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# Northern Ireland Assembly

Tuesday 27 April 2010

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

*Members observed two minutes' silence.*

## Executive Committee Business

### **Local Government (Finance) Bill: Second Stage**

**The Minister of the Environment (Mr Poots):** I beg to move

*That the Second Stage of the Local Government (Finance) Bill [NIA 14/09] be agreed.*

As its name suggests, the Local Government (Finance) Bill contains provisions that concern financial arrangements for local government. Essentially, those provisions have four main purposes: first, to update and consolidate into one Act the legislative framework for local government finance; secondly, to clarify and update current provisions for payment of grants to councils by central government; thirdly, to update the provisions that relate to councillors' remuneration, which includes a requirement for councils to publish their schemes of allowances and provides for establishment of an independent remuneration panel to consider and make recommendations to me with regard to the framework of allowances that are payable to councillors; and, finally, to consolidate into one Act the provisions for payments by councils.

The need for the Bill comes from a number of sources. It has been recognised for some time that the legislative framework for local government finance needs to be updated to allow councils more autonomy to manage their financial affairs in line with modern accounting practices. That was identified formally by the local government task force's finance subgroup when it presented its final report in July 2006. Membership of that subgroup included elected members and officers from local government and officials from central government.

The councils' remuneration working group, which included representatives from the National Association of Councillors (NAC), the Northern Ireland Local Government Association (NILGA), trade unions, the business and voluntary sectors, together with an independent member, carried out a review of councillors' remuneration in Northern Ireland and presented its recommendations in June 2006. Recommendations that could be given effect through subordinate legislation were introduced from 6 April 2007. The remaining recommendations that require provision in primary legislation are being taken forward in the Bill.

So that the provisions for local government finance and payments by councils may be consolidated into one Act, the Bill will repeal and, where appropriate, re-enact provisions of the Local Government Act (Northern Ireland) 1972.

My Department consulted on the policy proposals together with the draft Bill over a four-month period last year. Responses were received from 28 consultees, including individual councils, groups of councils, joint committees, professional bodies and local government representative bodies. The majority of responses received supported the Bill, with no one opposing its overall purpose.

Part 1 of the Bill is concerned with updating the legislative framework for the administration by councils of their financial affairs. The Bill will relax controls currently exercised by central government over council finances. In particular, the Bill will remove the requirement for councils to obtain consent from my Department for borrowing, for establishing certain funds or for the application of their funds or proceeds from the sale of capital assets. Indeed, my Department will have power to issue guidance or to make subordinate legislation regarding financial administration, including the power to specify codes of practice to be followed by councils.

One of the codes of practice that my Department intends to specify is the prudential code for capital finance in local authorities issued by the Chartered Institute of Public Finance and Accountancy. Adherence to that code will require councils to determine for themselves how much they can afford to borrow and to operate within affordable limits in accordance with the prudential regime.

My Department will retain some reserve powers to control borrowing by councils. In the event of a national economic crisis, my Department, with the consent of the Department of Finance and Personnel, will be able to impose a blanket limit on all councils. It will also be possible for my Department to impose, by direction, a limit on borrowing by any individual council. Limits imposed on either situation would override the prudential limits determined by councils. My Department intends to use those powers in exceptional circumstances only and as a last resort.

The Bill will also introduce provisions for councils' financial reserves, and it will enable my Department to, if necessary, make provision in regulations regarding the minimum level of reserves. The Bill will give councils a new power to invest for any purpose relevant to their statutory functions or for the prudent management of their financial affairs. My Department will issue guidance to councils to ensure the prudent investment of the funds that they hold on behalf of their ratepayers.

Part 2 of the Bill is concerned with the payment of grants to councils by central government. At present, my Department pays a general grant to councils. The division of the general grant into two separate elements, a derating element and a resources element, has caused some confusion in the past. The Bill will address that by replacing the general grant with two separate grants, a derating grant and a rate support grant, which will be calculated on the same basis as the current derating and resources elements of the general grant.

At present, my Department is the only Department to have a general power to pay grants to councils. Other Departments can only make payments of grants directly to councils where there is a statutory provision for that purpose. Where another Department wishes to pay grants that do not fall under such a statutory provision, it has to make arrangements with my Department

to pay that grant on its behalf. That means that my Department is paying out grants in relation to policies outside its remit and over which it cannot exercise control. The Bill will address that by extending to all Departments the general power to make payments of grants for their own purposes directly to councils.

Part 3 of the Bill is concerned with payments of allowances to councillors. The Bill will enable my Department to make regulations requiring councils to make and publish schemes of allowances. Northern Ireland is currently the only devolved Administration where there is no independent panel to consider and advise on the system and level of payments allowable to councillors. The Bill will enable my Department to make regulations to establish an independent remuneration panel and to make provisions for the membership and functions of that panel. The panel will conduct reviews and make recommendations for my consideration concerning the system and level of allowances payable to councillors.

Part 4 of the Bill repeals and re-enacts provisions in the Local Government Act (Northern Ireland) 1972 relating to payments by councils for special purposes, with one addition. In the past, there was uncertainty about whether councils had the power to make payments for an officer's membership of a professional body where that membership was considered necessary for or beneficial in carrying out their duties. That was commented on during the consultation, and the Bill now includes a revision to remove that uncertainty. A council's payment for such purposes will now be restricted to one membership for each individual officer, even when an officer holds membership of more than one body.

In summary, I believe that the Bill has numerous benefits for local government. It will provide considerable opportunities for councils to exercise control over their financial affairs by relaxing the degree of control currently imposed by central government. Rather than having to apply to my Department for consent before borrowing or applying funds and income from capital receipts, councils will now be able to take responsibility for those activities, having regard to the recognised codes of practice and subordinate legislation and guidance supplied by the Department. The Department's reserved power to control borrowing will be used only in exceptional circumstances.

I am sure that Members from all sides of the House are aware of the increased public and media interest in the allowances paid to elected representatives. The powers that will require councils to make and publish schemes of the allowances paid to councillors will set new standards of transparency, and the power to establish an independent remuneration panel will mean that I will receive impartial advice regarding councillors' allowances. The greater freedom that councils will have under the Bill will place additional responsibilities on elected representatives and officers in local government for sound and accountable financial decision-making. That is only to be expected, and freedom always has a price. However, it will increase a council's control of its own finances.

I see the Bill as a necessary and highly desirable step in developing the capacity of local government. In my statement to the Assembly on 20 October 2009, I referred to the words of my predecessor Arlene Foster when she spoke to the Assembly on 31 March 2008. In that statement she set out the Executive's vision of local government:

*"our vision is of a strong, dynamic local government that creates vibrant, healthy, prosperous, safe and sustainable communities that have the needs of all citizens at their core. Central to that vision is the provision of high-quality, efficient services that respond to people's needs and continuously improve over time." — [Official Report, Bound Volume 29, p2, col 1].*

Those words still ring true today. However, the current provision for councils' financial management does not sit comfortably with that vision, and the Bill will do much to help councils meet the needs of the communities they serve, by giving them the power to manage the funds they hold on behalf of those communities.

**The Chairperson of the Committee for the Environment (Mr Boylan):** Go raibh maith agat, a Cheann Comhairle. Mar Chathaoirleach an Choiste Comhshaoil, cuirim fáilte roimh an Bhille Rialtais Áitiúil. As the Chairperson of the Committee for the Environment, I welcome the Local Government (Finance) Bill, which will modernise the current legislative framework for local government finance and councillors' remuneration in the North.

The Committee was briefed by the Department on the synopsis of responses to the consultation at its meeting of 3 December 2009. Committee

members heard that the majority of respondents welcomed the Bill and that, in particular, councils and local government organisations welcomed the greater freedom for councils to manage their own financial affairs without having to obtain consent from the Department. However, Committee members also noted that there was some concern that that freedom may be constrained by some of the proposed regulations.

A number of respondents asked for more information about the proposed regulations relating to the accounting practices to be followed by councils, council-controlled reserves, the use of capital receipts and allowing borrowing limits to be set for national economic reasons. Officials informed the Committee that the Department will hold consultations on the proposed regulations and guidance, which the Committee welcomed.

As might be expected in today's economic climate, members were concerned about the potential costs of the independent remuneration panel that the Department is considering establishing under the Bill. The Department told the Committee that it will be an ad hoc committee, which will only be brought into being when there is a review. At an estimated cost of £50,000 per annum, this is something that the Committee is likely to welcome.

#### 10.45 am

Members also raised queries on controlled reserves, councils' ability to borrow money and councils' internal financial controls. Those issues will no doubt be revisited in Committee.

The Department recently made the Committee aware of several proposed amendments to the Bill, including a provision to clarify that councils may pay for an officer's membership of a professional body if it is considered necessary for or beneficial in carrying out the duties of their job; minor amendments to clauses that relate to central government approval for council borrowing and credit arrangements and for the schedule of repeals; and a schedule of consequential amendments, which will deal with references in other legislation to the sections of the Local Government Act 1972 that the Local Government (Finance) Bill will repeal and replace. Committee members will, of course, scrutinise the proposed amendments closely at Committee Stage.

As soon as the House commends the Bill to the Committee, the Committee will call for written submissions from interested organisations and individuals, and Committee members will be extremely interested to hear their views. I look forward to having a good, ongoing working relationship with departmental officials to ensure that the Committee is able to scrutinise the legislation properly.

Thar ceann an Choiste cuirim fáilte roimh an Bhille. On behalf of the Committee, I support the principles of the Bill.

**Mr Weir:** I declare an interest as a member of North Down Borough Council and as the vice-president of the Northern Ireland Local Government Association.

I heartily welcome the Bill. It will receive a positive response from across the local government sector, because the sector has sought this legislation for a considerable time. The Bill contains many sensible provisions. I am sure that the Minister will be the first to acknowledge that, down the years, councils stood at the forefront of democracy in representing the wishes of local residents. It is right that the Bill's additional provisions reflect and recognise the growing maturity and enhanced powers of local government. Those provisions are part of the overall jigsaw that is being put in place gradually to produce robust local government and local government that is seen as being mature and able to handle its responsibilities properly. Consequently, the Bill makes a great deal of sense.

In particular, the measures to allow greater freedom with borrowing are to be welcomed. From what I have seen of local government, it has handled its finances well and in a mature fashion. A degree of artificial constraint has in many ways required local government almost to go to its parents in the Department to ask for permission to borrow its pocket money to raise money for important capital projects. The removal of that restriction is strongly to be welcomed. Obviously, absolute *carte blanche* cannot be given, and the provisions for emergency situations — as the Minister put it, as a last resort — are right. The Bill must contain some safeguards.

As the Chairperson said, we will want to ensure in Committee that the balance struck is right. The greater financial freedom for councils that the Bill envisages is to be welcomed, and

local government will handle that freedom responsibly. Similarly, I welcome the changes that are being made for clarification purposes to delineate the various aspects of the general grant. That is common sense.

At the risk of appearing to touch on a subject for reasons of self-interest, I welcome the provision to establish a panel to advise on payments to councillors. That was recommended in the previous review of local government. In the same way, in the past number of months, decisions on Members' pay and conditions have been entirely taken out of the hands of the House and set elsewhere. Previously, the Department's decisions on payment to councillors were potentially arbitrary. To have an independent panel make decisions on payments is the right way to go.

There are major challenges as we move ahead with the modernisation of local government in relation to the pay and conditions of councillors. I am sure that those in the House who were on councils many years ago will testify to the fact that in many ways it was then effectively a labour of love and in many ways cost people money. I see my colleague from North Down, who has more council experience than most of us, nodding his head in agreement. In recent years we have started to move to a more sensible position on local government and the payment of councillors.

As we move ahead, we have to encompass two situations as regards payment. First, there has to be an acceptance that, if we are to attract people on to local councils — those who see being in local government as a career — we have to make it as plausible as possible for them to be involved in it. By the same token, we must ensure that the roles of a councillor — this is reflected in the payment — are flexible enough so that someone who has another job and wishes to combine that with being a local councillor is able to do so. We must avoid creating barriers to entry to councils on either side, because we get the best from our local democracy with as inclusive a pool of people as possible in local government. It will be deeply unhelpful if people feel excluded because of pay and conditions.

I also welcome the provisions that clarify the position of officers, and I am sure my colleagues in SOLACE in particular will be glad to see those provisions. That is also a sensible move.

We should see the Bill in the context of the growing sense of financial maturity. Although I have not been on the council for that long, I can still remember in the first year of this council term the problems that were caused by or at least under the watch of the less-lamented Lord Rooker. There was an issue about whether, for example, councils and councillors could be involved with companies, particularly when councils were involved, whether for economic development or for a range of locally good reasons. At one stage, because we were told that there was a gap in legal authority, a lot of local councils potentially had to pull out of such involvement and had their powers deeply circumscribed.

That problem was overcome, and moving from that low base to a situation in which councils are given much greater flexibility in their finances is sensible. Obviously in the Committee we will want to tease out the detail to ensure that the purposes that have been outlined by the Department are properly reflected and balanced in the Bill, but in relation to the principles of the Bill this is a good day for local government. It is a very good Bill, and I commend it to the House.

**Mr Beggs:** I declare an interest as a member of Carrickfergus Borough Council. The Bill in large part regularises the financial aspects of local government, and it is helpful that those are compiled in one piece of legislation. If one looks through the Bill, particularly the schedules at the back, one can see the complexity that exists at present. There is a whole raft of legislation providing financial guidance, and that is not helpful. That legislation includes the Financial Provisions (Northern Ireland) Order 1978; the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985; the Trustee Act (Northern Ireland) 2001; the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 2002 and the Local Government (Northern Ireland) Order 2005. There will have to be repeals, and all of that is to be combined in one piece of legislation, which will give much greater clarity to councillors, officers and ratepayers that correct decisions are being made. That must be welcomed.

The Bill provides the Department with the powers to regularise accountancy practices in councils. Additionally, the general grant is to be broken down into the constituent elements of a derating grant and a rates support grant. Again, I welcome that general direction, although

I caution that, with the changes that may come from breaking that down into two different grants, we must be careful that there are no dramatic changes in any council area, because a relatively small change in general support grant can make a huge difference to the level of rates in any one area. Therefore, if change is to occur, it must be gradual.

Collectively, those changes will benefit local democracy by increasing openness and transparency and by regularising how local government costs are recorded. That will thereby enable greater comparison both of costs and of the relevant services that are provided. We must ensure that that enables citizens to better understand how their money is being raised and, more importantly, how it is being spent. How efficient is the operation of each local council? An increasing focus must be placed on how each local council and their departments provide value for money. I know that the public want to ensure that their money is well spent. Anything that provides additional transparency by giving realistic comparable costs is worthwhile.

I understand that the enabling powers to create a single waste authority for Northern Ireland were to be in the Bill but were withdrawn because of some political opposition. It is regrettable that those powers were not included, because they could have provided considerable savings for ratepayers. However, I look forward to a full business case coming forward in future so that everyone is aware of the savings in rates bills that could emanate from such a provision.

I welcome the enabling powers that will be given to Departments so that grants can go directly to councils without necessarily having to go through the Department of the Environment. That will remove a layer of bureaucracy and may help to create a more streamlined form of government. It may also enable local government, particularly in the future, to work with Departments to achieve their objectives in a much more concise fashion. Many councils and Departments work on similar areas, and, at present, some moneys are being passed among Departments. The enabling powers will regularise that. I understand, for example, that funding for the local community fund comes from the Department for Social Development, and there may be other areas where local government is best placed to deliver a particular service.

The Bill also includes statutory provision to enable councils to borrow money without referring to the Department, provided that the guidance is followed. It is important that guidance be given. Allowing councils greater freedom and flexibility without the need for individual referrals to Departments must be welcomed. It will reduce bureaucracy, should speed up the decision-making process and will put greater responsibility on councils. I support the concept of the Department's providing guidance, and we look forward to seeing it. We do not want to develop here the situation that developed a number of years ago in England and Wales when some local government authorities were on the verge of bankruptcy. There must be some general direction and guidance to ensure that no authority here faces such a situation.

The Bill will also enable councils to mortgage properties on the condition that there are no inventive accounting practices. That mechanism may have financial benefits, such as a reduction in the cost of borrowing. Who knows? Therefore, such a provision seems logical. However, it is important that protection be built in. The Minister said that he will ensure that councils prudently invest any money that has been raised from assets. We should remember that not long ago, a considerable number of local authorities were caught up in the collapse of the Icelandic banks. Those local authorities were attracted by higher rates of interest, which came with considerable additional risk. No ratepayers can afford to lose what could be up to millions of pounds in a risky investment.

Therefore, I concur with the Minister that any investment must be made in a prudent fashion.

### 11.00 am

The Bill provides that the Department can by regulation set up statutory guidance on payments to councillors. It is important that any payments must be transparent, open and proper and that we ensure the highest standards of probity in local government. The regulations should help to achieve that probity, and I look forward to seeing them in detail to ensure that that is what will be delivered.

The Bill was part of a raft of legislation aimed at modernising local government, in particular, with the prospect of the reform of local government. Although I welcome many of the Bill's provisions, it is regrettable that the reorganisation of local government seems to be stalling. Therefore,

can the Minister confirm that when he says he is putting off making a decision on whether the next local election in 2011 will be on the 11-council model or the 26-council model, he is doing so purely to put off delivering bad news until after the election? The Bill was part of a raft of legislation in preparation for the 2011 election. When will we know whether the reorganisation will occur?

**Mr Gallagher:** Like other Members, I believe it is a good thing that the Department is taking steps to tidy up the arrangements for local government finances and the remuneration of councillors. Those who are elected to and have some experience of local government see that as a good thing. The Minister said that the Bill will give local councils greater freedom in relation to and more control over their finances. At the same time, the Minister has made it clear today that that control will not be unfettered. When the Bill moves to Committee, that will be an area for some interesting discussion, as we try to get the right balance.

The independent panel was referred to. Clearly, that is not envisaged as a quango but as an ad hoc committee. The Minister estimates a cost of £50,000 a year, and, hopefully, that estimate is pretty close to the mark. Will the Minister clarify how the financial arrangements will work if any unforeseen circumstances arise and the committee is busier than anticipated? Will the arrangements be reviewed? If the cost exceeds the £50,000 estimate, will it still be borne by the Department or will part or all of it be passed down to local councils?

The arrangements in the Bill are something that we would all like to see developed.

**Mr B Wilson:** I declare an interest as a member of North Down Borough Council.

I welcome the Bill. It provides an opportunity to modernise the financial framework under which local government operates and should have been introduced years ago. In my 30 years as a local councillor, I have always felt frustrated by delays of important projects as they await departmental approval.

The Bill will give greater freedom to local authorities to manage their financial affairs without having to obtain consent from the Department. In principle, the legislation will give greater freedom to local councils, but I am still concerned that that freedom can be constrained

through the use of central government regulations. I welcome the Minister's assurance that such regulations will be used in exceptional circumstances only.

Although I welcome the principle of the Bill, I share some of the concerns that were set out in the north Down and Ards transition committee's paper. In particular, it is concerned about the proposals for the disposal of council land and property. The Local Government Act (Northern Ireland) 1972 requires all disposals for less than best price to be approved by the Department. That legislation should be amended in accordance with the equivalent legislation in Great Britain, and section 96 should be repealed and replaced with an enabling power to make regulations. That would detail the purpose and limitations that apply to disposals of land at less than best price.

