 years and no-one appears to be concerned enough to do anything to address this problem and the fate of the children attending our schools.”

Those are not my words; they are the words of the principals of two local primary schools. They also happen to be same sentiments that people in the area to whom I spoke last Friday expressed. A young mother sitting with her beautiful three-year-old daughter echoed the opinions of the teachers of the schools that were turned down for funding.

I pay tribute to those schools that are involved in the Seven Schools project, which has been in operation for several years and which provides an opportunity for young people at post-primary schools to engage regularly in dialogue. Schools have included politics on their curriculums, and all of us have been given an opportunity to engage with young people.

Later this month, there will be a reception to mark the cutting of the sod for a new community centre. I wish to pay to tribute to a community organisation in West Bann that has been at the forefront of addressing problems. I hope sincerely that its project will mark the beginning of a new era and dawn that the Assembly and other statutory agencies will support fully. That project is funded by the Department for Social Development and by Coleraine Borough Council.

I repeat my appeal to the First Minister and deputy First Minister to listen to the principals of local primary schools. The prediction that others may die if the issue is not addressed and if the people who are responsible for acts of sectarianism and bigotry are not dealt with is one that they will ignore at their peril.

The hate laws are totally inadequate to deal with the kind of bigoted behaviour that has afflicted Coleraine for too long. Toleration of sectarianism, which manifests itself in all its evil forms, should be brought to an end. Above all, there should be a realisation that no section of the community should have to run the gauntlet of sectarianism, irrespective of who causes it.

It has been 50 years since the curfew bell last rang in Coleraine, and God grant that it does not begin to ring again, because that is the road to no town, and it will bring only shame on all of us. Let us learn from the past and collectively begin a new period of history in which Coleraine will be sought out not for media sensation, but for a wonderful story of how divisions have passed and are gone for ever.

People in all communities are crying out for that to happen, and I am sure that we will hear other Members say the same. Most people in Coleraine are good, decent people who need the support of various agencies to address a problem that has sadly scarred the town, particularly in the past few months. I again thank the Business Committee for giving me the opportunity to debate the issue.

**Mr Campbell:** First, I acknowledge Mr Dallat’s securing the debate. As he outlined, this topic is very important. I wish to be brief; however, given the importance of the issue, I am sure that Members will forgive me if I develop my contribution a little.

Sectarianism in Coleraine and elsewhere is an issue that demands our utmost attention and all our endeavours to resolve. As Mr Dallat said, Mr McDaid’s killing was not only reprehensible, but it was condemned across the spectrum. I not only condemned that at the time — as I have done for all the other murders in all the time that I have been involved in politics — but, more than that, I called on anyone who might have any information to bring it to the police so that those who were responsible can be brought before the courts. I have said that repeatedly, and I have never sought to excuse, defend, or in any way exonerate those who were involved.

I made that call because the greatest disincentive for breaking the law is the rigour of the courts. Having established a long track record of making such calls, including after Mr McDaid’s murder in Coleraine, it was deeply unfortunate that the deputy First Minister criticised me in the media just after that killing and also that John O’Dowd criticised me in a debate earlier in this sitting. I am at a loss to understand why I would be the subject of such criticism when I have been so trenchant and vehement in my opposition to attacks of any kind on anyone. The only conclusion that I can draw is that my criticism of the media was the reason.

Mr McDaid’s killing, which I repeat was reprehensible and totally unacceptable, resulted in

considerable media attention being focused on Coleraine and a very unfair portrayal being painted of much of the town because of problems that were surfacing in one small area there. In recent days, I have been critical of some of the mainstream media's coverage of other issues in Northern Ireland, but I commend the Belfast 'News Letter' for an article of 5 June 2009 that was published after considerable pressure from me. I asked for that article to be written after being inundated by the demands of not just a few dozen, but of hundreds of people, who e-mailed, wrote to me or came to my office wanting to know what could be done to change the wrongful perception of their town. Without exception, every one of those people condemned Mr McDaid's killing and said that the perception of their town was completely wrong and that they were being presented as sectarian madmen and bigots who kill each other. That is not the reality.