Clause 7 allows the Department to specify any reserve as a controlled reserve, if it so wishes. That is not compatible with the objective of giving local authorities freedom to manage their own financial affairs. It is the view of the Committee that other funds established under clause 9(1) should not be subject to any departmental control and should, therefore, not be designated as controlled reserves in accordance with clause 7.

I welcome the removal of the requirement to obtain departmental approval to borrow money and the inclusion of a power to borrow for any purpose. Trade creditors should be excluded from the definition of a credit arrangement because trade creditors are part of the working capital requirement and are not long-term debt. It is unclear whether clause 17(3)(b) removes trade creditors from credit arrangements and, therefore, from the determination of the affordable borrowing limit.

There are also concerns that longer-term liabilities such as the provision for the closure and aftercare costs of landfill sites are to be included in credit arrangements. In fact, clause 17 is confusing, and it is unclear what liabilities are to be considered credit arrangements. Furthermore, there is no definition of what constitutes a prescribed liability in accordance with clause 17(3). The legislation should be amended to provide clarity and to remove any doubt as to what constitutes a credit arrangement and, in particular, a qualifying liability.

It appears that the new provisions no longer require capital receipts to be applied in the first

instance against any money borrowed by the council for the purpose of acquiring that asset. I welcome that. However, clause 22 implies that, by regulation, the Department may require the capital receipt to be used to meet other debts and liabilities. That is contrary to the legislation's principle of giving local authorities greater freedom to manage their own financial affairs and is another example of how such freedom can be constrained by departmental regulation. Departmental control in that area is unnecessary, and clause 22 should be removed.

Part 2 of the Bill is entitled "Grants to Councils". I have concerns about the rate support grant. In particular, it appears that the formula that is currently used for the allocation of the resources grant will apply to the allocation of the rate support grant. That formula should be reviewed, because the present distribution under the resources grant does not accurately reflect the needs of the various council areas. That review would be essential in the unlikely event that we proceed with the RPA, especially in light of the establishment of new local authorities with new functions and functions that will transfer from central government to local government. However, given the PricewaterhouseCoopers report, which identifies costs of over £100 million and alleged savings over the next 25 years that are totally speculative, I cannot see any case for proceeding with the RPA, particularly at a time when we have to make cuts to other essential services such as health.

I welcome the clarification on payments to councillors and the proposed legislation to facilitate the establishment of an independent remuneration panel. Those measures will end the unseemly disputes over what councillors are entitled to in allowances.

On the whole, I welcome the Bill. It will modernise local government finance and make our councils more efficient. However, some of the freedom that the Bill provides is limited by departmental regulations. That should be reconsidered, particularly at Committee Stage.

**Mr Speaker:** I call Jonathan Ross. Sorry, Alastair Ross.

**Mr Ross:** I wish that I got the same salary as Jonathan Ross.

Mr Brian Wilson is a new member of the Committee, and I am sure that he is looking

forward to scrutinising the Bill in Committee. He went into a lot of detail about the Bill. I do not intend to go into quite so much detail, given that this is Second Stage and we are looking at its general principles.

As has been said, the Bill has been broadly welcomed across the political divide and among local councils. The responses to the Bill have been very positive. The Bill recognises the importance of local government, which, in many instances, is the deliverer of services to people on the ground.

I listened to Roy Beggs talk about bad news coming after the election. However, the worst news came at the weekend when David Cameron said that Northern Ireland would be specifically targeted for the massive cuts that he has been talking about. People are concerned that the services that local government helps to provide will be cut under a Tory Administration supported by the Ulster Unionist Party.

I do not see the Bill as bad news; it is good news for a number of reasons. It reflects the added responsibilities and challenges that there will be for local government. Local government operates in a different context now. More powers are going to local government now that we have what we hope is a permanent and secure Assembly.

There are two main parts to the Bill. Others have gone into detail, and I do not want to go over all of that. We are more or less talking about modernising local government finance. As others have said, the Bill will provide more independence for local councils, allow them more flexibility and help them to respond to issues more quickly. The Bill will also afford councils borrowing powers so that they can invest, which will reflect modern accounting practices, albeit with certain safeguards, which are also important.

There is also the issue of pay and conditions for local councillors. My colleague Peter Weir paid tribute to those who have been involved in local government for many years, including his colleague Brian Wilson. It is important that we put on record our gratitude to those who have been involved in local government for many years. We tend to take for granted the fact that, when those people were involved in local government and were serving their communities, they did so under very different circumstances to those that exist today, with very little pay, as

has been said, and at considerable risk to their lives. I pay tribute to all who were involved in local government and served their communities over those years.

As has been said, it is important that pay and conditions for councillors reflect the work that they do and the additional responsibilities that local government will have. It is important that an independent panel is set up to determine or advise on pay and conditions. That is very important, particularly with the scepticism that the public have for public office and public finances.

I welcome the Bill's Second Stage. I look forward to going through the Bill in more detail in Committee, and I commend it to the House.

**Mr Bell:** I warmly welcome the Bill and declare an interest as a member of the National Association of Councillors and NILGA and as a councillor on Ards Borough Council.

I welcome the Bill because it is good for Northern Ireland. I welcome the Bill because it shows that the House has the legislative competence to deliver something of benefit to people on the ground. I welcome the Bill because it enhances and promotes the principles of subsidiarity. It supports our local councillors, who, as my colleague Mr Weir said, are often the first point of contact for those who are vulnerable, those who are in need and those who are seeking advice. Councillors are often the most accessible public representatives and, in the past number of years, they have probably been the least well treated in certain circumstances. The House is doing something that will deliver for local government and deliver positive benefits on the ground, which is to be warmly welcomed.

#### **11.15 am**

I thank the Minister for his continued interest in local government. Before I knew that I would ever have the privilege of serving in the House, my dear friend Councillor Margaret Tolerton told me that we had a Minister who had local government at heart and that, even though he had moved to a higher Chamber, as it were, his principles and support of local government would remain. Councillors everywhere warmly welcome the fact that the Minister has continued to support local government and is giving local councillors increased responsibility. There is no point in saying that we welcome

the work and vocation of local councillors and respect their dedication and the time that they devote to the role if we do not give them the appropriate responsibility. It is to be warmly welcomed that the Minister is doing that today.

I recall the Minister saying, after a period in which we had been stalled, that, in the forthcoming period of the Executive, new legislation will come forward to make a real difference to people. If we in the House are not making a real difference to people's lives, we do not deserve to be here. Such legislation has come forward, including the Wildlife and Natural Environment Bill, the Waste and Contaminated Land (Amendment) Bill and today's Local Government (Finance) Bill.

I add my tribute to those that have already been paid to all the councillors from all the parties who served for many years without remuneration. They served others at considerable cost to themselves not only in respect of finance but their private and family time and so on. When I came on to Craigavon Borough Council in 1997, councillors were paid £13 for a four-hour meeting, which is a rate of just over £3 an hour. Distinguished colleagues such as Mr Savage, who is seated on the Back Benches, served before that when there was no remuneration. Despite that, those people gave of themselves and took time away from their farms and so on to serve the people of their area.

Many of those councillors have passed on or retired, and the House owes them a sincere word of gratitude for the work that they did. I offer my gratitude not only to those from my own party such as Maurice Mills and James McClure, who served for long and distinguished periods, but to others too. When I was the Mayor of Craigavon, I lost Mary McNally, Councillor Sean McKavanagh and, more recently, Councillor Ignatius Fox. Many people served well but did not have the benefits that, I hope, the Bill will bring to others. Those people did not serve for those benefits, but their distinguished service should be noted on the record.

The Bill is positive because it brings local government finance into the twenty-first century. It allows local councils to make the necessary investments, and it shows that we respect local government. It shows that we considered local government's bona fides and financial responsibility to date and will now enhance that responsibility. Councillors across Northern

Ireland have shown good stewardship of resources. When people show responsibility, we should enhance that responsibility. Let nobody doubt that we face difficult economic times. Councils will be at the forefront of protecting the interests and enhancing the economic prospects of their area.

I share the concerns of my colleague Alastair Ross about future investment. What will be the cost of the Cameron/Empey £200 million cuts to local government finance in this financial year? Is it not the reality that, if those cuts are made to a Department, Cameron and Empey will hand P45s to 150 people? If £200 million is to be taken out of the budget for teachers, nurses and doctors, Reg Empey should tell the public servants whom he meets in South Antrim that he is handing them their P45 rather than election literature.

Councils desperately need investment and modernisation. We must also respect councillors. Distinguished colleagues such as George Savage served for nothing. There are very few councillors, including those who sit in this House, who did the job for financial remuneration. Equally, however, the idea of an independent remuneration panel is the best way forward. That will allow for transparency and expertise and for the work that is being undertaken to be scrutinised properly and responded to appropriately. That does not mean that people will be able to line their pockets. It will allow for a genuinely independent process and is to be warmly welcomed.

The Bill is positive. The Chairperson of the Committee for the Environment conveyed its constructive and intelligent response. I am privileged to serve on that Committee, which will consider the Bill in a detailed and constructive manner. I will conclude by paying a genuine tribute to the councillors who have already served and who stood at a time when Northern Ireland was in a very difficult place. They stood under threat but continued to provide local democracy in Northern Ireland in circumstances that the rest of western Europe did not know about. It is to them that I dedicate the success of the Bill under the aegis of a listening Minister who is taking Northern Ireland's local government forward.

**Mr Kinahan:** I am glad to speak on the Bill because I long to see better local government that works more dynamically, economically

and efficiently. I declare an interest as a south Antrim councillor.

I hope that the Bill fits in with all the different pieces of legislation that are coming through as we attempt to keep the RPA on board. I, too, would like to ask where the RPA is at the moment, where the Bill fits into it and whether decisions will be kept until after the election. We needed the review, and we must have a review of local government. We know that there are disagreements between the two main parties on the issue, but we must ensure that the Bill fits into any such review in every way. We must find ways to save money. We know that the councils work in different ways and that there are many economies of scale that we should be finding. I hope that the Bill fits into the overall plan.

I welcome a great deal of what is in the Bill, such as the power to regulate. However, I have a concern about what I dare to call the ivory tower syndrome of the civil servants who work up here. Sometimes, they are working at their pace, and things are slowed up completely for the councils that are waiting for decisions. For example, the local action groups (LAGs) and cluster funding that DARD is working on have held up the financing of rural grants for two and a half years as that Department puts an auditing process in place. We need a dynamic decision process that works all the way through. Although the Department knows what it is doing up here, it must do it quickly and in a way that fits in with councils.

I welcome the freedom that the Bill gives to councils to operate, but we must also have transparency. The challenge will be to achieve that in such a way that the public understand what we are doing. Information must be publicised on the web in a timely way and not when it is three or six months out of date. I welcome the idea of a 10% financial reserve. That is extremely sensible, and I wonder why the Finance Minister does not do the same in this House.

I welcome the powers to borrow to invest and to access various grants. I will not go into that subject in great detail, but I wonder sometimes how we will obtain accurate valuations on which to work out what we are borrowing and accurate information to invest on. The situation in relation to land and property valuations and the rates disaster that befell many councils means that we must be careful to ensure that we have accurate valuations and advice to work on.

I welcome the fact that Members have spoken about councillors, because those of us who are councillors are affected by pay. The Member who spoke previously was absolutely right to praise councillors as they were once the only government on the ground here through thick and thin. I add my congratulations on the work that they have done. I also welcome the independent panel. We must find a way of encouraging more people to get involved in councils and in politics. We need to get more businessmen and more people from all walks of life involved in councils. That is where it starts: that is what leads to people coming to the House.

I welcome the freedom in the Bill to let councils work. It is the sort of freedom that our colleagues in the Conservative Party want to see through the enterprise zone. I will tackle some of the cheap shots that have been aimed at us, particularly the one about P45s, as cuts have been spoken about by our own First Minister and the Labour Government. I welcome the accounting processes and controls in the Bill, but I go back to my first point, which is that it is essential that things are done dynamically and quickly so that nothing is held up.

I have one great concern from my own council. We had a talk one day on risk. If councils are going to borrow or invest, it is essential that they understand that risks are part of life. In our council, we were told in that talk that the aim was to have no risk whatsoever. If one does not have risks, one takes no decisions and gets absolutely nowhere.

I welcome the Bill fitting into the future of the RPA in whatever way that comes. It must be efficient, it must create efficiency, and it must create economic councils. I return to my key point: we must create a dynamic council system. I will welcome the Bill's Committee Stage.

**The Minister of the Environment:** I thank Members from all sides of the House for their consideration of the Bill and their contributions to the debate, which have been valuable and will add to our work on it. I trust that that will be further evidenced as we go through the Committee Stage.

I will respond to some of the concerns raised, first, by Mr Boylan, who was concerned that regulations could constrain the new financial arrangements. The regulations and guidance will set out the financial framework within which councils will operate. Councils will have

considerable freedom in that framework to determine how best to spend and invest their money on behalf of the ratepayers. The Bill is aimed at modernising the financial framework and introducing best practice as opposed to constraining councils' control of their finances. The Bill contains certain powers of last resort for my Department to limit a council's borrowing or specify a minimum investment reserve. Those powers would be exercised only in exceptional circumstances. My officials will be able to provide the Environment Committee with more details of what the regulations will include when the Bill goes through Committee.

Mr Beggs stressed that it was important that the Department issue guidance on the new arrangements for borrowing. I agree that that guidance will be important and confirm that it will be issued for consultation. Mr Beggs also mentioned the importance of safeguarding ratepayers when councils are investing. Councils will be required to follow guidance, which will be produced by my Department and will take into account two Chartered Institute of Public Finance and Accountancy (CIPFA) publications: the 'Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance Notes', and 'The Prudential Code for Capital Finance in Local Authorities'.

Councils will be encouraged to have policies for prudent investment of the funds that they hold on behalf of their residents. A prudent investment policy has two primary objectives: first, security or protecting the capital sum from loss; and, secondly, liquidity or keeping the money available to spend when it is needed. When the proper levels of security and liquidity are determined, it will be reasonable to consider what yield can be obtained that will be consistent with those priorities. I do not think that council officers will recommend that councils should invest in penny shares or some stock exchange in South America or the Far East.

### 11.30 am

The change to the general grant is merely a name change, so distribution remains the same. Therefore, no big shocks are coming here, unlike the big shock that we got on Friday night when Northern Ireland was compared to eastern Europe. I do not think that a comparison can be made between Northern Ireland and the Ceausescu regime in Romania. Mr Cameron paid the Northern Ireland community a gross

insult when he compared us to Eastern bloc countries such as Romania under the Ceausescu regime. There will be no big shocks coming here.

What would be a big shock to my Department would be £200 million in funding cuts for Northern Ireland. Were those cuts to be applied to the Department of the Environment, they would result in a further £3 million reduction in funding, or if the Health Service were to be excluded from any cuts, a £6 million reduction. I would then have to ask Members what part of the Department of the Environment is not important.

If we had to introduce such cuts on top of what we have already had to do as a result of the downturn in the construction industry, while at the same time having to deal with other issues such as the equal pay claim and efficiency savings, our Planning Service staffing complement would be reduced to around one third of what it is at present. That would mean that we would be ineffective in fighting environmental crime, because we would have to reduce the number of personnel involved in waste control and in dealing with fly-tipping. Perhaps we could just reduce grants to local government and pass on to the ratepayer the cuts that "Chopper" Cameron wants for Northern Ireland. Therefore, Sir Reginald "Ineffective" Empey has not really delivered when it comes to Northern Ireland and David Cameron. We have this great influence, which will result in cuts coming to Northern Ireland.

Mr Gallagher asked what would happen were there a delay in establishing the remuneration panel. If the Bill is delayed, I will consider whether a further review should be undertaken, like that undertaken by the councillors' remuneration working group. He also asked whether the cost of establishing the panel will be passed on to councils. The £50,000 identified cost of the panel will be borne by the Department, and it is highly unlikely that the cost will exceed £50,000. In fact, I would want to do the job for considerably less.

Mr Brian Wilson spoke of the need to amend legislation concerning disposals at less than best price. Other local government working practices that could be streamlined to lessen or remove the need for my Department's intervention will have to be looked at. Therefore, we will consider the Member's suggestion. He also referred to the review of the rate support

grant formula. Early modelling has suggested that the formula for determining the distribution of the rate support grant would remain robust under a new council structure. We have undertaken to continue to review that position when the new council structure is established.

The Member also believes that clause 17 is unclear, and he asked whether “credit arrangements” include those with trade creditors or liabilities from closure or part-closure of landfill sites. Clause 17(3) clearly states that a credit arrangement is a liability: a liability to repay money; a liability to be met within 12 months; or a liability that may be prescribed in regulations. Trade creditors are unlikely to be other than a liability in money to be met within 12 months. Therefore, most trade creditors working for a council should certainly be paid within 12 months. It is expected that councils will apply resources to the part-closure costs of landfill sites. The effect on affordable borrowing limits is nil if the full amount of such costs is met in that way. Regulations for prescribed liabilities that are not credit arrangements will be consulted on further.

Mr Wilson also asked about the treatment of expenditure. Generally, councils will follow accounting practice when classifying expenditure and receipts. However, there are occasions when that practice is not appropriate for a public body, and we will make regulations on such occasions.

In respect of Mr Wilson's point, I confirm that some councils have shown a predisposition to tax and spend. Some councils in Northern Ireland provide services that are broadly similar to those of other councils but charge their ratepayers one third more for them. We will not create a situation where central government have no control. We are significantly relaxing controls, because we are not the communist state that the Cameronians want to classify us as being. Nonetheless, where some councils may lose the run of themselves, we must put in place stopgap measures. That is what the legislation is about. It will ensure that we will not have a situation such as that which happened in Liverpool, where Derek Hatton and his headbangers were destroying that city council. We will not allow that to happen in Northern Ireland, and, therefore, we will retain some restraints.

**Mr Weir:** In light of that, provision must be made. Can the Minister assure the House that, if councils default, he will not establish gulags for them?

**The Minister of the Environment:** We will restrain ourselves to what is in the legislation.

I once again thank Members for their contributions. I see the Bill as a valuable and significant step forward in developing a system of local government that supports strong and accountable financial administration by councils on behalf of the communities that they serve. I commend the Bill to the House.

*Question put and agreed to.*

*Resolved:*

*That the Second Stage of the Local Government (Finance) Bill [NIA 14/09] be agreed.*

**Mr Speaker:** I ask the House to take its ease until we move to the next item of business.

## Executive Committee Business

### Forestry Bill: Consideration Stage

**Mr Speaker:** I call the Minister of Agriculture and Rural Development to move the Consideration Stage of the Forestry Bill.

*Moved.* — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

**Mr Speaker:** Members each have a copy of the Marshalled List of amendments detailing the order for consideration. The amendments have been grouped for debate in my provisional grouping of amendments selected list. There are three groups of amendments, and we will debate the amendments in each group in turn.

The first debate will be on amendment Nos 1 to 14. The first seven amendments deal with the development of the new general duty on the Department in relation to forestry. The remaining amendments in that group deal with the power to acquire land and the duty to maintain a woodland register. The second debate will be on amendment Nos 15 to 27 and amendment No 32, which deal with protecting forests from damage. They relate to the control of animals, access to adjoining lands for that purpose and increasing protection from hazards such as fire on adjoining land. The third debate will be on amendment Nos 28 to 31, which deal with felling licences, fees for such licences and the protection of ancient or long-established woodland.

I remind Members who intend to speak that, during the debates on the three groups of amendments, they should address all the amendments in each particular group on which they wish to comment. Once the initial debate on each group is completed, any subsequent amendments in the group will be moved formally as we go through the Bill, and the Question on each will be put without further debate. The Questions on stand part will be taken at the appropriate points in the Bill. If that is clear, we shall proceed.