The population of Coleraine is between 75% and 80% Protestant. My office is in the town, and I represent the area. I have often seen people wearing sports tops that identify them as being from the nationalist community. There is no difficulty with that because it is the way that it ought to be. I just hope that we can get to a situation in towns that are 75% to 80% nationalist in which people can wear sports tops that identify them as being from the unionist community.

Thankfully, the 'News Letter' covered that side of Coleraine on 5 June 2009 and published a two-page spread that indicated the extent of some of the problems that Mr Dallat alluded to. In no way do those problems defend or justify Mr McDaid's killing, but they were problems that existed long before his death. They include drug dealing, theft, antisocial behaviour, attacks on businesses and people being driven from their homes. Other examples include a woman who had lived in the Heights for 54 years having to leave her home; a young man getting his jaw broken; and a woman who was wearing a Rangers top being attacked as she left the Heights. I publicised those attacks, and I make no apology for doing so.

Regardless of whether I am criticised, whether by the deputy First Minister, the Sinn Féin Member for Upper Bann or anyone else, I make no apology for saying that those incidents cannot be left to one side just because of Mr McDaid's reprehensible and unacceptable killing. The context of what was happening in the Heights area of Coleraine had to be portrayed accurately, given the one-sided impression that was given in much of the media coverage after Mr McDaid's murder.

I will end my remarks with a quotation from a heart-rending letter from a young woman who wanted to leave the Heights area of Coleraine:

"My five-year-old daughter is suffering. She frequently wets the bed when she hears noise outside the home. She is usually too

scared to go to sleep. She frequently asks "Mummy, why do we have to live here?" My heartbroken reply is, "I cannot afford to live anywhere else." I work 34 hours a week on the minimum wage, receive no housing benefit and struggle to provide for us as it is. I have no other options available to me other than to wait for a housing transfer. We are scared and unable to get proper sleep at night, so we will end up sick as well as exhausted."

That is a quote from a lady who suffered intimidation. There is a litany of that sort of attack, criticism and verbal and physical intimidation in the Heights area. It has to be brought to an end, just as any attacks on any side of the community must be brought to an end. If there is any part that I or others can play, we ought to and will play that part to bring those attacks to an end.

12.15 am

**Mr Brolly:** Go raibh míle maith agat, a Cheann Comhairle. After the murder of Kevin McDaid, go ndéana Dia trócaire air, I spent considerable time in Somerset Drive with his family and the residents, and I attended Kevin's funeral. Following my first visit to what was, for me, a different and very unhappy world, I drove home feeling a mixture of sadness, depression and anger that people should have to live, as those people have done for years, in the shadow of fear. Even worse, they are expected to accept that equality is not for them, and that a good, decent Coleraine man, such as Kevin McDaid, was second class and expendable because he was a Catholic.

I was present at two subsequent band parades in the area — those were hardly nationalist bands — and, in general, the bands behaved properly. However, a couple of people were clearly intent on demonstrating their hatred for the residents of Somerset Drive, and some hangers-on were particularly offensive, simply because Catholics were not welcome, even in that modest housing estate on the edge of Coleraine town.

As I considered what I had seen and heard, I began to wonder whether the naked aggressive sectarianism of those young, Protestant, unionist, loyalist men in the bands, and of those who follow the bands, was merely the overt and ugly manifestation of a pandemic sectarian disease in that town. Are the young men who are prepared to attack, maim and kill Catholics just because they are Catholics worse than the respectable, clean-handed citizens who subtly and insidiously nurture sectarianism, but who wash their clean hands, like Pontius Pilate, when atrocities are committed, as they would say, in their names?

Where do we start to eliminate that disease? Do we start with the young, thoughtless, sectarian thugs, or with those outwardly respectable citizens, including some politicians, whose deeply injured, but thinly veiled, sectarianism is encouraged by the privilege and power that it helps them to win and maintain?

I do not need to be told that sectarianism is not confined to the Protestant community. However, in Coleraine, it is the Protestant population that must begin to come to terms with the existence of a considerable Catholic, nationalist community and its warts.

**Mr Campbell:** The Member is alluding to the issue in Coleraine, as that is the subject of the Adjournment debate. However, does he accept that the Catholic community in Coleraine is significantly larger than the Protestant community in Dungiven, the town that he represents and in which he lives?

**Mr Brolly:** Yes, I accept that. I made the point that there is a significant Catholic community in Coleraine and that that has to receive greater acknowledgement.

In contrast to the anecdotal evidence from the letter that the Member read, at the time of Kevin McDaid's murder, and in the days and weeks following it, the unionist version of the Ulster flag that was hanging from a house in Somerset Drive was not interfered with.

That is heartening. Sadly, I am not hopeful that Coleraine will be completely cured in a hurry. I am reminded of the old rhyme about Belfast, of which the final couplet reads:

"It's to hell with the future and live on the past:  
May the Lord in His mercy be kind to Belfast."

We should add Coleraine to that.

**Mr McClarty:** I am happy to contribute to tonight's debate. Unlike any other contributor, I was born and grew up in Coleraine. Indeed, I still live there. As a public representative, I am proud of the good record of positive community relations in Coleraine. I am proud of how people from all backgrounds work together for the good of Coleraine as a whole.

I accept that there is a problem with sectarianism in Coleraine. However, I say to the Member who secured the debate, to all Members, and to everyone in Northern Ireland that Coleraine has a problem that it shares with all of Northern Ireland. Sectarianism is not the sole possession, as Mr Brolly would have us believe, of the unionist/loyalist community. Mr Campbell outlined some sectarian incidents that have occurred in the Killowen area in recent times. Sectarianism is a two-way street, and, unfortunately, it is alive and well in both communities, not only in Coleraine, but throughout Northern Ireland. That is hardly a surprise, given that we live in a country that segregates —

**Mr F McCann:** On a point of order, Mr Speaker. Francie Brolly said that he recognises that sectarianism affects both communities. The Member is wrong to say that Mr Brolly only pointed out sectarianism that exists in the unionist community; he spoke about sectarianism in both communities.

**Mr McClarty:** His examples were entirely those of the unionist community against the nationalist community.

**Mr Speaker:** Did Mr McCann want to make an intervention?

**Mr F McCann:** I wanted to raise, as a point of order, that Mr McClarty misquoted Francie Brolly.

**Mr Speaker:** I was trying to help the Member. That is not a point of order; it is more a point of information.

**Mr McClarty:** It is hardly a surprise that sectarianism exists in Northern Ireland, given that we segregate children at the age of four, solely on the basis of their parents' religious affiliation. That is hardly news, because divisions between Protestants and Catholics have been a feature of life here for 500 years since the reformation. Indeed, many republicans and nationalists speak about 800 years of oppression. Given the history of this part of the world, it is not news that there are sectarian divisions in our society, hence the need to work for a shared future and to reduce and remove the division and bitterness in our midst.

My aim as a public representative, and as an Ulster Unionist, is to achieve a position in which this Province can live without sectarianism. I want to see an end to sectarianism and everything that goes with it in Coleraine and everywhere else. Events in recent months have provided sobering evidence of sectarian attitudes in the whole Province: the death of Kevin McDaid, which I have unreservedly condemned on several occasions; the murder of Constable Stephen Carroll; the murder of the two soldiers, Sapper Mark Quinsey and Sapper Patrick Azimkar; attacks on police officers and their families; riots on our streets; and intimidation of people from all sections of our community out of their homes.

All of that has brought into sharp focus the problem that we have in Northern Ireland, and it should have underlined the supreme importance of getting to the core of sectarianism and tackling it.

That task is not helped by the continued delay, and, now, the public bickering, between the DUP and Sinn Féin on the cohesion, sharing and integration strategy. The lack of that strategy is hindering the Executive and those in the community who are making it their business to try to change attitudes and make Northern Ireland a better place. Public squabbles over who wants what document to be adopted are juvenile and deeply unhelpful. Our Executive should be better than that. Our First Minister and our deputy First Minister should be better than that.

There are a wide variety of cross-community groups and bodies in Coleraine, including sports

clubs, cultural groups and amateur dramatics societies. Those groups are a testament to how united the town's community is compared with similar towns in Northern Ireland. My party and I condemn all criminal acts, whether sectarian or otherwise. I have worked all my political life to bring people together and to try to ease tensions where they have arisen.

People must be responsible for their actions. We all have a choice in what we say and do. I want a community that is at ease with itself, in which diversity is respected and, indeed, welcomed. The overwhelming majority of people in Coleraine are committed to mutual respect and tolerance, and, as a public representative, I am proud of that. However, all of us in Northern Ireland have to confront the reality of sectarianism. That means that we urgently need the cohesion, sharing and integration strategy.