We now come to the first group of amendments for debate. It will be convenient to debate amendment No 1 with amendment Nos 2 to 14.

The first seven amendments deal with clause 1 and the development of the new general duty

on the Department in respect of forestry. The remaining amendments in the group deal with other powers and duties of the Department in relation to acquiring land, maintaining a woodland register and entering into arrangements with other parties.

### Clause 1 (General duty of the Department)

**The Minister of Agriculture and Rural Development (Ms Gildernew):** I beg to move amendment No 1: In page 1, line 5, after “promoting”, insert “afforestation and sustainable”.

*The following amendments stood on the Marshalled List:*

No 2: In page 1, line 5, at end insert

“(1A) The Department must carry out that duty—

(a) in relation to forestry land, in such a way as to promote and encourage the enjoyment and recreational use of that land by the public; and

(b) in relation to other forests, in such a way as to promote the social benefits of those forests.” —

[The Minister of Agriculture and Rural Development (Ms Gildernew).]

No 3: In amendment No 2, at end insert

“(c) with a view to increasing by 100 per cent the area covered by forest by the end of 2056 relative to the area specified by the Forest Strategy published by the Department in 2006.” — [Mr McCarthy.]

No 4: In page 1, line 9, leave out “the development of afforestation,”. — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

No 5: In page 1, line 11, leave out “forestry land” and insert “forests”. — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

No 6: In page 1, line 12, leave out from “and” to end of line 13. — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

No 7: In page 1, line 12, after “environment” insert

“, biodiversity and the mitigation of, or adaptation to, climate change”. — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

No 8: In clause 2, page 2, line 9, at end insert

*“( ) make, on such terms and conditions as the Department thinks fit, payments for the purpose of forestry management;” — [The Minister of Agriculture and Rural Development (Ms Gildernew).]*

No 9: In clause 4, page 2, line 39, leave out subsections (2) and (3). — *[The Minister of Agriculture and Rural Development (Ms Gildernew).]*

No 10: In clause 5, page 3, leave out lines 6 and 7 and insert

*“; whether for a limited period or otherwise, for the purposes of, or in connection with, providing or improving access to any land so as to facilitate the carrying out of any of its functions under this Act.*

*(1A) The power of acquiring land compulsorily under subsection (1) includes power to acquire, by the creation of a new right, an easement or other right over land.” — [The Minister of Agriculture and Rural Development (Ms Gildernew)]*

No 11: In clause 6, page 3, line 25, at end insert

*“(2A) The Department—*

*(a) shall provide and maintain a register providing such information as the Department considers appropriate as to the location and size of woodlands in Northern Ireland and the types of trees therein;*

*(b) shall publish that register in such form as the Department thinks appropriate at intervals not exceeding 10 years;*

*(c) may exercise the powers in subsection (1) (b) and (c) in connection with the provision or maintenance of that register.” — [The Minister of Agriculture and Rural Development (Ms Gildernew).]*

No 12: In amendment No 11, leave out “10” and insert “5”. — *[Mr McCarthy.]*

No 13: In clause 7, page 4, line 2, leave out from beginning to “particular” in line 4 and insert

*“For the purpose of the exercise of its functions under this Part;” — [The Minister of Agriculture and Rural Development (Ms Gildernew).]*

No 14: In clause 7, page 4, line 10, at end insert

*“(4) The power under subsection (2)(a) is exercisable for the purposes of the exercise of the functions of the Department under section 4(1) only with the approval of DFP.” — [The Minister of Agriculture and Rural Development (Ms Gildernew).]*

## **The Minister of Agriculture and Rural**

**Development:** Go raibh maith agat, a Cheann Comhairle. Before I speak on amendment No 1, I would like to take this opportunity to thank the Chairperson and members of the Agriculture and Rural Development Committee for their detailed and constructive consideration of the Bill.

The Committee asked me to reconsider some parts of the Bill, and I was happy to do so. My officials met the Committee on several occasions, and, with goodwill on both sides, we were able to reach an agreed position. The amendments that I propose reflect the detailed work carried out by the Committee, the Office of the Legislative Counsel, legal advisers and officials in my Department. I thank everyone involved for their efforts. I also give particular thanks to the wide spectrum of stakeholders for their involvement in the Bill's development. Their advice and contributions have been invaluable.

The amendments proposed today will result in multifaceted forestry legislation that is capable of supporting a modern and forward-looking strategy. It will give the powers to deliver a wide and integrated spectrum of social, recreational, environmental and economic benefits. Traditional timber production, with its important role in providing employment in the primary and ancillary sector, will continue. However, our forests will also offer the potential to be utilised for a wide range of creative initiatives, which we will help to realise by engaging with partners across the public, private and community sectors.

Let us not forget the crucial role that forestry has in mitigating climate change. The vision of doubling forest cover in the North of Ireland over the next 50 years will be supported by powers in the Bill. We also wish to preserve our environmental heritage as a legacy for generations to come, and the Bill will promote sustainable forestry.

Before moving to the amendments, I give an assurance that my Department is fully committed to all aspects of the general duty in clause 1. Although we must demonstrate that commitment in our business plans and are accountable to the Committee for our performance, I have further assured the Committee that my Department will develop a delivery plan in respect of its general duty to forestry.

I now turn to the Bill itself. Amendment No 1 restructures clause 1 and adds some wording to bring out more explicitly the broad range of the

general duty and its benefits. Amendment No 1 was suggested by the Committee and some stakeholders, who felt that the original clause gave a sense of being more orientated towards timber production. The amendment makes the key strategic aims of afforestation and sustainable forestry more prominent and brings them into the first subsection of the clause. The expression “sustainable forestry” is also now explicitly used. Although I have been satisfied that the concept of sustainability was inherent in the clause, it is widely recognised as embracing the economic, social and environmental. I agree that the word should be flag-posted in the general duty, and I am grateful to the Committee and to stakeholders for that suggestion.

Amendment No 2 will make the social and recreational duty in subsection 1(a) more prominent. It also enhances the wording of clause 1 in response to some stakeholders’ concerns that the original draft was too understated and not sufficiently dynamic. I am known to be passionately committed to the recreational and social benefits offered by our forests, including those for health, sport and education. I wholeheartedly support amendment No 2.

We wish to encourage as many people as possible to enjoy our forests, and the new wording makes it clear that those forests are for everyone. Although I talk about “my Department’s” forests, the amended clause will also create a duty — through encouragement rather than obligation — to promote the social benefits of other forests, whether privately or publicly owned. Social forestry has a wide meaning that also includes aesthetic appreciation and visual amenity, and forestry design adds a marvellous dimension to our countryside, which everyone can enjoy, whether or not they have access to particular woodland.

Amendment No 3 to amendment No 2 proposes the insertion in the Bill of a target for increasing forest cover by 2056.

I urge Members to oppose that amendment because it is absolutely unnecessary. At Committee Stage, my Department took a solid decision, based on legal advice, to not include forest strategy targets in the primary legislation. However, lest there be any doubt as to our intentions, we made a firm pledge, with Committee agreement, to develop a delivery plan on our general duty. That, of course,

includes our forest expansion objective, which is one of the pillars of the general duty. The delivery plan will clearly outline our targets and arrangements for woodland expansion and how we will work towards that achievement. No further assurance is needed, and the amendment is absolutely unnecessary. I urge Members to oppose amendment No 3 as it is superfluous.

#### **11.45 am**

Amendment No 4 is a consequential amendment to clause 1. Amendment No 5 refers to the management of “forests” rather than “forestry land” in such a way as to protect the environment and biodiversity. That is an important distinction, because the Department’s duty will now extend to all forests, not just its forestry land. When I talk about forests, I also mean their surrounding habitats. That is a very positive amendment, and I thank the Committee and stakeholders for bringing out a richer dimension to our stewardship of our forest environments.

Amendment No 6 is a consequential amendment to clause 1. Amendment No 7 is also very positive, and it has been proposed in response to the Committee and stakeholders. They called for a more explicit and pronounced commitment to the protection of the environment. That commitment was always there, but I accept that the proposed wording makes it crystal clear. In line with wider biodiversity commitments, for example, under the proposed revision to the Wildlife Order 1985, there is now a clear reference to biodiversity. Another amendment that I suggested articulates the vital role that forests play in our commitment to mitigate and adapt to the effects of climate change.

Amendment No 8 is important because it will allow my Department to make payments for the purpose of forestry management. At present, clause 2(1)(d) allows grants for afforestation and its associated activities. However, my officials noticed a gap: there is no scope for payments to be made for forestry management. To put it simply, payments may be made to establish woodlands, but not for their management once they are established. If that limitation is not addressed, it will deny us the capability of providing financial incentives for potential initiatives to ensure that our woodlands are managed properly.

Amendment No 9 to clause 4 is stylistic and prevents duplication. Subsections (2) and (3) provided for the use of partnership

arrangements to help deliver the use or development of forestry land. However, there is also provision for partnerships in clause 7. The amendment amalgamates the use of partnership in clause 7; therefore, there is no change in principle to the power.

Amendment No 10 was proposed in response to significant concerns from the Committee and stakeholders that the original power, as drafted, would allow compulsory acquisition of land for any of the Department's functions. The amendment will limit compulsory acquisition of land for the purposes of providing or improving access to support functions. That will allay misconceptions that the power could have been used to acquire land to plant trees. That was never the case. The Department sought that power primarily to help it to deal with situations in which public assets such as timber are landlocked and access not permitted, even after reasonable negotiation, and it offers to pay a reasonable and independently valued price for the land. That situation arises from time to time, and I expect it to become more of a problem with the current maturity of forests and the need for harvesting.

Unfortunately, there will be circumstances in which it is simply not possible to secure agreement with the landowner, for example, when there are multiple owners, when land is in probate or when negotiations simply break down. In those circumstances, significant public investment will be lost. We will be unable to fell sites and carry out restocking, which will make it impossible to meet our sustainable forestry obligations and duties in the Bill. However, there may be other instances in which land may be required, such as to enable access for wind farm development, tourism initiatives or biodiversity purposes.

The original power to acquire land also covers temporary arrangements and rights of way under the Interpretation Act 1954. I would have expected my Department to pursue that option in every case, but I am aware that there were some concerns. I am satisfied that the new wording in the amendment makes it very clear that there is scope for temporary arrangements, easements or rights of way as an alternative to the outright vesting of land for good.

I assure Members that I will expect my officials to seek, in all circumstances, to acquire or lease land or an interest in land — a right of

way — through negotiation and by agreement with landowners. That will always be our first option, and clause 2 provides for the acquisition of land by agreement. I strongly believe that compulsory acquisition must be contemplated only where efforts to secure agreement with a landowner have failed, where there is a real need and a clear public interest involved and where there are no other available options, for example, gaining access through our own land. Even then, the powers should be used in a way that seeks to minimise the extent of intervention, for example, by securing only the minimum level of interest required, such as a compulsory right of way or a temporary access arrangement. Full compulsory purchase will be used only when it is the only option.

It should not be overlooked that compulsory purchase powers do not need to rely on my assurances. They carry their own safeguards, and significant protections are inherent in the compulsory purchase process, including its use as last resort, the recourse to public inquiry, and compensation provisions and so forth. Importantly, under existing domestic legislation, there is the principle of *Wednesbury* unreasonableness and judicial review, and additional protections are available under human rights legislation, all of which require the Department to act always in a reasonable and proportionate way and to adopt the approach of least interference to the landowner. Again, those protections mean that, when possible, our first consideration will and must always be through agreement. Finally, as a further assurance, I have agreed to the Committee's request that my Department develop transparent guidelines on the compulsory acquisition of land and publish them on its website.

All told, I am satisfied with the constructive and pragmatic amendments to clause 2. The vesting of land in any shape or form is understandably a highly emotive issue, and I thank the Committee and stakeholders for their contribution in helping us to develop a power that can be used reasonably, proportionately and transparently.

Amendment No 11 was suggested by the Committee and some stakeholders during the scrutiny of the Bill, and I am grateful for their input. The amendment will place a duty on my Department to provide and maintain a register of woodlands in the North of Ireland. I have always recognised the importance of an inventory, and I am committed to extending our

existing inventory to more accurately reflect privately owned woodland areas. Amendment No 11 will formalise the register in legislation, and, given my Department's objective of doubling woodland, the register will provide essential baseline information to allow for effective planning. The register will contain information on the location, size and type of all woodland in the North of Ireland. We intend to review and update the register every 10 years, and that will provide the desired indication of trends in total woodland cover.

Amendment No 12 is an amendment to amendment No 11, and it seeks to shorten the interval in which a woodland register will be published. In effect, it seeks to require an updated register every five years, rather than every 10 years. The purpose of the register is to establish progress against our long-term strategic aim of forest expansion over a 50-year period. I am satisfied that 10-year intervals are appropriate to meet that purpose at reasonable public cost. The 10-year interval is not arbitrary and will establish more significant trends. I remain convinced that the use of five-year intervals would incur higher costs with little additional benefits. Therefore, I urge Members to oppose amendment No 12.

Amendment No 13 was suggested by the Committee and some stakeholders during the scrutiny of the Bill, and I am grateful for their input. The original wording is considered to be too wide and subjective in scope because it declares that:

*"The Department may do anything which appears to it to be conducive or incidental to the discharge of its general duty under section 1(1)."*

On reflection, I understand those reservations, and I am satisfied that the offending wording will be removed and that power will be more focused to the parameters of the Department's general duty under the Forestry Bill.

Amendment No 14 is stylistic, and it is designed to prevent duplication. It links with amendment No 9 and ensures that the partnership arrangements that are necessary to support clause 4 will be retained in the partnership arrangements for clause 7.

**The Chairperson of the Committee for Agriculture and Rural Development (Mr Paisley Jnr):** I thank the members of the Committee, the departmental Bill team, as mentioned by the

Minister, the supporting officials, the Minister herself, those who provided evidence to the Committee, the Committee support team, and the Committee Clerk and his team for the time and effort that they put into making the Bill and for getting us to this point today. I also give personal thanks to the Deputy Chairperson of the Committee, Mr Elliott, who helped out considerably in chairing Committees when I was not available.

During the Bill's Second Stage debate, I said that the previous forestry legislation was retrospective, that it looked at what was required after a world war and that it did not pay any heed to what was ahead of us. I firmly established the Committee's position on the Bill, which is that we want legislation that looks forward rather than back and a Bill that is expansive rather than narrow. We also want a Bill that does more than merely provide the Department with additional controls and control mechanisms, a Bill that can stand the test of time, a Bill that is forward-looking and strategic and a Bill that utilises the wealth of our forests and forest parks.

We will have precisely the Bill and, subsequently, the Act, that I have described when amendments that have been proposed by the Committee and agreed with the Minister and Department have been applied to this important piece of legislation. Therefore, I welcome today's debate, and I welcome the progress that has been made.

Since amendment Nos 1, 2 and 7, in particular, to clause 1 remove the narrow interpretation that was originally proposed by the Department and provide it with the opportunity to develop innovative ways to promote the benefits of forests and increase community involvement, those amendments will open forests as resources for education and use them as outdoor spaces for learning, informing young people about sustainable forestry and combating climate change, exploring biodiversity and outdoor activity. They will allow for the development of partnerships and for working with local councils and business delivery partners in opening forests to recreational activities. They will also facilitate community-led projects, where rural and urban communities can develop tourism, recreational and economic opportunities. The agreed amendments will help to increase physical activity, tourism income and employment opportunities. They will encourage volunteering

activity on Forest Service-owned land, increase community involvement and provide volunteers with opportunities to gain skills and to enjoy the health and social benefits of volunteering.

Those strategic actions and outcomes will be defined and put in place in a number of ways. First and foremost, the Department has agreed that it will generate a Programme for Government target that will allow the Forest Service to bring about the linking of other Executive strategies, such as the strategy for sport and physical recreation, the Investing for Health strategy, the promoting mental health and well-being strategy and urban and rural planning strategies so that the diverse benefits of forestry can be exploited. That must be welcomed.

It is unfortunate that Mr McCarthy joined the Committee only recently. As Chairperson, I welcome him to the Committee, because I believe that he can make a contribution to it; he has an interest in this subject and has already tabled amendments on it. I sincerely welcome his interest and believe that he will make a worthwhile contribution to the Committee. Since he joined the Committee only recently, he was not, unfortunately, privy to our extensive debate on the placing of departmental strategies and targets in the Bill. Had he heard that debate, he could have saved himself and his party the trouble of proposing amendment No 3.

The Committee wants the Programme for Government target for increasing forest coverage to be achieved. The Committee has been extremely critical of the Department for failing to achieve that year-on-year coverage target.

As a Committee, we will continue to scrutinise the Department and hold it accountable should it continue to fail in that regard. However, we have to be pragmatic and practical. We have to take into account the consequences of including the proposed target in primary legislation. The consequences are severe, because, if amendment No 3 is approved and the clause stands part of the Bill, it will place on the Department a significant financial burden, which it will be unable to bear.

### **12.00 noon**

Doubling the coverage of forest by 2056 will require co-operation from farm businesses because the Department does not have an infinite supply of land to put forests on. Farm businesses recognise that economic viability

is the key factor in considering entering into forestry. However, if the incentives provided by the Department do not make economic sense to farm businesses, they will not avail of those schemes. Therefore, if the amendment is made and the Department has the statutory obligation to achieve that massive target, and if farm businesses do not see the incentives as viable, the Department will have to look at other means of fulfilling its statutory obligations. Those options could include the iniquitous compulsory acquisition of farm businesses, for example, and we cannot allow that.

For those reasons, the Committee chose not to pursue the inclusion of strategies and Programme for Government targets in the Bill. Rather, it acquired an undertaking from the Department that it will produce management delivery plans that will detail the actions that are to be undertaken to deliver on the targets contained in the Programme for Government, the 2006 Forest Service strategy and the Forest Service business plans. Those delivery plans will allow for a strategic approach to the use of forests and will ensure that the role of forests in wider land management, such as in flood management, species conservation, water quality improvement and mitigation of climate change, is communicated to local communities, stakeholders and government Departments, so that the value of woodland and forests can be included in decision-making and planning in a proactive and pragmatic manner.

The plans will be subject to the scrutiny of the Committee and will, therefore, afford the Committee the opportunity to undertake its statutory obligations in respect of policy development. That position has the unanimous backing of the Committee and, importantly, the stakeholders. Again, I pay tribute to the stakeholders who facilitated us, week in and week out, as we went through the Bill. For that reason, the Committee for Agriculture and Rural Development is opposed to amendment No 3.

I will make a brief comment in respect of amendment No 8 to clause 2. The Committee has not had the opportunity to formally consider the amendment, as the Department drafted it only late last week. Nevertheless, as it allows the payment of incentives in respect of forestry management, I, as Chairperson, do not object to its inclusion, and my colleagues will indicate whether they are content during the debate. The Committee is scheduled to receive two

further Bills later in the session, and I sincerely hope that the Department does not repeat the practice of drafting a late insertion. However, I will not look a gift horse in the mouth.

I now turn to amendment No 10 to clause 5 and the testy matter of compulsory acquisition of land. As Members will see in the Bill, the Department originally proposed that it would have the power to acquire “any land” if required for:

*“the carrying out of any of its functions under this Act.”*

The Committee strongly expressed its view that compulsory acquisition of land is a method of last resort for the Department and expressed concern that the clause was far too vague on the circumstances in which the Department may wish to use such powers. While the Committee recognised the importance of access in order to draw value from the public asset, either through timber sales or the development of recreational opportunities, negotiation with the landowner should be the first and primary means of gaining access to land.