**Dr Farry:** Good morning, Mr Speaker; we are in unprecedented territory.

I am honoured and privileged to be able to speak in this Adjournment debate as one who does not represent the East Londonderry constituency but who, nonetheless, recognises the critical importance of the issues that we are discussing at this late hour. I commend John Dallat for securing the debate.

I have pleasure in following on from Mr McClarty's comments and concur with the vast majority of what he has said. Although I am not from the Coleraine area, I have family in-laws in that part of the world, and I agree with what Mr McClarty said about the attractiveness of Coleraine, the qualities of the majority of the people there and the good cross-community work, formal and informal, that takes place in the area.

That said, we have an underlying problem with sectarianism across this society. A large and growing number of people are working across divides to try to build a shared future to move society forward, to build stability and to grow the economy. However, the persistence of divisions is still causing considerable problems in society, including deeply ingrained sectarian, racist and homophobic tendencies, which must be tackled.

I condemn, in the strongest possible terms, the events that took place in Coleraine over the summer and since then, including, in particular, the murder of Kevin McDaid. What happened in Coleraine has the potential to break out anywhere in Northern Ireland, which is why I am speaking in a general sense. We must learn lessons from that situation as fully as we possibly can. The people of Coleraine should not be singled out; but that is where the problems are most obvious at the moment.

12.30 am

Sectarianism is a cancer, and it has been fashioned and increased in our society over the past century. I disagree slightly with Mr McClarty in that I think it has waxed and waned over the past several hundred years. There have been times when there have been better relationships between people from different traditions in our society, but things have been worse in recent years.

I will highlight three points about the way forward. First, there is a clear need for a policy on good relations, whether it is a shared future policy or a cohesion, sharing and integration strategy. It is not enough for politicians to condemn sectarian acts and point to individual actions happening in local areas. Sectarianism is a Northern Ireland-wide problem, and we need leadership from the top as well as activity at community level.

We need a clear vision of the kind of society we are working towards; we need a strategy for achieving that, and we need a delivery plan. Those three elements need to be contained in documentation and policies coming from the Executive. I do not want to dwell any further on the particular disputes that we have seen over the past months and that have been particularly highlighted over the past week. That is a debate for another day.

Secondly, within the strategy, one particular issue needs to be considered, and it is not reflected in either version of the two documents that we have seen so far. There is a need for some form of early warning system, whereby public agencies, including the Executive, are alerted to potential flare ups in communities, particularly in areas that have not been traditional interface zones or flashpoints until the point at which trouble breaks out. If people pay very close attention, there can be signs that situations merit early intervention to try to calm tensions.

The third issue is how public displays of flags and emblems are dealt with, which tends to happen in an unregulated matter and is clearly the source of tensions. What happened in Coleraine bears this out, and it should be tackled by a future Executive policy. There is a time and place for the proper use of a flag as a sovereign indicator of a society. Flags are also used to intimidate and to mark territory. That inevitably creates tensions, with people sometimes objecting to flags being imposed on them. There needs to be a better system for dealing with flags. The current flags protocol needs to be reviewed urgently and well ahead of next summer.

Arising from that, there needs to be a clearer policy on encouraging shared space and protecting and defending shared space. Having stressed the importance of shared space, I am not saying that

it needs to be neutral space in which any scope for cultural traditions is eliminated. People have the right to express themselves and their cultural identity. However, it must be done in a manner that does not create tensions or undermine other people's rights. That could lead to a very damaging situation, not just to community relations, but to the physical welfare of individuals, and ultimately, as we have seen in Coleraine, to the death of an innocent man. There are clear lessons to be learned, and I welcome the debate, albeit at a very late hour.

**Mr G Robinson:** I condemn sectarianism in all its forms, and from wherever it comes. I commit fully to the task of eliminating it. I want to portray a more balanced debate on what is really happening in Coleraine.

Coleraine has always been a town that has enjoyed good community relations. That was especially true of the Heights and Killowen areas over many years, in which both sections of the community worked and lived in harmony.

There has been extremely negative media coverage of Coleraine this year as a result of the brutal murder of Kevin McDaid. As any right-thinking person should do, I totally and unreservedly condemn that murder. Unfortunately, it has marked an historic low point in negative impressions of Coleraine. The media seem happy to overlook reality, and the truth must now be exposed. We also need to take consideration of the fact that there are antisocial behaviour and drugs problems among a small element in the Heights area that blight the everyday lives of both communities there.

On the same night as the McDaid murder, a young Protestant man was savagely beaten as he walked home alone. He sustained serious injuries, including a smashed cheekbone, and required hospitalisation. The wearing of a Rangers top is no justification for such a brutal and savage beating. Having met that young man and his family, I am in absolutely no doubt that the attack was purely sectarian.

Last week, yet another Protestant family were forced to flee their home in the Heights area as a result of persistent attacks, damage to property and subjection to verbal abuse. That is the latest example of some Protestants being targeted in what amounts to a hate campaign that is being carried out by a very small number of nationalists in the Heights area; I reiterate that it is a very small number. I condemn attacks on any homes, and I condemn the people who lead and carry out sectarian attacks.

I recently dealt with a Protestant-owned business in the Heights area that has been forced to relocate. That business's staff members were subjected to threats; property was destroyed at every available opportunity; and there was a threat to burn the property if the

people did not leave. Some customers were spat upon, and some refrained from using the business through fear for their personal safety. Vehicles belonging to the business were stoned, and employees were verbally abused at every opportunity. Some employees were victims of false complaints that led to their arrest by police; all were released without charge.

I must point out that that firm employs both Roman Catholics and Protestants. Therefore, the small number of people who jeopardised employment, simply because the firm was Protestant-owned, can be described only as sectarian. The business did not receive one penny in compensation for a move to new premises that cost thousands of pounds. I totally condemn the behaviour of the bully boys. I hope that my contribution has given Members a balanced picture of events in Coleraine.

Sectarianism is wrong wherever it comes from, but the truth of the situation in Coleraine is vastly different from the picture that some Members wish to paint. I am sure that Mr Dallat, who introduced the Adjournment debate, is aware of the sectarianism in his home town of Kilrea, which is displayed in the flying of tricolours to antagonise the Protestant population. If some Members put more effort into stopping sectarianism in Coleraine and throughout Northern Ireland, all communities would be better served.

**The junior Minister (Office of the First Minister and deputy First Minister) (Mr G Kelly):** Go raibh maith agat, a Cheann Comhairle. I thank John Dallat for securing the Adjournment debate, and I am glad of the opportunity to contribute to it. As other Members have expressed, I, too, am very deeply and publicly opposed to all forms of sectarianism and hate crime. The tragic murder of Mr Kevin McDaid was an abhorrent act of needless violence and wanton destruction of human life. Damien Fleming, who was attacked and badly injured on the same day in May on which Kevin McDaid was killed, was recently released from hospital only to be subjected to yet another brutal attack. I probably speak on behalf of everyone here in wholeheartedly condemning that further assault.

However, as a number of Members have said, words of condemnation are not enough. We must act and demonstrate, by word and deed, that the ideas that underpin sectarianism, racism and homophobic hate crime are not acceptable in our society. It is a matter of record that the context of the attack on that section of the Coleraine community was an Old Firm football match, when a number of Irish tricolours were erected.

As was pointed out, Coleraine is predominantly, but not exclusively, a unionist town. One of the most telling statements that I heard immediately after the attack was from a contributor to a radio programme who asked: "What did they expect would happen?" I

am sure that that person gave little thought to their casual throwaway comment, but it was an articulation of how sectarianism is accepted or excused in our society. A group of Catholic residents was attacked and a man died, because flags had been erected. Such attacks are not acceptable and cannot be excused.

It is neither acceptable nor understandable that someone should be attacked because of their religion, political opinion or national allegiance. Neither is it acceptable nor understandable that a church or community hall is attacked. It is also not acceptable to attack someone who is from a different racial group or because of their sexuality. What is to be expected is that people should be treated with respect. Each of us is entitled to be held in equal value. The people who carried out the attack in Coleraine, and those who carry out similar attacks, do not accept that other identities are of equal value to theirs or that their victims have equal rights and entitlements. In the eyes of bigots, other people are reduced to stereotypes that can be dismissed and rejected.