The Department responded with a redrafted clause that clearly states that those powers of compulsory purchase would be used only in connection with the provision or improvement of access to land. The redrafted clause 5 also states that the use of compulsory acquisition will be a power for “a limited period or otherwise” to emphasise that limited-life acquisition options would be considered. In the interests of transparency, the Committee requested that the Department agree to publish the guidelines for the acquisition of land on its website so that they can be assessed by the public, and I welcome the Department’s agreement to do so.

In addition, the Committee gave consideration to the protections under existing domestic legislation, which the Minister mentioned in connection with the principle of Wednesbury reasonableness, the judicial review and the additional protections available under human rights legislation, which require the Department to act always in a reasonable and proportionate way and to adopt the approach of least interference on the landowner. In light of all those factors, the Committee recognised that the powers contained in clause 5 were sufficiently fettered and that the vagueness had been removed.

You will be pleased to hear, Mr Speaker, that I will soon draw my remarks on the first group of amendments to a close. However, before doing so, I want to address the agreed amendment No 11 to clause 6 and amendment No 12, which seeks to amend the agreed amendment No 11.

In Committee, we were astonished to hear that there was no comprehensive inventory of woodland in Northern Ireland. Therefore, we recommended that the Department carry out such an inventory by collating information that is available through other departmental data sources and from work carried out by other organisations. The Committee’s view is that such an inventory is vital in ensuring that realistic targets for the expansion of woodland are set and for effective monitoring and evaluation. Planning must be founded on a sound evidence base through research. The Department responded with a proposal to provide and maintain a register of woodland but added that it would be published only when the Department saw fit. Although the Committee welcomed the inclusion in clause 6 of the intention to compile an inventory, it expressed the desire that the Department prescribe a time frame for the review of that inventory.

The Department responded with a redrafted clause, which states that the Department would review the inventory at — I stress the point — a minimal interval of 10 years, while maintaining the inventory as a live document that would be updated each year with information that comes to the Department through various schemes and attendant applications. The Committee recognised the financial implication — indeed burden — connected to the comprehensive review and compilation of such an inventory. Therefore, we firmly believe that the inventory should be a living document that is populated annually through the addition of data from, for example, the woodland grant scheme. There is, therefore, no benefit to be achieved from undertaking costly official reviews at a lesser interval. That approach has been agreed with the stakeholders and the Department, and I advise of the Committee’s intention, therefore, to oppose amendment No 12.

I do not wish my new Committee colleague, Mr McCarthy, to think that I am deliberately being negative about his party’s proposed amendments. I assure him, as is evident from the Hansard report of meetings during Committee Stage, that the scrutiny of the

legislation was exhaustive. Indeed, the Committee report details that scrutiny week in, week out. I sincerely appreciate his energy in wanting to become involved in the Bill at this late stage, and such enthusiasm should not be dampened. However, I expect that other colleagues will reinforce what I have said in their contributions to the debate.

The Committee for Agriculture and Rural Development supports the amendments that it proposed and negotiated with the Minister and her departmental team. Those are detailed on the Marshalled List. The Committee intends to oppose the amendments tabled by Dr Farry and Mr McCarthy.

**Mr W Clarke:** Go raibh maith agat, a Cheann Comhairle. First, I want to thank everyone who was involved in working through the Bill, particularly during its Committee Stage.

Sinn Féin will support amendment No 8, which is the late amendment tabled by the Minister relating to payments for the purposes of forestry management. My party will oppose the Alliance Party's amendments, not because they have come from that party, but because, as the Chairperson has already said, the Committee has scrutinised all the Bill's clauses in great detail. That required a substantial piece of work.

The Bill, in its original format, was not ambitious enough. This is the first Bill on the subject in over 50 years, and it will probably be a long time before another one is introduced. Therefore, it was important that the Committee showed vision. The Committee has made the Bill fit for purpose through agreed amendments and through working with all the relevant stakeholders, the Minister, forestry officials and the political parties represented by members of the Committee.

I welcome the promotion of forestry as a means to mitigate the effects of climate change. It is essential that that is at the heart of the Bill. Since the beginning of the process, I have argued that, because the Bill must endure for the next 30 or 40 years, we must be forward-thinking and have the vision to use forestry for flood management; biomass opportunities; green procurement opportunities; to offset agricultural emissions; for recreational purposes; health and well-being; and tourism and business opportunities.

Amendment No 2 will encourage the increased use of forests to improve the recreational facilities that are currently available in forests and to introduce new facilities by developing partnership arrangements with public and private bodies. That will enable more local people, particularly in rural communities, to set up business enterprises that will have the direct potential to create many hundreds of jobs in tourism-related businesses, such as mountain biking, high rope-obstacle activities, children's play parks and activity centres and outdoor fitness suites. For tourism to be embraced by the entire population, people must be afforded the opportunity to create new business ventures that will provide visitors with exciting holiday activities. Forests must provide a balance of economic, environmental and social benefits. Opportunities for additional recreational and leisure pursuits should have a positive impact on general health and well-being and be beneficial to the economies of rural areas by attracting more visitors.

With regard to recreation, working in partnership with councils and community groups can bring about the development of play facilities, such as adventure playgrounds for children and teenagers, and educational projects. As the Minister and Chairperson said, there are potential benefits to health and well-being. Rather than people receiving prescriptions for mental health issues and stress, they could have a year's subscription for car parking and access to forest parks. That works in other areas. Local councils afford people who have problems with stress, mental health and obesity the opportunity to avail themselves of leisure centres and swimming pools, rather than being given prescriptions. It is worth looking at that.

As I said, the use of forestry to combat the negative impact of climate change is paramount and should be at the heart of the Bill. With amendment No 7, it is. It is of paramount importance to everyone that carbon sinks are created around towns and cities. A small amount of forestry land in the Department's estate will be suitable for the provision of wind farms. The forestry sector in the South has embraced renewables and has worked in partnership with energy providers to deliver for taxpayers.

There is evidence that forestry could help to manage flooding. Forests that are close to towns can provide opportunities for social recreation and well-being and act as carbon

sinks around those areas, thus combating traffic emissions in town and city centres. Biomass represents a good opportunity for the Assembly to replicate what has been done in Scotland, where wood-burning power stations have been built. It will also create confidence for people to buy into biomass technologies and start to grow timber for that purpose. The stations use willow and the remnants of the harvesting of timber, and they would help the agriculture industry to make a significant contribution to the reduction of carbon dioxide and other greenhouse gas emissions through the development of economically viable renewable energy technologies and enterprises. Renewable energy through our forests provides an excellent opportunity for the rural community to allow farmers to maximise the use of their land.

### 12.15 pm

We need to be conscious of what climate change will mean for the future and what species are likely to be able to grow. Some species may be at the edge of their tolerance already. We need to think about what species we want to plant in relation to their benefits throughout the spectrum and their ability to survive in the future. A tree planted now will only mature in 100 years, when the environment will be very different.

As the Minister and the Chairperson said, amendment No 10 was controversial, and the Committee, particularly my colleague Francie Molloy, was reluctant to give the Department powers to vest. Most farmers get on with each other and allow shared access. However, in a situation in which two neighbours do not agree, there must be measures to allow the timber to be taken out. It does not have to be a permanent arrangement; we would work towards something akin to a long-term lease. However, in larger schemes that may involve large amounts of public money, that would not be feasible in the short term. I welcome the proposed amendments relating to that. They are a huge improvement, and they have taken on board what Committee members said about clarifying that power, which will be required mainly for access purposes.

The development of road infrastructure and access is costly. A lot of public money could be invested in permanent infrastructure. However, I do not see the logic of investing a lot of money to develop temporary infrastructure; that is

not feasible. Nevertheless, in a situation in which, for example, neighbours do not get on, that measure will be needed to provide access across land. Overall, I welcome the amendment regarding access. As has been outlined, it is a last resort measure, and the Minister has given that guarantee today.

On the same train of thought, I would like to see the temporary solution of working together used on most occasions. However, I am pragmatic enough to know that there will be occasions when a more permanent solution will be required, although I do not think that it will be used often. It could be used for large-scale operations, such as a wind farm, where access would need to be improved to accommodate large vehicles. That could involve the construction of a bridge or the widening of lanes. Public money should not be put into such temporary construction, only for it to be taken away in 20 years' time. That is not practical.

We have to be realistic, and the Bill must be fit for purpose. The Committee has moved through the amendments, and it has made the Bill fit for purpose. I support the amendments agreed by the Department, but I oppose the amendments proposed by the Alliance Party.

**Mr Elliott:** I declare an interest as a landowner and as the owner of a small portion of forestry land. I thank all those involved in the Committee Stage, particularly the Committee staff, members and the Chairperson, as well as officials from the Department and the Forest Service. I also thank the Minister for coming to a compromise on most of the issues, which was not always easy. The number of amendments that have been agreed calls into question how much thought went into drafting the Bill in the first place. That is something that officials need to look at in the future with regard to other Bills.

I hope that the Forestry Bill will lead us towards a productive forestry process that promotes forestry for the foreseeable future, because that has been lacking in an area that has perhaps the smallest amount of forestry cover in Europe. I also hope that we can promote and develop the social and environmental benefits of forestry.

I am broadly pleased with the idea of creating an advisory stakeholder body, and I am aware that that was looked on positively by the Forest Service. However, we do not want another costly quango that will be a burden on the Department.

In discussing the Bill, the Committee wanted to ensure that the Forest Service had the scope to be an effective and efficient organisation, while placing enough control on its powers to ensure that it could not wield unnecessary control over farmers and landowners. I hope that we have managed to strike that balance.

The earlier amendments deal with technical issues and improving the wording of certain clauses. I support the amendments that were suggested by the Committee.

Amendment No 8 appeared quite late. It ensures that payments can be made to incentivise the management of forestry land, and, coming from the farming community, I have yet to meet a farmer who would not accept payments of any description, especially when they cost nothing. Therefore, even though the Committee has not yet had the opportunity to discuss that amendment, I will accept it.

Amendment No 10, which deals with clause 5 and the compulsory acquisition of land, was the subject of a great deal of discussion. From the beginning, I was adamant that that clause gave the Forest Service too much power and was too open-ended, so, although we might not have got all that we wanted, amendment No 10 provides a reasonable compromise. It does not allow the Forest Service overall control of the farming community or landowners, but it does give it enough scope to ensure that the public finances invested in forestry lands can be utilised. I am also pleased that the guidelines on the compulsory acquisition of land will be published on the Department's website. That will give farmers some security by letting them know that the Department cannot take over their land straightaway and that a process must be gone through before land can be acquired compulsorily. In general, farmers' and landowners' experience of dealing with Departments in the compulsory acquisition of land has not been good; therefore I was adamant that clause 5 should not allow the Department to continue to ride roughshod over farmers and landowners.

Amendment No 11 deals with clause 6 and the protection of ancient woodlands. I am very keen to protect such woodland, because it is a valuable resource for our community and the environment. However, we must be realistic about its inventory and how it is dealt with, and I feel that the Committee has reached a

satisfactory compromise with the Department on that issue.

I am pleased that the Bill is progressing, and I look forward to speaking on some of the other groups of amendments later in the debate.

**Mr P J Bradley:** I thank the Minister for moving the Consideration Stage of the Bill. The SDLP and I support the Forestry Bill and the ministerial amendments. For a number of months, I was not a member of the Agriculture Committee, so I missed out on many of the debates, and I did not get the opportunity to contribute as much as I wished. I am now back on the Committee, so, from now on, I will get a chance to contribute.

I have two brief comments to make, the first of which is on clause 3, which empowers the Department to provide facilities to improve amenities on forest land, such as toilet facilities and places for meals and refreshments. I come from south Down, and that will be a tremendous boost for the many forested parts of the area, including Newcastle. I welcome the clause, and I hope that, when proposals reach the planning stage, the Planning Service will share the views of all Members. There are already difficulties in the Mourne with planning issues on such facilities.

I made my second comment when the Bill first came to the Committee and the Minister was present. I expressed concern about compulsory acquisition, which is dealt with in clause 5. I am happy that that clause is to be amended, because I would have had difficulties if that had meant that general requisition of land would have taken place. I understand the commercial importance of having access to forestry for purposes such as removing felled trees. As I read through the Bill, I thought that improvements could be made by allowing that access. For example, millions of pounds could be saved over the years by allowing the Fire and Rescue Service access along the routes into forests. Some good will emerge from that clause, and I hope that we can reach agreement with farmers and landowners.

I agree with the Minister and the Chairperson of the Committee that the Bill is a forward-thinking document, and I am happy to support it.

**Mr McCarthy:** I welcome the Consideration Stage of the Bill and the input not only of the Minister but Committee members and support

staff. I thank the Chairperson of the Committee, Mr Paisley Jnr, for his kind words of welcome to me, although I have not even got my nose in the door yet. I had a long speech prepared on the Bill, but the past hour has been my most uncomfortable one in the Chamber since I was elected. I know very little about the Bill, and it would be unfair of me to start to throw my weight around on something into which I had no input, so forgive me for all of that.

The Alliance Party wants to see improvements, and we support and welcome the Bill. The Committee has made good progress, and we are happy to support all the amendments. It is unfortunate that the Minister, the Chairperson and other Committee members do not support our two amendments. I was going to spend the next half hour speaking, but I know that Members are waiting for their lunch, so I will not detain them any longer.

I wish to speak to amendment Nos 3 and 12. Amendment No 3 asks the Department to double the area of woodland over the next 50 years. There will not be many of us around to see the outcome of the Department's commitment to increase the amount of forestry over the next 50 years. That will be for the next generation and our grandchildren. I understand that the 2006 forestry strategy includes a target on that, and all we are asking for is a commitment on the legislative standing of that. Those are my instructions to put forward on amendment No 3.

Amendment No 12 asks the Department to carry out a woodland inventory every five years as opposed to every 10 years. I listened to the debate, and it appears that that amendment has hit the wall and is not going anywhere. However, our opinion is that an inventory that is updated every five years will allow the Forest Service to see how it is doing in meeting its commitments. Although it could be said that not much will change every five years, that would allow better statistics to be calculated and allow better accountability. It would also make the job of the Forest Service easier because it would be able to target areas that are not doing so well. I shall not prolong the debate, and I commend the two amendments.

### 12.30 pm

**Mr Savage:** I support the Forestry Bill, including the 28 amendments to it that the Minister tabled. Those amendments have been agreed

by the Committee. The introduction to the Assembly Research and Library Service's paper on the Forestry Bill highlights the fact that there are 124 state forests in Northern Ireland. Many people in Northern Ireland will not know that. Those state forests are managed by Forest Service, which is an executive agency of the Department of Agriculture and Rural Development. The agency's framework document sets out its aims, which are very straightforward yet very interesting:

*"to contribute to the economic development of the entire forestry sector in Northern Ireland, whilst at the same time promoting the sustainable management of forests for multiple use and conserving and enhancing the rural environment".*

That is an interesting statement, because half of the people in Northern Ireland do not even know the number of forests that we have in our wee country. The Department owns quite a huge hunk of land, and we must realise that there is no more land being created in Northern Ireland, so what we have must be used to its full potential.

I had a speech prepared, but I will not repeat everything that other Members have said. Some interesting points were raised in Committee. One such point was that the forest industry must be opened up. Forests are public land, which must be opened up so that people can use it for leisure pursuits and a wide range of other purposes. However, the general public must realise that Forest Service has laid down a code of conduct, and that code of conduct must be observed. With the dry spell of weather that we have had in the past three or four weeks, we have seen what can happen if the code of conduct is not observed. Opening up forests to the general public can only make a big contribution to the well-being of the whole community in Northern Ireland.

I commend the Bill to the House, and I know that everybody will support it. It contains far-reaching provisions and highlights many issues. Where land has not been brought to its full use, an opportunity presents itself to bring that land into use for the well-being of the public and Forest Service.

The Bill also brings into play a different element. An issue that I pursued right through Committee Stage was that people on horseback should be able to use forests, because they cannot go on the roads. Health and safety is a big issue as

far as people on horseback are concerned, and the legislation presents an opportunity for them to get off the roads. The Bill opens up a new chapter for them.

All Committee members played a big part in shaping the amendments. Amendment No 3, tabled by my colleague Kieran McCarthy, opens up a new area for discussion, which can perhaps be considered at a later date.

What has taken place will bring Forest Service into the twenty-first century, and I commend the Bill to the House.

**Mr Speaker:** The Business Committee has agreed to meet immediately on the lunchtime suspension. I propose, therefore, by leave of the Assembly, to suspend the sitting until 2.00 pm, when the Minister will respond to and conclude the debate on the first group of amendments.

*The sitting was suspended at 12.35 pm.*

*On resuming (Mr Speaker in the Chair) —*

**2.00 pm**

**The Minister of Agriculture and Rural**

**Development:** Go raibh maith agat, a Cheann Comhairle. Before addressing the substantive elements of this afternoon's debate, I wish to acknowledge the volume of work that has been done on this part of the Bill. The Chairman of the Committee for Agriculture and Rural Development described the constructive and detailed work that went into getting the Bill to where it is today. A kaleidoscope of stakeholders contributed time and effort to develop this multifaceted primary legislation. I also acknowledge that the Committee had a lengthy consultation and put great effort into ensuring that the various and often passionately diverging views were heard. I know that there were many constructive and pragmatic evidence sessions with my officials, and I thank the Committee for that.

It is not easy to get legislation exactly right for everyone; however, we have a responsibility to strike the best possible balance. As some Members said, it is more than 50 years since the last Forestry Act, and this one might have to last as long. Indeed, Ian Paisley Jnr may have dropped the "Jnr" by the time the next forestry Bill comes round.

The sustainable stewardship of forests and their environment is our responsibility. It is entrusted to us to look after that precious heritage for our children and for future generations. Clause 1 is supported by different but equally important pillars. The pillar of economic forestry supports the timber industry, on which the wider forestry programme depends. Through that sector, we secure important revenue from timber supply and many times its value in economic and employment terms, particularly in rural areas. The growing forests provide the social and environmental values that we all wish to expand, and having those benefits underpinned by a vibrant timber industry sector is crucial. Environmental forestry and biodiversity commitments, as well as our commitment to doing our bit to mitigate climate change, reflect those important values from forests.

Members mentioned the educational importance of forests and their ability to become an outdoor classroom. That, too, is important. The Committee Chairperson, George Savage and Willie Clarke referred to the importance of

the social and recreational benefits of forestry, which the Bill supports. I was interested to hear Mr Clarke's point about prescribing activity opportunities through forests; that deserves wider consideration. Given that the Bill deals with the twin themes of forest expansion and sustainable forestry, it is no wonder that there are so many different and passionate interests. It is a bit of a challenge to balance them all, and that was evident from today's debate.

Members raised a number of issues. The new amendments that Dr Farry and Kieran McCarthy tabled emphasised the importance of the first group of amendments, which have much to do with the general duty of my Department. That duty is a progressive one to take forestry and all its undoubted benefits into the twenty-first century. I welcome Kieran McCarthy to the Committee, and I look forward to working with him. I know that he will be a passionate member of the Committee. Do not worry, Kieran; you have plenty of colleagues to keep you right.

I understand that behind Members' contributions today is a call for assurances, because duties are not enough, and we need to deliver on commitments. That is why I have made a solid commitment today to a delivery plan that shows how my Department will deliver on the targets to which it commits. We all know that with power comes responsibility, and it is the same with this Bill. Several of the amendments are concerned with limiting powers, putting them into perspective or giving more scope for flexibility and negotiation in their use, which can only be a good thing. I am grateful to stakeholders and the Committee for helping us get the legislation right.