The concept of equality, equal value and equal rights is central to tackling sectarianism and other forms of hate crime. It goes straight to the core of the beliefs that underpin such attacks. In the Programme for Government, the Executive gave a specific commitment to the promotion of equality and enforcement of rights as the framework for promoting cohesion, sharing and integration. We have sought to put that approach into practice in our work in Coleraine.

However, as several Members mentioned, everyone must acknowledge the scale of the problem and act to address it. At a recent meeting, the PSNI stated that there had been a 95.1% increase in hate crime in the Coleraine area. Ironically, at the same time, it recorded a 15% decrease in antisocial behaviour.

In a statement on 20 May 2009, the First Minister and deputy First Minister offered support to help to reduce tensions in the area. On 16 June 2009, Jeffrey Donaldson, who was the other junior Minister at the time, and I met elected members from all political parties in Coleraine and representatives from statutory bodies, including the PSNI, the NIO community safety unit, and the Department for Social Development neighbourhood renewal. Also present were youth providers, council officers, Housing Executive officials, and representatives from the Victims' Commission and a peace reconciliation group. The purpose of the meeting was to discuss the problems in Coleraine and how we could support any responses. It was an extremely useful meeting for everyone, and it was made clear that the intention was to explore the ways in which all public services could work together effectively to reduce tensions and improve matters in the area for the community most affected.

Tomorrow, junior Minister Newton and I will meet that group again. We asked Roger Wilson, the chief executive of Coleraine Borough Council, to submit a longer-term strategy to address the causes of tension in Coleraine and to provide details of additional resources to support youth diversionary activities. Those issues will be discussed tomorrow, and the group will continue to meet thereafter.

In addition to discussing and planning how to tackle sectarianism, we have moved to deliver resources in the area. This year, OFMDFM is providing approximately £86,000 to Coleraine Borough Council for its activities to promote good relations. Over and above that, we have provided £23,000 to the council for its summer diversionary work. Those moneys included funding for a cross-community children's camp at Corrymeela in July for residents in the Heights area; a diversionary event for young people that coincided with a loyalist band parade shortly after the death of Mr McDaid; and a dialogue and engagement programme that was aimed at community leaders and addressed issues of culture, identity and diversity.

Alongside that additional work, other work streams have been taken forward: the community safety partnerships have funded a street intervention programme to tackle antisocial behaviour; the local council funded two community festivals targeting both sections of the community in the Heights area; and the gap project, which is a collaborative programme operated by local churches, is a 26-week pilot scheme that offers a drop-in facility and engagement with the local communities. Through neighbourhood renewal, the sports and community centre in the Heights is being extended and refurbished in an ambitious capital programme.

However, we cannot afford to be complacent, nor will we be. Genuine issues remain to be addressed. Sectarian attacks on property and people have been carried out in the locality, reports have been received of widespread intimidation across communities, and loyalists have issued death threats to the McDaid family and witnesses to the attacks. Therefore, much remains to be done at all levels.

I acknowledge that the initiatives that I outlined are short term and reactive in nature. Neither OFMDFM nor those of us sitting in the Assembly can end sectarianism in Coleraine or elsewhere. Only the people can do that. However, we can support local people along the path of ending sectarianism. Moreover, we can lead by example through demonstrating respect for each other, sharing our history and developing a common agenda. That will happen when we recognise that we enter the Chamber from different backgrounds and with different experiences and aspirations. However, we enter as equals with equal rights and



entitlements, and we share the common agenda of delivering a better society.

*12.45 am*

I am passionate about tackling sectarianism wherever it arises. As several Members said, the problem is not restricted to Coleraine. The biggest contribution that each of us can make is to challenge sectarianism and to promote equality and understanding in our constituencies, because that is where we can exercise maximum influence. I need go no further than my North Belfast constituency to find an example of an area that has witnessed the worst effects of sectarianism. It is important to state, however, that North Belfast has taken the best and biggest steps to tackle the generational scourge of sectarianism.

OFMDFM will continue to work with community and civic leaders in Coleraine to support and resource their work. I hope that the legacy of all our endeavours will be no more deaths or injuries as a result of sectarianism. Go raibh maith agat.

*Adjourned at 12.46 am.*