It is no surprise that Members raised issues around the compulsory acquisition of land, as vesting of land is one of the most emotive of subjects. I understand Members' apprehensions and, indeed, share them. However, compulsory purchase powers are the hallmark of most primary legislation, and, through the Bill, we will ensure that human rights are protected. We will make agreement and negotiation our first options; we will offer scope for alternative arrangements, such as temporary usage or rights of way; we will offer appeal and compensation; we will act transparently and with the lowest level of interference; and, of course, we have dispelled the myth that the legislation is about vesting land on which to grow trees. The powers will be used for no more than access.

Tom Elliott, who is not in his seat, mentioned establishing a stakeholder advisory body. The existing arrangements for engaging with stakeholders are adequate and appropriate, so we will leave it at that. Although stakeholder engagement is important, and we want to work with stakeholders, there is no need to set up a stakeholder advisory body.

I trust that Members are content that we have struck the right balance in this crucial group of amendments to the foundations of the Bill and that they accept the sincere assurances that I have given. I firmly believe that the Forestry Bill is a very good piece of legislation, one that was developed in the spirit of co-operation.

*Question, That amendment No 1 be made, put and agreed to.*

Amendment No 2 proposed: In page 1, line 5, at end insert

*“(1A) The Department must carry out that duty —*

*(a) in relation to forestry land, in such a way as to promote and encourage the enjoyment and recreational use of that land by the public; and*

*(b) in relation to other forests, in such a way as to promote the social benefits of those forests.” — [The Minister of Agriculture and Rural Development (Ms Gildernew).]*

**Mr Speaker:** An amendment has been tabled to amendment No 2. Therefore, I call Mr Kieran McCarthy to move amendment No 3.

Amendment No 3 proposed: In amendment No 2, at end insert

*“(c) with a view to increasing by 100 per cent the area covered by forest by the end of 2056 relative to the area specified by the Forest Strategy published by the Department in 2006.” — [Mr McCarthy.]*

**Mr Speaker:** Amendment No 3 is an amendment to amendment No 2, so I will put the Question on amendment No 3 first.

*Question put and negatived.*

*Question, That amendment No 2 be made, put and agreed to.*

Amendment No 4 made: In page 1, line 9, leave out “the development of afforestation,”. — *[The Minister of Agriculture and Rural Development (Ms Gildernew).]*

Amendment No 5 made: In page 1, line 11, leave out “forestry land” and insert “forests”. — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

Amendment No 6 made: In page 1, line 12, leave out from “and” to end of line 13. — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

Amendment No 7 made: In page 1, line 12, after “environment” insert

“, biodiversity and the mitigation of, or adaptation to, climate change” — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

Clause 1, as amended, ordered to stand part of the Bill.

**Clause 2 (Principal powers of the Department)**

Amendment No 8 made: In page 2, line 9, at end insert

“( ) make, on such terms and conditions as the Department thinks fit, payments for the purpose of forestry management;” — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

Clause 2, as amended, ordered to stand part of the Bill.

Clause 3 ordered to stand part of the Bill.

**Clause 4 (Use or development of forestry land)**

**Mr Speaker:** Before I put the Question on amendment No 9, I remind Members that amendment No 9 is a paving amendment for amendment No 14.

Amendment No 9 made: In page 2, line 39, leave out subsections (2) and (3). — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

Clause 4, as amended, ordered to stand part of the Bill.

**Clause 5 (Compulsory acquisition of land)**

Amendment No 10 made: In page 3, leave out lines 6 and 7 and insert

“whether for a limited period or otherwise, for the purposes of, or in connection with, providing or improving access to any land so as to facilitate the carrying out of any of its functions under this Act.

(1A) The power of acquiring land compulsorily under subsection (1) includes power to acquire, by

the creation of a new right, an easement or other right over land.” — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

Clause 5, as amended, ordered to stand part of the Bill.

**Clause 6 (Inquiries, information, etc.)**

Amendment No 11 proposed: In page 3, line 25, at end insert

“(2A) The Department –

(a) shall provide and maintain a register providing such information as the Department considers appropriate as to the location and size of woodlands in Northern Ireland and the types of trees therein;

(b) shall publish that register in such form as the Department thinks appropriate at intervals not exceeding 10 years;

(c) may exercise the powers in subsection (1) (b) and (c) in connection with the provision or maintenance of that register.” — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

Amendment No 12 proposed: In amendment No 11, leave out “10” and insert “5” — [Mr McCarthy.]

**Mr Speaker:** As amendment No 12 is an amendment to amendment No 11, I will put the Question on amendment No 12 first.

Question put and negatived.

Question, That amendment No 11 be made, put and agreed to.

Clause 6, as amended, ordered to stand part of the Bill.

**Clause 7 (Incidental powers)**

Amendment No 13 made: In page 4, line 2, leave out from beginning to “particular” in line 4 and insert

“For the purpose of the exercise of its functions under this Part,” — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

Amendment No 14 made: In page 4, line 10, at end insert

“(4) The power under subsection (2)(a) is exercisable for the purposes of the exercise of the functions of the Department under section 4(1) only with the approval of DFP.” — [The

*Minister of Agriculture and Rural Development (Ms Gildernew).]*

Clause 7, as amended, ordered to stand part of the Bill.

**2.15 pm**

**Mr Speaker:** We come to the second group of amendments for debate: amendment Nos 15 to 27 and amendment No 32. Those amendments relate to the control of animals, access to adjoining land for that purpose and the protection of forests from hazards, such as fire on adjoining land. I call the Minister of Agriculture and Rural Development to move amendment No 15 and address all the other amendments in the group.

**Clause 8 (Control of animals in forests)**

**The Minister of Agriculture and Rural**

**Development:** I beg to move amendment No 15: In page 4, line 15, leave out “wild animals” and insert

*“deer or hares (other than Irish hares)”. — [The Minister of Agriculture and Rural Development (Ms Gildernew).]*

*The following amendments stood on the Marshalled List:*

No 16: In page 4, line 17, leave out from “either” to “purposes” in line 18 and insert “forest”. — *[The Minister of Agriculture and Rural Development (Ms Gildernew).]*

No 17: In page 4, line 20, leave out “at any time, kill, take or destroy any wild animals”.

and insert

*“take, kill or destroy any deer or hares (other than Irish hares)”. — [The Minister of Agriculture and Rural Development (Ms Gildernew).]*

No 18: In page 4, line 24, leave out subsection (4). — *[The Minister of Agriculture and Rural Development (Ms Gildernew).]*

No 19: After clause 8 insert

*“Control (with permission of occupier) of animals on land adjacent to forest*  
8A. – (1) *In this section –*  
*‘land A’ means any land falling within section 8(2);*  
*‘land B’ means any land –*  
*(a) which adjoins land A; or*  
*(b) any part of which is within 500 metres of any part of land A.*

*(2) The following provisions apply where the Department is satisfied that trees growing on land A are being, or are likely to be, damaged by wild animals present on land B.*

*(3) The Department may serve on the occupier of land B a notice –*

*(a) stating that trees growing on land A are being, or are likely to be, damaged by wild animals present on land B; and*

*(b) requesting that the occupier –*

*(i) take effective steps, within 3 months of the date of the service of the notice, to prevent the damage; or*

*(ii) grant permission for an authorised person to enter land B and exercise the powers conferred by subsection (4).*

*(4) An authorised person may with the permission of the occupier take, kill or destroy any wild animals on land B.*

*(5) If land A or land B is unoccupied, subsections (3) and (4) apply with the substitution of references to the owner of that land for references to the occupier.*

*(6) In this section ‘wild animal’ means any animal which is living wild and is likely to damage trees, other than –*

*(a) a bird;*

*(b) the Irish hare;*

*(c) an animal for the time being included in Schedule 5 to the Wildlife (Northern Ireland) Order 1985 (NI 2).” — [The Minister of Agriculture and Rural Development (Ms Gildernew).]*

No 20: In clause 9, page 5, line 14, leave out subsection (8) and insert

*“(8) Where the occupier of land A is not the Department, any costs incurred by the Department in connection with an authorised person taking action under subsection (7) are recoverable as a civil debt from the occupier of land A.” — [The Minister of Agriculture and Rural Development (Ms Gildernew).]*

No 21: In clause 9, page 5, line 19, leave out “section 8” and insert

*“section (Control (with permission of occupier) of animals on land adjacent to forest)”. — [The Minister of Agriculture and Rural Development (Ms Gildernew).]*

No 22: In clause 10, page 5, Line 27, leave out paragraph (b) and insert

*“(b) requesting that, within 30 days from the date of service of the notice –*

(i) any vegetation growing on the part of the land within a distance of 15 metres from the boundary of the forest be removed or destroyed; or

(ii) such other measures as are specified in the notice be taken in relation to that vegetation for the purposes of reducing the risk of the forest being damaged by fire.” — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

No 23: In clause 10, page 5, line 33, at end insert

“or take such other measures in relation to that vegetation as the Department considers appropriate for the purposes of reducing the risk of the forest being damaged by fire.” — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

No 24: In clause 11, page 5, line 39, leave out “section 7 or 7A” and insert

“section 7(1)(a) or 7A(1)(a)”. — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

No 25: In clause 11, page 5, line 41, leave out “Article 10(1) or (2) or 19(1), (2)”

and insert

“Article 19(1)”. — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

No 26: In clause 11, page 6, line 3, after “8(3)” insert

“; (Control (with permission of occupier) of animals on land adjacent to forest)(4)”. — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

No 27: In clause 11, page 6, line 4, after “section” insert

“(Control (with permission of occupier) of animals on land adjacent to forest)(3) or”. — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

No 32: In clause 38, page 19, line 21, at end insert

“( ) No order may be made under subsection (1) in relation to any provision of section 9 unless a draft of the order has been laid before, and approved by a resolution of, the Assembly.” — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

**The Minister of Agriculture and Rural Development:** Go raibh maith agat, a Cheann

Comhairle. Amendment No 15 is the first of the group and deals with the protection of forest trees from damage, mainly by wild animals. I should make it clear that the management of deer populations and the control of wild animals to protect trees are long-established parts of sustainable forest management and are a feature of forestry legislation in the South and in England, Scotland and Wales.

The Wildlife Order 1985 provides for dispensations for the killing of deer without licence during the close season to protect crops, horticulture and growing timber. The Department remains of the view that it should have such a power to protect a valuable public asset such as its forests and to ensure the protection of private woodlands. That will support wide forestry obligations and the desire of both the Department and the Committee for new woodland creation and the sustainable management of existing woodlands. Nevertheless, I recognise and firmly believe that those powers should be proportionate and as close as possible to the spirit of wildlife and game preservation legislation and welfare considerations.

Most of the amendments to clause 8 were suggested by the Committee and stakeholders during their scrutiny of the Bill, and I am grateful for their input.

Amendment No 15 is positive. In the original draft of the Bill, the Department and other woodland owners were permitted to control any wild animals on their land to protect their trees. Woodland owners — indeed, any landowners — are normally permitted to kill any wild animals on their land, such as foxes, rabbits, hares, vermin etc but not protected animals. The original definition in the Bill was too wide and, in order to protect woodlands, would have allowed the killing of animals protected by the Wildlife Order, such as red squirrels, badgers, otters, bats etc. I am happy to approve the closing of that loophole. The definition of wild animals has been replaced so that the clause refers only to

“deer or hares (other than Irish hares)”

rather than “wild animals”. The relevant defences against prosecution under wildlife or game legislation for the killing of protected animals have been removed from the protections under clause 11.

Another element of amendment No 15 is a personal provision that I have brought forward to

exclude the Irish hare from any culling during the close season. I feel strongly that the Irish hare should be protected as a special indigenous species. In my response to the recent consultations on the amendments to wildlife legislation, I expressed my disappointment about the decision to rely on species habitats plans, rather than outright protection.

Amendment No 16 is intended to address a narrow definition of the trees to be protected. It occurred to us that we had limited that to trees grown for commercial timber. It is vital that we protect all our forests, whatever their purposes — social, environmental etc. Therefore, we have used the word “forest” in its widest and most generic sense.

Amendment No 17 is one that I suggested and is self-explanatory. It puts the taking of animals to first place in the sequence of possible control measures before their killing or destruction. Another aspect of amendment No 17 is the seemingly innocuous removal of the words “at any time”. To reflect that deer or hares could be killed, as necessary, during the close season, the wording used was that animals could be killed “at any time”. Unfortunately, that created a loophole to kill animals at night, which justifiably raised welfare concerns, because such activity is expressly prohibited under the Wildlife Order and game legislation. I was happy to remove that wording, and I am grateful to the Committee and the stakeholders for highlighting that point.

Amendment No 18 is consequential to clause 1. Amendment No 19 introduces a new clause to the Bill, titled:

*“Control (with permission of occupier) of animals on land adjacent to forest”.*

This new clause must be seen in the context of amendment No 32, which affects clause 9 and will render that clause dormant unless damage to woodlands by wild animals such as deer warrants it being activated at some time in the future. In the absence of full clause 9 powers, the Department will rely on the new clause. I hope that Members do not mind my pausing to refer to clause 9, but I hope that it will kill two birds with one stone and provide context to the amendments to that clause.

The original clause 9 powers dealt with the control of animals on adjoining private land. The Department may serve a notice requiring the

landowner to deal with the problem, ascertained as necessary by powers of inspection. Failing that, it will serve another notice that an authorised person will enter the land to control the animals. The Department would have had a right to impose costs for any such measures on the adjoining landowner. The Committee and stakeholders had serious concerns about clause 9 and the power to enter private land to control animals, particularly deer, and charge private landowners for control of animals on their land.

Although I acknowledge, as pointed out by the Committee, that the threat presented by deer is not major at present, my Department took the prudent and strategic view that, given our aim to double forest cover over the next 50 years, the deer populations may, at some time, expand to numbers that justify that power. Therefore, it made sense to take the opportunity to put contingency powers in place. It must be remembered that taking powers and using them are two entirely different matters. There are human rights aspects involved with entering private property, and it can be justified only in a reasonable balance with the public interest. My Department would not have taken that power lightly, and it would and could have used it only in the event of a serious and recognised problem. Having said that, I am satisfied that we have reached a compromise. The new clause removes the compulsory element and takes a totally consensual approach as reflected in its title “Control (with permission of occupier) of animals on land adjacent to forest”.

The Department may serve a notice but only to request that the occupier of adjoining land take effective steps to prevent damage to adjoining woodland. Failing that, the Department may request permission to control the animals, but it has no power to enter the land without that permission. Furthermore, the clause contains no power to impose any costs on the adjoining landowner even if, on agreement, the Department controls any animals on his or her land. The new clause will allow my Department to retain some powers to protect a valuable public asset such as the Department’s forests and, indeed, to ensure the protection of private woodlands. That will support wider forestry obligations and my Department’s desire for new woodland creation and the sustainable management of existing woodlands.

It must be remembered that control of wild animals is not just about deer but includes other wild animals such as rabbits, hares and grey squirrels, which are an ongoing menace to woodlands. Of course, we will still be left with ongoing depredation by deer but, admittedly, not on a scale to justify the compulsory clause 9 powers. We had always intended to work with the principle of consent. After all, that is also built into clause 9, in which the owner had first option to deal with any problem before the Department may intervene.

It is always reasonable to assume that the owner of adjoining land would not object if the Department were to intervene against deer, rabbit or hare which may also be damaging his or her crops. That power, along with my Department's general duty to promote sustainable forestry, provides legal support and authority to authorise persons who may enter adjoining land, even with agreement to control animals.

Amendment No 20 addresses the concerns of the Committee and stakeholders about charging private landowners for any control of animals on their land to protect adjoining woodlands. The amendment removes the power to impose such costs. Instead, my Department will retain the discretion to impose costs on the woodland owner on behalf of whom the remedial measures will be taken. That is a fair and reasonable alternative, and I am grateful to the Committee and stakeholders for helping us to get it right.

Amendment No 21 is a consequential amendment to the new clause inserted by amendment No 19.

Amendment No 22 relates to clause 10, which protects forests from damage by fire, especially gorse in uncultivated land adjoining a forest and up to 15 m from the forest boundary. As drafted, the clause allowed the Department to issue a notice requesting that any such vegetation that presents a potential danger to adjoining forests be removed or destroyed. Failing that, an authorised person could enter the land to remove the vegetation. The Committee and the Ulster Farmers' Union were concerned about that clause — the power to enter private land and to remove or destroy vegetation — which could place the landowner in breach of other departmental schemes such as the countryside management scheme. My Department will not seek to claw back any such grant as a result of

that power. I also expect the principle of force majeure to apply fully in such cases.

Amendment No 22 will provide more scope for the landowner to take remedial action without having to remove or destroy vegetation. Alternatives will be specified in a notice and could, for example, include management to reduce combustible material or flammability. The Committee has urged that negotiation with the adjoining landowner should always be the first option. I agree that that should be the initial approach in every case. I should add, again, that entry onto private land and interference with private property carries a human rights implication. Along with the principle of reasonableness and proportionality, it requires the smallest amount of interference. That, in itself, is a compelling reason for proper communication and negotiation. I am grateful to the Committee and stakeholders for their input into amendment No 22. Amendment No 23 is consequential to amendment No 22.

Amendment Nos 24 to 27 reduce the protections and the relevant offences that are contained in clause 11 against prosecution under wildlife or game legislation. As such, they are consequential to the amendments to clause 8 and have a bearing on the new clause, entitled "Control (with permission of occupier) of animals on land adjacent to forest" and on clause 9. For example, amendment No 24 removes a defence against night-time killing of hares, which is covered by section 7 of the Game Preservation Act (NI) 1928.

Amendment No 25 removes a defence against the night-time killing of deer, which is covered by section 19 of the Wildlife (NI) Order 1985. It also removes the defence against the killing of any protected wild animals under section 10 of that Order. Amendment Nos 26 and 27 are consequential to the new clause inserted by amendment No 19.

Amendment No 32 is an amendment to clause 38. It addresses the Committee's request that clause 9 remain dormant until the evidence base of damage to woodlands, particularly by deer, justifies its activation but only by affirmative resolution.

**The Chairperson of the Committee for Agriculture and Rural Development:**

The Committee supports amendment Nos 15 to 18 to clause 8. The Committee recommended that the Forest Service redraft that clause to provide

clarity, clearly define the term “wild animals” and include an exemption for the Irish hare. The Committee also expressed concern that the Department proposed the taking of animals at any time, giving rise to concerns about animal welfare, specifically about the killing of deer in the close season. Again, the Department is to be commended for listening to the Committee and agreeing to amend clause 8 to our satisfaction.

The Committee supports the insertion of a new clause, through amendment No 19, and amendment Nos 20 and 21 in respect of clause 9. The Committee was not content that the Department was taking powers to enter private land to control animals deemed to be damaging trees on departmental land. The Committee was further opposed to the concept that the Department would also have the power to charge private landowners for the control of animals on their land. The Committee regarded the imposition of such charges as completely unacceptable. The Department accepted the Committee’s concerns but wished to retain the discretion to recover costs from landowners who derive benefit from any intervention. The Committee is content to allow that, with the reassurance that, in such instances, when a requirement to control animals on adjacent land arose, the first approach would be to request that the landowner takes it upon himself to act.

When scrutinising the Bill in Committee, we constantly sought evidence to support the inclusion of the clauses that were presented to us. One such example of that was clause 9, which deals with control of animals on land adjacent to forest. The Forest Service’s representatives were unable to produce any evidence to the Committee indicating the existence or the extent of a problem and, in addition, recognised that damage to Forest Service property by animals on adjacent land was negligible. The Committee requested that the Department take powers to introduce that power by affirmative resolution when and if the evidence was available to indicate that there was a problem.

The clause, if approved by the House, will be dormant, and it will be empowered only by affirmative resolution of the House at a later stage. The Department agreed to implement an enabling clause that would allow it the discretion to legislate for the control of animals and for the imposition of attendant fees on

landowners, if and when the situation should arise, as part of its general duty to protect woodland under the duty towards sustainability.

### 2.30 pm

In light of the Committee’s concerns regarding the powers of the Department to enter private land to control animals on adjacent land, the Department drafted a new clause that is based on a purely consensual approach. That clause requests that the occupier of land adjacent to woodland take effective steps to prevent damage to that adjoining woodland. However, if that fails to happen, the Department may request permission to control the animals, but it has no power to enter woodland without that permission. The clause does not contain any power to impose costs on the adjoining landowner, even if, by agreement, the Department controls any animals on his land. In addition, it allows the Department to retain the ability to protect woodlands from damage by wild animals and addresses the concern expressed by the Committee about the necessity of agreement with landowners.

Finally, I turn to amendment Nos 22 and 23, which propose changes to clause 10. The Committee considered that the Department must clearly define the term “vegetation” and what is meant or implied by the term “uncultivated land” so that adjoining landowners in receipt of departmental grants are not adversely affected by the actions required by Forest Service. The Committee wished to emphasise that negotiation with the landowner to remedy the problem should be the first and best available option. Although the Committee accepted that buffer zones to act as firebreaks were necessary to protect a public investment such as a forest, it expressed the view that creation and maintenance of the fire buffer zones should be an integral part of any management plans for land owned by the Forest Service and should not interfere with private land.

The Committee for Agriculture and Rural Development supports the amendments in the second group.

**Mr W Clarke:** Go raibh maith agat, a Cheann Comhairle. Sinn Féin supports the amendments in the second group. Without repeating what the Chairperson of the Committee said, I will talk about amendment Nos 22 and 23, which seek to amend clause 10. They deal with protecting woodland from unmanaged vegetation.

I want to mention the creation of buffer zones to protect large areas of forestry. To understand the importance of the issue, we need only consider the number of forest fires in recent weeks and months and the huge damage that has been caused to hectares of habitat throughout the North. It is not unreasonable for the Department to want the Bill to include powers to protect its investment; indeed, it is the taxpayer's investment. The same goes for private woodlands into which people invest huge resources over a long period. Whenever people plant trees for timber production or recreational value, they are investing huge sums of money, sometimes millions of pounds, in that commodity. It is important that everything that can be done to protect that commodity is done, otherwise millions of pounds will be lost.

I will veer off the point slightly and mention the management of gorse or whin, which is an issue that needs to be taken up cross-departmentally with a number of Departments, including DARD, the Department of Health, Social Services and Public Safety and the Department of the Environment. The Chairperson of the Environment Committee is here today, and I hope that he will look at that. We cannot allow millions of pounds to be continually ploughed into fighting fires when a more appropriate position can be taken.

Sinn Féin supports the amendments in the group.

**Mr Elliott:** Thankfully, all the amendments stemmed from the Agriculture Committee reeling in the Forest Service's wayward thoughts, and we take some credit for that. However, I thank the Department for listening to the Committee's recommendations and for agreeing with much of our deliberation.

The Committee was keen, through amendment 15, to protect the Irish hare, and the Department was willing to accept the amendment. The Committee felt that the term "at any time" in amendment 17, to which the Minister alluded, was much too broad and gave the Department far too much control and power.

Amendment 19 was a key amendment for the Committee, which felt that it was totally unrealistic that the Department should be allowed to go on to any land adjacent to Forest Service land to control wildlife and charge the local landowner for that privilege. I am much more content with the Department's proposed

new clause 8A, which states: "with permission of occupier".

I was concerned about subsection 8A(3), which states:

*"The Department may serve on the occupier of land B a notice".*

I was going to ask what would happen if the occupier did not take any action after a notice was served. Thankfully, the Minister clarified that situation in that, I assume, nothing can be done without the landowner's permission.

The Ulster Unionist Party had the introduction of a new forestry Bill in its previous manifesto, so we are pleased that others parties came on board and supported us in establishing legislation that will be helpful to the entire community. We support the amendments in this group.

**Dr Farry:** It is always good to hear that the Ulster Unionists are ahead of the curve in at least one or two issues. The Alliance Party is largely content with this group of amendments and, indeed, with the vast bulk of the Bill.

I welcome the thrust of the amendments, particularly with regard to nature conservation and the revised approach towards wild animals in forests. However, I was concerned when the Minister referred to that issue as trying to:

*"kill two birds with one stone",*

and I wondered whether that was consistent with the thrust of the Bill. She will, no doubt, address that when she makes her winding-up speech.

I should, at this point, probably speak on behalf of my party leader on the Irish hare, given that he took a strong interest in that during his tenure in the Assembly. He has now moved on to a different position and does not have the same degree of freedom to engage in discussions on the Floor of the Assembly. It is important that the Irish hare is protected.

We welcome the approach that the Committee and the Department took to the legislation. However, we are disappointed that the Committee for the Environment adopted a different perspective, and it remains to be seen what will be done on the Floor of the Assembly and by the Department of the Environment about those amendments when we discuss the Wildlife and Natural Environment Bill.

In so far as the Alliance Party welcomes the Agriculture Minister's commitment, it was, to my knowledge, Members from her party who frustrated the direct protection of the Irish hare when it was discussed by the Committee for the Environment. I ask the Minister to address her party's stance on that issue as well as the formal stance of the Department, because two different approaches are being taken by two Committees and, potentially, by two Departments. I welcome the Minister's warm words, and I note that even the president of Sinn Féin has taken a strong interest in trees. At least we are at one on that.

The Alliance Party is happy with all the amendments in this group and will support them.

**Mr Shannon:** I support the debate that we have had so far. My colleague the Chairman of the Committee put forward our party's stance on the Bill, and we support the issues.

The Committee shares with the Minister the desire to get a good piece of legislation for the future of forestry in Northern Ireland. That is good news, and it is evident in all the hard work that has been put in thus far. However, with any and every Bill, there are still concerns.

Many of our difficulties and concerns arise from the fact that the legislation has been conceived and drafted by the very people who will be most affected by it. There has been input to the process, and that is good because people have been able to influence the Bill. It is always good to have advice and input from those affected, as would be the case had we been dealing with medicine or education. The difficulty arises where there is conflict between the objectives of the state; in this case, the Assembly, which wants to see a massive increase in the woodland and forestry delivered by the private sector but which is legislating for an industry that is totally dominated by publicly owned forests.

I emphasise the point that unless there is proper separation between the part of the Department that regulates forest operations for everyone, public and private, and the operational side of the publicly owned forest estate, there will be concern that the Department is legislating to suit itself.

Tha Committee kens fien weel that this coanflit heas bin goin oan an haes wrought herd tae secuer changes that brings aboot tha aims o' aw perts o' tha sector.

Aa' think this is a foar better bit o' laa' noo than whun it sterted, but aa' think tha fact that tha Department's intentyins at tha stert wus tae hae poowers tae aloo them tae buy sportin richts tae buy lan an tae gaun untae lan tae shoot - aw wioot tha kinsent oor agreement o' tha lan oaners whau wud be affected demonstrated ther normal feelins an approach

The Committee recognised that conflict and has worked hard to secure changes that balance the needs and aspirations of all parts of the sector. The Bill is a much better piece of legislation now than when it started, but the fact that the Department's initial intention to have powers for the compulsory purchase of sporting rights and land and to go on to land to shoot without the consent or agreement of the landowners affected demonstrates the Department's natural inclinations and approach. With respect, I consider the trait among civil servants to acquire powers of the state over the individual to be a dangerous one that does not sit well with human rights and the rights of the individual to own and enjoy property without interference from the state. The nanny state cannot extend to that, and we must guard against that tendency.

I would go so far as to suggest that we revisit the work of the Forest Service and the effects of this legislation on a regular basis, and I suggest to the Minister that it would be a good idea to do that once in each Assembly mandate, so that we can keep an eye on what happens and ensure that the powers that we have created are not being abused or used against farmers and landowners whose property or business lies in close proximity to Forest Service operations.

We have heard from the public that they want an accountable government, with checks and balances. That is what we hear on every issue. This piece of legislation should be subjected to those very checks and balances, especially when one takes into consideration the daily changing nature of wildlife and forestry.

In particular, the Bill allows for Forest Service staff to go on to private land to control deer. Witness after witness confirmed to the Committee that that power is not required. The Forest Service itself gave figures confirming that it is not an issue at present and that it will not be an issue in the foreseeable future or for at least a decade. Its persistence in seeking the powers provokes unease among some, including

many of the people who have fed their views to me, and I have reflected that in my contribution to this debate.

I have taken this opportunity to record my reservations about that power, and I ask Members to consider how they will defend to their rural constituents a decision that allows government rangers compulsory powers to come on to their farms and fields to shoot deer. That is a concern for many. It is an issue in the constituency that I represent, and I have been approached by several constituents who have asked me to ensure that the matter is well monitored and regulated. I make that comment so that it is recorded in the Official Report and so that departmental officials are also aware of it.

Much about our public forestry operations is to be commended, but there are also some restrictive practices in place that unfairly discriminate against the individual. In particular, I note my concern about restricted access to sporting shooting. Let me put on record that I was pleased that the Minister referred to the value and benefits of sporting shooting when she gave the Bill its initial reading. Obviously, I declare an interest as one who participates in that particular sport.

I also declare an interest as a member of the British Association for Shooting and Conservation and of the Countryside Alliance.

#### 2.45 pm

The Minister may be interested to know that the British Association for Shooting and Conservation, which took a major interest in the Bill, has just secured significant Government funding on the UK mainland to establish and support country sports tourism officers, who will help to unlock the value of sports tourism to benefit the whole of the local economy. Northern Ireland lags far behind in opening up public access to shooting opportunities. The Minister and the Committee might liaise on that in the future, as they seek to support our rural and tourism industries in these difficult times. The opportunities for economic growth and sports tourism that will benefit the entire community are there.

There is no doubt that the Bill has been well thought out. However, there is still more to be done. Will the Minister assure me and my constituents that the Bill can change and

deliver protection without adversely affecting landowners' rights? I support Part 2 of the Bill.

#### **The Minister of Agriculture and Rural**

**Development:** Go raibh maith agat, a Cheann Comhairle. I again acknowledge the volume of work that has been done on this Part of the Bill, which is all about the protection of our woodlands — a very important aspect of our stewardship — and our sustainability responsibilities. Inevitably and unfortunately, that, at times, means the control of animals, including deer, which is, as we have just heard, a charged and emotive subject. Some people wish to protect deer; others prefer to shoot them. There you have it.

The control of animals on other land, including private land, is another aspect of the Bill that is highly emotive and smacks of Big Brother and draconian measures. However, that must be put in perspective, and I hope that the positive amendments to the Bill dispel some of the myths out there. I accept that it is one thing, as every farmer knows, to control vermin, but sometimes populations of larger mammals must be controlled to protect trees, crops, vegetables and agricultural land of all purposes.

In the case of deer, expediency and the need for rapid preventative action may mean the occasional close season cull. That is a situation to be avoided if at all possible, but it cannot be ruled out, as is acknowledged in the Wildlife Order 1985, under which there has traditionally been a farmers' defence to control deer in the close season without the need of a licence. In principle, the Bill contains this as a preventative measure to protect our woodlands.

Of course, hares are also protected during their close season. However, again, to prevent damage, particularly to woodland nurseries, culling is sometimes unavoidable. Despite the Deputy Chairperson's assertions and claims that he was responsible, I have made the Irish hare an exception in that provision. I have given, and stand over, my reasons for that. Given the species' uniqueness, I believe that it is the right thing to do. All told, the agreed amendments have limited the power to cull during close seasons and put it into perspective. Crucially, welfare considerations are maintained and no protected animal may be killed, which is very important to me personally and something that I wanted to see in the Bill.

The Chairperson of the Agriculture and Rural Development Committee referred to the proposed compulsory right of entry on to neighbouring land to control animals damaging woodlands. That has also been addressed, and we now have a purely consensual power, which, I hope, will recognise that woodland owners and neighbouring woodland owners often have a common interest in protecting their property. I hope that the checks and balances that Jim Shannon referred to are there. It is prudent, however, to insert the balanced powers that we want now, because they at least afford protection and may be needed during the lifetime of the Bill. Therefore, it is prudent to insert those powers at this stage.

The original clause will remain dormant. It recognises that any marked increase in the deer population will present a threat to the sustainable future of woodlands, particularly the growing of trees in an era of forest expansion. The powers are there to be used, but only with the Assembly's approval, which is a reasonable approach.

Not unconnected is the power to require the removal or destruction of vegetation on private land to remove a potential fire risk. As some Members pointed out, that is a worry at this time of year. Members are familiar with the surge in gorse fires in spring and early summer and the danger that they present to our woodlands. Willie Clarke and others acknowledged that. My Department will work with neighbouring landowners to reach agreeable and more flexible solutions where vegetation has to be dealt with. I have also pledged that any such action will not compromise any agrienvironment payments. I hope that that addresses Members' comments.

Jim Shannon talked about shooting rights and the original proposal to acquire them. That proposal in the forestry strategy was only ever intended as a measure to protect public safety in individual circumstances in which the owner of the shooting rights in a departmental forest exercised them irresponsibly and posed a threat to other users. However, it was decided not to legislate for that, and the proposal was never included in the Forestry Bill.

I hope that my statements put this part of the Bill in perspective. I hope that Members accept that it offers the least level of interference to protect woodlands and does so in a manner that is consistent with wildlife legislation. I thank

Committee members for the time, patience and effort that they have put into developing these clauses, and I trust that Members are content with this group of amendments. Go raibh maith agat, a Cheann Comhairle.

**Mr Speaker:** As Question Time begins at 3.00 pm, I suggest that the House take its ease until that time. We will return to the debate after Question Time.

*The debate stood suspended.*

3.00 pm

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

## Oral Answers to Questions

### Agriculture and Rural Development

**Mr Deputy Speaker:** I advise the House that questions 1, 6 and 12 have been withdrawn. I call Mrs Naomi Long.

#### **Flooding: East Belfast**

2. **Mrs Long** asked the Minister of Agriculture and Rural Development for an update on the actions taken to alleviate flooding in east Belfast. (AQO 1121/10)

**The Minister of Agriculture and Rural Development (Ms Gildernew):** Go raibh maith agat, a LeasCheann Comhairle. My officials have been seeking to address the historical flooding in east Belfast. The development of the Connswater Community Greenway project along the Knock, Loop and Connswater rivers has placed pressure on Rivers Agency officials to meet greenway timescales for the delivery of an integrated environmental improvement scheme incorporating flood alleviation works.

Rivers Agency has completed the preparation of all designs and necessary documentation for the flood alleviation works to be integrated with the greenway project. Tendering for the joint contract commenced on 12 April 2010, for return by July 2010. Site works are programmed to commence in autumn 2010. Although Rivers Agency is progressing towards full implementation for all proposed alleviation works within the scope of the greenway project, the quantum is such that, at present, my Department cannot provide all the necessary funding. Consequently, my officials have included flexibility in the contract to reflect the available funding, and they are engaged in ongoing liaison with the Department of Finance and Personnel (DFP) on the matter.

**Mrs Long:** I thank the Minister for her answer. The Department of Agriculture and Rural Development has wide duties with regard to being the competent authority to co-ordinate

flood responses more generally. Due to the interconnected nature of the river network and the drainage and sewerage systems, Roads Service, the Planning Service, Northern Ireland Water and Rivers Agency have to be brought together to look at the wider issues of flooding. Is work still progressing on that? What hope does the Minister have of an outcome on that in the short term?

#### **The Minister of Agriculture and Rural**

**Development:** There has been a lot of cross-departmental co-operation on the issue. The greenway project is an exemplary project in which we are working in conjunction with the proposed environmental improvement scheme and building in the flood alleviation works. There will be value-for-money considerations in that, and, hopefully, it will address a lot of the issues. In the interim, the risk of flooding to properties will remain as it is until all the proposed flood alleviation works are completed. The agency will be trying to ensure that the water courses in the area are maintained and have optimum capacity to carry flood flows. Rivers Agency and the other responders that the Member mentioned will continue to provide emergency response in the event of heavy rainfall and high river flows.

**Lord Browne:** In light of the situation experienced in the Clarawood estate in east Belfast last month, when the Housing Executive had to hire contractors to clear a flooded river because Rivers Agency was unable to do it, does the Minister believe that Rivers Agency has the necessary resources to carry out effective maintenance and grill clearance?

#### **The Minister of Agriculture and Rural**

**Development:** Rivers Agency has a budget, but it is not infinite; there is no doubt about that. We have to spend whatever budget is decided on, and we have to do as much maintenance as we can within that budget. However, it is worth pointing out that if people were to desist from throwing hedge clippings and suchlike over fences and creating a problem, there would be less work for Rivers Agency to do and the work that it does would have better value.

We have been working closely with members of the community to try to resolve that problem and to try to educate them into realising that if a mattress, for instance, is on a riverbank and the river rises, it will sweep away the mattress and block the grill. We can do only so much. If something is thrown into a river in the days after

it has been cleaned and maintained and if there is a flood or a heavy rainfall, there may well be problems for people in the area. There is an issue with education and ensuring that people know that although items might be three, four or five feet away from the river when it is at a low level, heavy rainfall, for instance, will make the river rise, and items can be swept away, and, in doing so, they can block grills and create huge problems for the community who will be under water, in spite of our best efforts.

**Mr Cree:** Will the Minister give details of the total area of land that is being directly affected by Rivers Agency's improvement schemes? Furthermore, can she estimate the total sum of money that has been paid as a consequence of direct purchase or compensation for inconvenience?

### **The Minister of Agriculture and Rural**

**Development:** The flood alleviation works in the Connswater project are estimated to cost £15 million, £1.6 million of which is in place this year. Funding beyond that remains uncertain.

I do not have information with me on the wider budget, but I will be happy to respond to the Member in writing if he cares to put the question to me in writing.

### **Rural Communities: Severe Weather Compensation**

3. **Mr McCallister** asked the Minister of Agriculture and Rural Development to outline any developments in relation to the provision of compensation for potato farmers whose crops were damaged during the winter period. (AQO 1122/10)

5. **Mr Leonard** asked the Minister of Agriculture and Rural Development what action her Department took to assist farmers and rural dwellers during and after the severe weather on 30 March 2010. (AQO 1124/10)

14. **Mr McGlone** asked the Minister of Agriculture and Rural Development what is the latest date that growers and farmers affected by the severe frost and extended rainfall can expect payment of compensation from her Department. (AQO 1133/10)

### **The Minister of Agriculture and Rural**

**Development:** With your permission, Mr Deputy Speaker, I will answer questions 3, 5 and 14 together.

Following the severe frost damage to potato and vegetable crops in January, I raised the issue at the Executive meeting on 11 February and secured agreement that I would carry out an initial assessment of the damage and then meet the Finance Minister. The initial crop damage assessment has now been completed, and I subsequently met the Finance Minister on 13 April and advised him that, in accordance with EC conditions regarding the classification of losses, the eligible loss amounted to approximately £2.3 million. That would result in a PE requirement of £1 million if a scheme were put in place and payments made.

Since the January frost, heavy snowfall on 30 March resulted in some sheep farmers also suffering significant losses. I took the opportunity to discuss that with the Finance Minister, and we agreed that I should bring both matters back to the Executive. I secured agreement at the Executive meeting on 15 April that a bid for hardship funding would be best considered as part of the June monitoring round. The Executive also agreed that my officials hold discussions with the farming and insurance industries to see whether there are any ways of making insurance more accessible to farmers, as that is the direction that we would like to see the industry follow.

In the meantime, I have asked my officials to consider positively any individual requests for force majeure to avoid losses of less-favoured area (LFA) payments because of lamb or sheep fatalities that have resulted in the farm stocking level falling below the required minimum stocking level density.

In answer to the question about when farmers can expect compensation payments, I must stress that there is no guarantee that funding will be made available for hardship payments. The reason for that is that DARD is facing many millions of pounds of unfunded, inescapable, statutory and contractual pressures, and resources available to the Executive are under severe pressure across the board. In addition to the actions outlined for hardship payments and specifically in response to the severe weather in March, my Department issued practical advice to farmers to help minimise sheep losses in particular. Loughry campus in Cookstown was also made available as one of the designated support shelters for rural dwellers who were left without power.

**Mr McCallister:** I am grateful to the Minister for her reply. The Minister will know that the frost that affected the potato crops began in December 2009. Will she clarify whether the clause for crop insurance in state-aid rules came into effect only in January 2010 and that, therefore, the growers would not have had access to any such crop insurance policy for their crops?

**The Minister of Agriculture and Rural**

**Development:** I cannot confirm that at this time, but I will respond to the Member in writing.

**Mr Leonard:** Go raibh maith agat, a LeasCheann Comhairle. The Minister mentioned potato farmers and rural dwellers. What action has she taken to assist sheep farmers who have also been badly affected by the recent severe weather?

**The Minister of Agriculture and Rural**

**Development:** I have asked officials to consider positively individual requests from sheep farmers for force majeure to avoid losses of LFA payments because of lamb or sheep fatalities resulting from the recent severe weather. Farmers need to set out their particular circumstances in writing and notify the Department within 10 days of being in a position to do so. I understand that 19 farmers have notified Orchard House regarding force majeure considerations in respect of LFA payments. In addition, the Department has issued practical advice to help minimise losses, particularly in regard to ewes with young lambs, and sheep farmers seeking support or advice are encouraged to contact their local DARD development adviser.

**Mr McGlone:** Go raibh maith agat, a LeasCheann Comhairle. I have a notion that the Minister's response to my question will be similar to her response to Mr McCallister's question. The Department made reference to compensation for damaged crops, but will the Minister clarify whether insurance is available for crops that were lost or damaged in such circumstances?

**The Minister of Agriculture and Rural**

**Development:** It is prudent to be insured, given that the Executive initially made some hardship payments based on one-off events. We have seen so many such events in the three years of the current Executive. Insurance is necessary, particularly for farmers who were affected by the weather events over the past six months, such

as the heavy rain, the flooding in Fermanagh, the frost and the snow. It is prudent to take out insurance policies on farms to mitigate the loss from such events.

We have been working with the insurers to ascertain whether the insurance that is made available to farmers is affordable. We must accept that the high cost of insurance can work against farmers. It must be affordable, and farmers must have access to the necessary insurance to protect their businesses against such weather events, which, although described as one-offs, seem to be becoming extremely common.

## Brucellosis

4. **Mr Boylan** asked the Minister of Agriculture and Rural Development what actions have been taken to deal with brucellosis, particularly in the south Armagh area. (AQO 1123/10)

**The Minister of Agriculture and Rural**

**Development:** The Veterinary Service's brucellosis control programme, with the support of farmers, particularly in south Armagh, has enabled us to continue to make significant progress towards the eradication of the disease. The herd incidence is currently at a level of 0.36%, compared with the most recent high of 1.01% in March 2008. Wider-ranging interaction with herd owners, in the form of farmers' meetings and brucellosis liaison groups, has shaped the disease-management decisions that directly affect the farming community in those areas. The disease-control programme, implemented by the Veterinary Service, requires co-operation from herd owners who are subject to measures such as the restriction of movement and the testing of their herds. In addition, the programme requires farmers to accept the potentially difficult circumstances of herd depopulation. The situation was particularly difficult following the incident in which an infected foetus was dumped in the Lislea area. Farmers there have had to bear additional disease-control procedures in the temporary control zone that was set up in the vicinity.

**Mr Boylan:** Go raibh maith agat, a LeasCheann Comhairle. I thank the Minister for her response and for the progress that has been made to date. What can farmers achieve by becoming involved in brucellosis groups and by attending meetings?

### **The Minister of Agriculture and Rural**

**Development:** The brucellosis meeting that was held earlier this year in Mullaghbawn provided an opportunity to hear the concerns of farmers who had been directly affected by the disease. We heard the concerns expressed on a personal and on a business level. Also, we heard the concerns of a community trying to manage its farms within the constraints that my Department has applied in an attempt to control any further spread of the disease. Those herd owners who had become involved through brucellosis liaison groups can and do have a direct effect on the local management of disease. Divisional veterinary offices seek to work with them on the difficult control measures, such as the restrictions on movements or grazing. In addition, suggestions and ideas from the liaison groups on other aspects of brucellosis control have been taken into account when developing new policies. The liaison groups provide a good example of how partnership between the Department and the farming community works, and they represent an important part of the fight against brucellosis.

**Mr Gallagher:** I thank the Minister for that information. Earlier this year, she said that the latest DNA science would be used to help to track down those responsible for infecting herds. Will she provide an update on the laboratory tests and outline any progress on that issue?

### **The Minister of Agriculture and Rural**

**Development:** As the Member knows, the DNA of the foetus has been analysed and compared against 1,800 stored samples. To date, no match has been found that would indicate the parentage of the foetus. However, the comparison of the foetus's DNA with that of further stored samples is ongoing.

At this stage, we have not yet received the results from the genetic analysis that we requested from the US laboratories. Additional samples from selected herds have also been sent, with a request that they be subjected to full genome sequencing, but that is a complicated process that will take some time to complete. It is important to note that we are using all the tools that are available to us to try to extract the parentage of that foetus and establish exactly where it came from.

### **3.15 pm**

**Mr Savage:** We know that brucellosis is a scourge on many farms in Northern Ireland. Recently, there were press reports of the dumping of an infected foetus on a farm. Has any information been discovered about or action taken against the person who planted that foetus?

### **The Minister of Agriculture and Rural**

**Development:** The Department is still involved in that ongoing investigation. Obviously, the PSNI is also involved. I must say that the community has been very responsive to the need to find out where that foetus came from. There has been an absolute backlash from the community towards the person who put the foetus there. The clear message that came out of our brucellosis meeting in Mullaghbawn was that the community would not tolerate such actions.

**Mr Deputy Speaker:** Question 5 was grouped with question 3. Question 6 has been withdrawn.

### **Egg Producers**

7. **Mr Irwin** asked the Minister of Agriculture and Rural Development what assistance she plans to offer egg producers to help meet the costs associated with the phasing out of conventional cages by 2012. (AQO 1126/10)

### **The Minister of Agriculture and Rural**

**Development:** I am very appreciative of the current difficulties that egg producers and the poultry sector in general face. Following useful and constructive discussions that I have had with the industry, I have looked widely at all options that would be available under the rural development programme to support modernisation in the poultry sector.

As regards the egg producers in particular, European Council directive 1999/74/EC, which was published in July 1999 and introduced into national legislation in 2002, imposes minimum standards for conditions for laying hens. It is an EU requirement for all egg producers to use alternative or enriched cage production systems by 1 January 2012. I am encouraged that many have already made the necessary changes.

I have considered whether it would be possible to provide funding under a specific measure, such as the EU meeting standards measure, to help egg producers to invest in the conversion to enriched cages. However, the maximum

funding that is permitted under the meeting standards measure would be between around 1.5% and 3% of the total investment needed. As that would be such a small proportion of the total investment, it would not be possible to demonstrate that the funding would make the difference between an investment progressing and not progressing. Therefore, a business case would not succeed. In addition, it would not be possible to provide funding retrospectively to egg producers who have already made the necessary changes.

As we are all aware, resources are extremely limited at present. Any ring-fencing of funding for one sector would have the impact of restricting resources that are available to others. An existing support measure that can be accessed by the poultry industry generally is the farm modernisation programme (FMP), which assists farm businesses to modernise their holdings and improve their production techniques by providing support for plant, machinery and equipment that are selected from a list of eligible items. I have asked that that list be enhanced to include a range of items that will meet the needs of poultry producers.

My Department convened a steering group of interested parties, which included representation from the poultry industry, to review the list of eligible equipment from FMP tranche 1 and to develop a list of eligible items for tranche 2.

**Mr Irwin:** I thank the Minister for her response. Given the large expense that egg producers will incur, does the Minister agree that any aid under the farm modernisation scheme would be small and derisory compared with the overall cost of changing to that system?

**The Minister of Agriculture and Rural Development:** I agree. I have sought and looked at every mechanism that is available to us to try to find a way to help that sector. I accept all the arguments that its representatives made at our meetings. I have a great deal of sympathy for the sector. The Member is correct: the cost is so great that any help that the Department could give under EU laws would be derisory. Unfortunately, that is the hand that I have been dealt. There is no scope for me to change that, which is why I have looked at other ways to try to militate against it and to ensure that items that the sector can access are available under FMP

**Mr K Robinson:** I realise that the Minister must deal with a complex problem. However, does she accept that her approach to the farm modernisation scheme has automatically cut off many egg producers from attaining even minimal funding to assist in converting their cages because they do not live in less-favoured areas?

**The Minister of Agriculture and Rural Development:** As Members are aware, I am keen that the current tranche of FMP should target disadvantage by focusing on businesses in less-favoured areas, where need for modernisation is great.

The LFAs, particularly the severely disadvantaged areas (SDA), are dominated by small farms. The gap in average farm business size between those farms and those in lowland areas has widened over the past 20 years. Farmers in those areas face a permanent hardship as a result of the poor agricultural conditions that they face.

Sustaining agricultural activity in LFAs will be difficult without targeted support of various kinds, and that is why there are scores for applicants from SDAs and disadvantaged areas (DA) to enable those who are successful to use the grant to help them remain or become competitive while working in a challenging environment. Those farms are on the margins of viability, and I am sure that the Member will share my view that we must do all that we can to ensure that farming communities in such harsh environments are not lost. Given the nature of it, I recognise that some poultry producers may not be able to access the grant. However, I have looked at other areas where they can get on to that funding ladder, for example, e-communication, the young farmers and the modernisation bands should help. I have also lowered the ceiling from £5,000 to £4,000 to enable more farmers can get on to the farm modernisation programme so that we can spread it wider and so that more farmers can benefit from the scheme. I hope that many people in the poultry sector will be able to access the grant.

**Mr Brady:** Go raibh maith agat, a LeasCheann Comhairle. The Department of Agriculture, Fisheries and Food in Britain has been able to offer higher funding to its poultry sector. If the same European rules apply, is it not possible to do that here?

### **The Minister of Agriculture and Rural**

**Development:** I am sorry to correct the Member, but it is the Department of Agriculture, Fisheries and Food in Dublin that has provided funding of €16 million for its poultry sector. That funding is part of a package arising from the CAP health check agreement, which included additional funding for the South through increased compulsory modulation rates. Similar additional funding is not available to the North or to Britain, and neither Scotland, England nor Wales have provided funding for their poultry sector. However, the Member highlights the differential between farmers North and South and the difficulty that our farmers have in remaining competitive.

### **Animal Health and Welfare Strategy**

8. **Mr W Clarke** asked the Minister of Agriculture and Rural Development to outline the progress made on the all-island animal health and welfare strategy. (AQO 1127/10)

### **The Minister of Agriculture and Rural**

**Development:** I am absolutely delighted that the all-island animal health and welfare strategy was agreed at the North/South Ministerial Council (NSMC) meeting that took place at the end of March 2010. The strategy has been one of my key ministerial priorities since I came into office almost three years ago. I take this opportunity to thank my ministerial colleagues in the Executive and in the South for their support in agreeing the strategy.

The all-island animal health and welfare strategy is designed to optimise the animal health status of the island through the alignment of policies to control animal disease. Full co-operation on animal health issues has the potential to help to reduce and prevent the spread of animal disease and to facilitate trade. The ultimate objective of the strategy is the development of policies that facilitate free movement of animals on the island. Under the strategy, I have already secured a number of positive outcomes, such as broad alignment of border control policies that are aimed at preventing the introduction of animal disease, as well as co-operation on contingency planning for exotic disease outbreaks, including agreement on a common chapter in the contingency plans for foot-and-mouth disease, avian influenza and, most recently, bluetongue.

On 12 April, I co-hosted with Minister Brendan Smith a very successful event for animal health and welfare stakeholders from across the island to discuss the roll-out of the strategy, and I was delighted that the new EU Commissioner John Dalli was a keynote speaker at the event.

**Mr W Clarke:** Go raibh maith agat, a LeasCheann Comhairle. I thank the Minister for her response. Will she outline what has been achieved from co-operation on an all-Ireland basis?

### **The Minister of Agriculture and Rural**

**Development:** There have been a number of very positive outcomes already as a result of North/South co-operation on animal health and welfare, including: the development of a largely similar system of sheep ID; co-operation on the exchange of data to facilitate trade in bovine animals following the lifting of the BSE export ban; broad alignment of border control policies that are aimed at preventing the introduction of animal disease; co-operation on contingency planning for epizootic diseases; agreement of a protocol on welfare during transport breaches; and co-operation on testing regimes for TB and brucellosis in border areas.

As we go forward, the all-island strategic approach will enable the achievement of further positive outcomes, all of which will help to contribute towards the key aim of the free movement of animals.

We will continue with our fortress-Ireland approach to protect the whole island from the threat of serious animal diseases. We hope that we will gain EU recognition of freedom from Aujeszky's disease throughout the whole island at an early stage. We continue to take steps to reduce brucellosis in the North. There is a wide range of areas, and I believe strongly that, under the all-island animal health and welfare strategy, together with the goodwill of the Department for Environment, Food and Rural Affairs (DEFRA) and the European Commission, we can achieve the free movement of animals and unlock significant benefits for farmers and the wider agricultural industry.

**Mr Shannon:** I welcome the Minister's response, and it is good to know that progress is being made. The dioxin scare is a clear example of where the all-Ireland aspect was not deemed important enough by certain parts of the Republic of Ireland and the relevant Department there. Will you assure the Assembly today that, under the all-Ireland animal health and welfare

strategy, Northern Ireland farmers and the produce business are totally protected? In the past, they have had every reason to believe that they have not been.

**The Minister of Agriculture and Rural**

**Development:** The Member will recognise, as many people in the farming industry do, that I have done everything that I can to protect our farmers, to work on their behalf and to campaign tirelessly for them to ensure that they have a better standard of living and remain in farming. I do not think that my record of delivery for farmers needs to be questioned in this Chamber.

**Mr Elliott:** My question follows on from that asked by Mr Shannon. Will the Minister accept that the dioxin incident, which originated in the Republic of Ireland, was a disaster for North/South, all-island animal health co-operation?

**The Minister of Agriculture and Rural**

**Development:** I accept that it might have had the potential to be a disaster had it not been for the very quick response in getting full co-operation on all those matters and better communication at every level between the Departments. The incident has brought the two Departments closer together, and there is now far more co-operation as a result. An early warning system has been put in place, and there really has been an awful lot more communication and co-operation between the Departments since then. I welcome all that; it can only benefit our farmers.

**Farm Modernisation Programme**

9. **Mr Craig** asked the Minister of Agriculture and Rural Development what steps her Department has taken to identify additional funding for the farm modernisation scheme. (AQO 1128/10)

**The Minister of Agriculture and Rural**

**Development:** My officials have recently commissioned a midterm evaluation of the rural development programme, which will provide an opportunity to look at allocations and spending under each of its schemes. The findings and recommendations of the evaluation will feed into any decisions that I may make subsequently to amend the content or financing in the programme. However, in the current economic climate, departmental spending on the programme will be subject to the same scrutiny as the rest of my Department's spending plans.

Finally, both farming unions are being consulted on an equality screening exercise on the FMP. The equality screening template is now out to consultation with a range of section 75 groups and industry stakeholders, and I recently decided to extend the consultation period deadline by one week from 5 May to 12 May to allow further time for responses to be received.

**Mr Craig:** I thank the Minister for that answer. Given the large number of applications that were made in the first tranche, when only between 10% and 15% of farmers received assistance, will the Minister agree that more resources need to be put into the fund? That figure is a good indicator that a large number of farmers will apply for the scheme.

**The Minister of Agriculture and Rural**

**Development:** I agree entirely with the Member. I have asked for additional funds, and, if any money is going spare, Sammy Wilson is well aware that I would love a few more million pounds to be put into the pot. The Member is right: not only did many farmers apply for tranche one of the scheme but many applications are expected for tranche two. That is why we had to come up with better selection criteria to benefit the people who are most disadvantaged.

We also need to remind ourselves that not only is this a good grant for farmers but they are putting in 60% of their own money also. They are investing in the rural community and in rural businesses, many of which manufacture the items on the list of those that are eligible. It will be a win-win situation for all of us if we can get more money into the programme. However, we are constrained by budgetary pressures. I would love to put more money into the FMP, which is a great scheme.

3.30 pm

(Mr Speaker in the Chair)

## Executive Committee Business

### Forestry Bill: Consideration Stage

Debate resumed on amendment Nos 15 to 27 and amendment No 32, which amendments were:

No 15: In page 4, line 15, leave out “wild animals” and insert

“deer or hares (other than Irish hares)”. — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

The following amendments stood on the Marshalled List:

No 16: In page 4, line 17, leave out from “either” to “purposes” in line 18 and insert “forest”. — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

No 17: In page 4, line 20, leave out “at any time, kill, take or destroy any wild animals”.

and insert

“take, kill or destroy any deer or hares (other than Irish hares)”. — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

No 18: In page 4, line 24, leave out subsection (4). — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

No 19: After clause 8 insert

“Control (with permission of occupier) of animals on land adjacent to forest

8A. – (1) In this section –

‘land A’ means any land falling within section 8(2);

‘land B’ means any land –

(a) which adjoins land A; or

(b) any part of which is within 500 metres of any part of land A.

(2) The following provisions apply where the Department is satisfied that trees growing on land A are being, or are likely to be, damaged by wild animals present on land B.

(3) The Department may serve on the occupier of land B a notice –

(a) stating that trees growing on land A are being, or are likely to be, damaged by wild animals present on land B; and

(b) requesting that the occupier –

(i) take effective steps, within 3 months of the date of the service of the notice, to prevent the damage; or

(ii) grant permission for an authorised person to enter land B and exercise the powers conferred by subsection (4).

(4) An authorised person may with the permission of the occupier take, kill or destroy any wild animals on land B.

(5) If land A or land B is unoccupied, subsections (3) and (4) apply with the substitution of references to the owner of that land for references to the occupier.

(6) In this section ‘wild animal’ means any animal which is living wild and is likely to damage trees, other than –

(a) a bird;

(b) the Irish hare;

(c) an animal for the time being included in Schedule 5 to the Wildlife (Northern Ireland) Order 1985 (NI 2).” — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

No 20: In clause 9, page 5, line 14, leave out subsection (8) and insert

“(8) Where the occupier of land A is not the Department, any costs incurred by the Department in connection with an authorised person taking action under subsection (7) are recoverable as a civil debt from the occupier of land A.” — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

No 21: In clause 9, page 5, line 19, leave out “section 8” and insert

“section (Control (with permission of occupier) of animals on land adjacent to forest)”. — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

No 22: In clause 10, page 5, Line 27, leave out paragraph (b) and insert

“(b) requesting that, within 30 days from the date of service of the notice –

(i) any vegetation growing on the part of the land within a distance of 15 metres from the boundary of the forest be removed or destroyed; or

(ii) such other measures as are specified in the notice be taken in relation to that vegetation for the purposes of reducing the risk of the forest being damaged by fire.” — [The Minister

*of Agriculture and Rural Development (Ms Gildernew).]*

No 23: In clause 10 , page 5, line 33, at end insert

*“or take such other measures in relation to that vegetation as the Department considers appropriate for the purposes of reducing the risk of the forest being damaged by fire.” — [The Minister of Agriculture and Rural Development (Ms Gildernew).]*

No 24: In clause 11, page 5, line 39, leave out “section 7 or 7A” and insert

*“section 7(1)(a) or 7A(1)(a)”. — [The Minister of Agriculture and Rural Development (Ms Gildernew).]*

No 25: In clause 11, page 5, line 41, leave out “Article 10(1) or (2) or 19(1), (2)”

and insert

*“Article 19(1)”. — [The Minister of Agriculture and Rural Development (Ms Gildernew).]*

No 26: In clause 11, page 6, line 3, after “8(3)” insert

*“, (Control (with permission of occupier) of animals on land adjacent to forest)(4)”. — [The Minister of Agriculture and Rural Development (Ms Gildernew).]*

No 27: In clause 11, page 6, line 4, after “section” insert

*“(Control (with permission of occupier) of animals on land adjacent to forest)(3) or”. — [The Minister of Agriculture and Rural Development (Ms Gildernew).]*

No 32: In clause 38, page 19, line 21, at end insert

*“( ) No order may be made under subsection (1) in relation to any provision of section 9 unless a draft of the order has been laid before, and approved by a resolution of, the Assembly.” — [The Minister of Agriculture and Rural Development (Ms Gildernew).]*

**Mr Speaker:** Amendment Nos 15 to 18 have already been debated.

*Question, That amendment No 15 be made, put and agreed to.*

Amendment No 16 made: In page 4, line 17, leave out from “either” to “purposes” in line 18 and insert “forest”. — *[The Minister of Agriculture and Rural Development (Ms Gildernew).]*

Amendment No 17 made: In page 4, line 20, leave out

*“at any time, kill, take or destroy any wild animals”*

and insert

*“take, kill or destroy any deer or hares (other than Irish hares)”. — [The Minister of Agriculture and Rural Development (Ms Gildernew).]*

**Mr Speaker:** I remind Members that amendment No 18 is consequential to amendment No 15, which has already been made.

Amendment No 18 made: In page 4, line 24, leave out subsection (4). — *[The Minister of Agriculture and Rural Development (Ms Gildernew).]*

*Clause 8, as amended, ordered to stand part of the Bill.*

### **New Clause**

Amendment No 19 made: After clause 8 insert

*“ Control (with permission of occupier) of animals on land adjacent to forest*

*8A. – (1) In this section –*

*‘land A’ means any land falling within section 8(2);*

*‘land B’ means any land –*

*(a) which adjoins land A; or*

*(b) any part of which is within 500 metres of any part of land A.*

*(2) The following provisions apply where the Department is satisfied that trees growing on land A are being, or are likely to be, damaged by wild animals present on land B.*

*(3) The Department may serve on the occupier of land B a notice –*

*(a) stating that trees growing on land A are being, or are likely to be, damaged by wild animals present on land B; and*

*(b) requesting that the occupier –*

*(i) take effective steps, within 3 months of the date of the service of the notice, to prevent the damage; or*

*(ii) grant permission for an authorised person to enter land B and exercise the powers conferred by subsection (4).*

*(4) An authorised person may with the permission of the occupier take, kill or destroy any wild animals on land B.*

*(5) If land A or land B is unoccupied, subsections (3) and (4) apply with the substitution of references to the owner of that land for references to the occupier.*

(6) *In this section 'wild animal' means any animal which is living wild and is likely to damage trees, other than –*

(a) *a bird;*

(b) *the Irish hare;*

(c) *an animal for the time being included in Schedule 5 to the Wildlife (Northern Ireland) Order 1985 (NI 2).* — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

New clause ordered to stand part of the Bill.

**Clause 9 (Control of animals on land adjacent to forest)**

Amendment No 20 made: In page 5, line 14, leave out subsection (8) and insert:

*“(8) Where the occupier of land A is not the Department, any costs incurred by the Department in connection with an authorised person taking action under subsection (7) are recoverable as a civil debt from the occupier of land A.” — [The Minister of Agriculture and Rural Development (Ms Gildernew).]*

**Mr Speaker:** Amendment No 21 has already been debated. I remind Members that amendment No 21 is consequential to amendment No 19, which has already been made.

Amendment No 21 made: In page 5, line 19, leave out “section 8” and insert

*“section (Control (with permission of occupier) of animals on land adjacent to forest)”. — [The Minister of Agriculture and Rural Development (Ms Gildernew).]*

Clause 9, as amended, ordered to stand part of the Bill.

**Clause 10 (Removal or destruction of vegetation on adjoining land)**

Amendment No 22 made: In page 5, line 27, leave out paragraph (b) and insert

*“(b) requesting that, within 30 days from the date of service of the notice —*

*(i) any vegetation growing on the part of the land within a distance of 15 metres from the boundary of the forest be removed or destroyed; or*

*(ii) such other measures as are specified in the notice be taken in relation to that vegetation for the purposes of reducing the risk of the forest being damaged by fire.” — [The Minister of Agriculture and Rural Development (Ms Gildernew).]*

Amendment No 23 made: In page 5, line 33, at end insert

*“or take such other measures in relation to that vegetation as the Department considers appropriate for the purposes of reducing the risk of the forest being damaged by fire.” — [The Minister of Agriculture and Rural Development (Ms Gildernew).]*

Clause 10, as amended, ordered to stand part of the Bill.

**Clause 11 (Protection for persons acting under section 8, 9 or 10)**

**Mr Speaker:** Amendment No 24 has already been debated. I remind Members that amendment No 24 is consequential to amendment No 17, which has already been made.

Amendment No 24 made: In page 5, line 39, leave out “section 7 or 7A” and insert “section 7(1)(a) or 7A(1)(a)”. — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

**Mr Speaker:** Amendment No 25 has already been debated. I remind Members that amendment No 25 is consequential to amendment No 17, which has already been made.

Amendment No 25 made: In page 5, line 41, leave out “Article 10(1) or (2) or 19(1), (2)” and insert

*“Article 19(1)”. — [The Minister of Agriculture and Rural Development (Ms Gildernew).]*

**Mr Speaker:** Amendment No 26 has already been debated. I remind Members that amendment No 26 is consequential to amendment No 19, which has already been made.

Amendment No 26 made: In page 6, line 3, after “8(3)” insert

*“, (Control (with permission of occupier) of animals on land adjacent to forest)(4)”. — [The Minister of Agriculture and Rural Development (Ms Gildernew).]*

**Mr Speaker:** Amendment No 27 has already been debated. I remind Members that amendment No 27 is consequential to amendment No 19, which has already been made.

Amendment No 27 made: In page 6, line 4, after “section” insert

*“(Control (with permission of occupier) of animals on land adjacent to forest)(3) or”. — [The Minister of Agriculture and Rural Development (Ms Gildernew).]*

Clause 11, as amended, ordered to stand part of the Bill.

Clauses 12 and 13 ordered to stand part of the Bill.

**Mr Speaker:** We now come to the third group of amendments for debate. The lead amendment in the group is amendment No 28, with which it will be convenient to debate amendment Nos 29 to 31. Those amendments deal with felling licences, fees for such licences and the protection of ancient or long-established woodland.

**Clause 14 (Requirement of licence for felling)**

**Dr Farry:** I beg to move amendment No 28: In page 8, line 13, leave out from the first “a” to the end of line 14 and insert “the Department”.

*The following amendments stood on the Marshalled List:*

No 29: In clause 17, page 10, line 13, at end insert

*“( ) In determining the felling management plan for any land which consists of, or includes, ancient woodland, the Department shall have regard to the desirability of maintaining the special character of that woodland.” — [The Minister of Agriculture and Rural Development (Ms Gildernew).]*

No 30: In amendment No 29, at end insert

*“and ensure that there is no net loss of area of any ancient or long-established woodland” — [Dr Farry.]*

No 31: In clause 34, page 18, line 7, after “14” insert “or 20” — *[The Minister of Agriculture and Rural Development (Ms Gildernew).]*

**Dr Farry:** At the outset, I want to say that the Alliance Party welcomes the legislation and the fact that it has now reached Consideration Stage. Moreover, we acknowledge the work and dialogue between the Department and the Committee, and we feel that the Bill is a very good one. The purpose of our amendments is simply to transform a very good Bill into an excellent one. Our amendments are in no way a strong criticism of the process; indeed, we welcome what has happened and are simply trying to improve things further.

Jim Shannon made reference earlier to a potential review of the legislation during the next Assembly mandate and the one after. Although we may be encouraged at that possibility, we must bear in mind that there has been a 56-year gap between the current legislation and the previous Act. Therefore, it may be some time

before we have another opportunity, and it is important that we take the opportunity today to make the Bill as strong and robust as possible.

There are two themes that I want to address in relation to our amendments and part of the wider group of amendments, and they are interrelated. The first theme is exemptions in relation to felling licences. We feel that what has been proposed takes away any obligation for any UK or Northern Ireland government Department to apply for a licence. We accept that DARD should, naturally, be exempt because, as I understand it, Forest Service is not formally recognised in legislation, and, therefore, any legislative duty or obligation and any exemption will fall on the Department. Clearly, the Department cannot regulate itself. That is illogical and inconsistent, and, therefore, we concede that DARD should be exempt. However, that principle should not be extended to every other devolved Department and, indeed, those at a UK-wide level.

We need to be careful how we manage and conserve our existing woodland, particularly sensitive areas. I am led to believe that a significant amount of our woodland is under government ownership. I accept that DARD may own the vast majority of that, but there will be circumstances in which other Departments have woodland under their guardianship, and it is important that we have a proper system of governance and a proper system of checks and balances in place to ensure that there is no arbitrary loss of woodland as a result of that process of challenge.

That reflects wider problems that I and my party feel we have in Northern Ireland — an absence of environmental governance. Indeed, to our deep regret, we do not have an independent environmental protection agency. There is no independent check and challenge. I appreciate that, with respect to felling licences, we are not quite in the same league of independence. Nevertheless, there needs to be some process for other Departments, and that is the purpose of amendment No 28.

Amendment No 30 relates to ancient woodland. We recognise and welcome the fact that the concept of ancient woodland will be included in legislation. That is important, and I understand that the meaning of “ancient woodland” is woodland that pre-dates 1830. That is, perhaps, an arbitrary date but, nonetheless, we have a

definition. Ancient woodland is very scarce in Northern Ireland. Only 6% of Northern Ireland is forested, compared with 12% in the UK, 10% in the Republic of Ireland and the very high level of 44% in Europe, which is, no doubt, helped by some of the Nordic countries. Only about 0.6% of our woodland falls under the definition of ancient woodland, compared with 2% in the UK as a whole. Therefore, we are proportionally worse off even than the rest of the UK in respect of ancient woodland. There needs to be a very strong presumption against felling when it comes to ancient woodland.

### 3.45 pm

Although we recognise that the Department has gone some way to address that matter with its own amendment, our amendment takes it a step further and puts in place a presumption against felling so that we do not see the loss of that ancient woodland. That is important, because ancient woodland is very much part of our society's character and history, not to mention the environmental importance of protecting trees.

When we talk about ancient woodland, we should also bear it in mind that we are not just talking about woods or forestation. We could be talking about individual trees, which, in some circumstances, could be situated in the most vulnerable types of ancient woodland. There are individual trees located on the property of other Departments and, as other plans are taken forward for development, they may be particularly vulnerable to felling. That reinforces the argument that we are making about putting in place proper safeguards, as well as a very heavy presumption against the felling of any ancient trees.

### **The Chairperson of the Committee for Agriculture and Rural Development (Mr Paisley Jnr):**

At long last, we are starting to see the wood from the trees and are reaching the conclusion of a very lengthy but helpful debate. A total of 32 amendments to the Bill have been tabled, 27 of which came from the Minister and were agreed at Committee Stage. That demonstrates a pursuit of excellence, which has been down to the diligent and hefty work of the Committee and its work in conjunction with the Bill team to get the legislation right. That work was done so that people will look back in 50 years and say that the legislation was forward-looking, that it worked, that it was broad, that it did all the

things that it was supposed to do and that it was good that the Assembly passed it. Surely, that is what the Assembly and the Committee should be about: making legislation that is appropriate and effective for the people of this country.

The Committee for Agriculture and Rural Development supports the amendments tabled and detailed by the Minister. However, the Committee cannot support the amendments tabled by Dr Farry, because they are neither practical nor achievable. I recommend that he and his colleague Mr McCarthy take the opportunity to read the report that the Committee produced, which addressed the issues and points that he raised. We did not ignore the points that he raised; we looked at them.

In the first instance, amendment No 28 would force other government Departments to ask for felling licences if they wished to fell trees. There was much debate on whether the Department and other government bodies should be exempt. The Department's legal advice indicated that the Department was exercising a regulatory function and that the principle was that government Departments did not regulate one another or need regulation because of their nature and the functions that they perform. In addition, in legal terms, government Departments are Crown bodies and, from a constitutional perspective, are indivisible. In legal terms, that means that government Departments that seek a felling licence from the Department of Agriculture and Rural Development would be equivalent to individuals seeking permission or a licence from themselves. The Committee was content for the Department to encourage good forestry practice on the part of other Departments and government bodies. Therefore, as I said, the measures in amendment No 28 are neither practical nor achievable. Although it might have been a nice experiment for lawyers, Dr Farry's amendment would render the Bill ineffective and, instead of making it better, would make it worse. That is why it should be opposed.

The Committee totally appreciates the desire to further protect our ancient woodlands, as outlined in amendment No 30. However, the presumption that there should be no felling or net loss in those woodlands whatsoever is not workable or practical, and experts who work the woodlands agree. The Committee accepted that there will occasionally be a need to manage ancient woodlands, which may

include felling dangerous or storm-damaged trees. Indeed, such practices help to protect and maintain those prized assets. The felling management plan, which will be completed by the Department, will indicate the restocking levels; however, as I said, there cannot be a guarantee that a net loss will not occur. We support amendment Nos 29 and 31, but we oppose amendment Nos 28 and 30.

I re-emphasise my gratitude to our support teams, in particular the Committee Clerk and his team and the Bill team, which worked closely with the Committee. We had some very useful exchanges. Indeed, a gentleman called Mr Morwood, who came to the Committee regularly, will go down in the annals as an appropriately named person. The stakeholders also deserve praise. There were good discussions, negotiations and debate among Committee members, and I pay tribute to them from the Dispatch Box for their hard work. We have improved the legislation and made it relevant. We have proved that the Assembly works for ordinary men and women and that it does not create legislation for the sake of it but rather to improve Northern Ireland. I recommend amendment Nos 29 and 31 and oppose amendment Nos 28 and 30.

**Mr Molloy:** Go raibh maith agat, a Cheann Comhairle. I thank the Committee Clerk and Committee officials for their work. I also thank the departmental officials for their response to the various debates and the issues that were raised during the scrutiny of the Bill. The Committee gelled well in its scrutiny, and we have made the legislation better. That augurs well for the future. Committee members from the various parties raised different issues; those issues were dealt with, and the Department and the Minister responded to them.

It is unfortunate that extra amendments have been tabled at this late stage. The Alliance Party was previously not represented on the Committee but, latterly, Kieran McCarthy was appointed to it. It is unfortunate that the documentation of the issues that the Committee had already dealt with was not read. Anyone who had read it would have realised that there was clear debate on the issues that the Alliance Party raises in its amendments.

As the Chairperson said, we support amendment Nos 29 and 31 and oppose amendment Nos 28 and 30 because the latter would force other

Departments to go through a ritual, which is what it would become, of applying to the Agriculture Department for felling licences. That would mean that one Department would be asking another Department for a licence to fell a tree. We expect that there is enough scrutiny, common sense and good regulation in the various Departments for that not to happen and, therefore, there is no need for the amendment. Indeed, no one would expect the Department to have to ask itself for a licence. Furthermore, one Department should not regulate another. Therefore, that amendment is not advisable even along legal lines; it is unnecessary and bureaucratic, and we should try to avoid it. The Assembly's scrutiny Committees have shown reasonableness and started to deal with issues by streamlining and cutting out bureaucracy rather than by adding to it.

As regards amendment No 30, the Committee accepted that there will be occasional circumstances in which felling in ancient woodland will have to happen. That, as the Chairperson said, is often done for the protection of those woodlands, as well as to deal with some of the dangerous trees that have to be felled. There is a strategy to restock that woodland and ensure that there is no loss in the long term. We cannot replant ancient trees, but we can look to the future and plan for future generations. Amendment Nos 28 and 30 are unnecessary, and we will oppose them.

**The Minister of Agriculture and Rural Development (Ms Gildernew):**

Go raibh maith agat, a Cheann Comhairle. This has been a worthwhile debate, and we have produced decent legislation as a result. The Chairman of the Committee talked about how we worked together in the pursuit of excellence and in a spirit of co-operation. I welcome that analysis, which sums up the work that we have done together to bring this legislation forward. I hope that it can become the template for the two further pieces of legislation that we plan to introduce during this term. We can get so much more done in a spirit of co-operation.

I intend to oppose the non-ministerial amendment No 28, which would remove the exemption of other Departments from the requirement of a felling licence under clause 14. The feeling around the Chamber is that Members will do the same. As Members are no doubt aware, there is a principle that government Departments do not regulate one another because of the nature of

the functions that they perform and general government obligations. As the Chairperson of the Committee said, Departments are ultimately indivisible from a constitutional point of view. I cannot see how one Department would apply —

**Mr Elliott:** There is a way around that, which is to have an independent felling licensing or management planning body. However, that would cost a lot more money as well as being another quango — a body that we do not need. It would be a cost not only to the Department but to the private forestry interests. That was one of the reasons why we did not accept that proposal.

#### **The Minister of Agriculture and Rural**

**Development:** I take the Member's point. I remind him that in a few weeks' time we could be looking at the massive cuts that the Tories are proposing. I do not think that we can afford what we have got, never mind anything additional.

It would not necessarily be the case that one Department would regulate another. The same principle applies to enforcement action. The Committee accepted that realistic position, which still remains pertinent. Therefore, I urge Members to oppose amendment No 28.

I should, perhaps, provide a little preliminary background on amendment No 29, which relates to the part of the Bill that deals with felling licences. Our long-term aim is to increase the woodland area and to ensure that it is sustainably managed. To enable us to do that, the Bill will introduce a felling licensing system that will allow us to safeguard the area under forestry and require owners to regenerate their woodland in line with sustainable forest management criteria.

Felling licences are a common feature of forestry legislation in England, Scotland and Wales and in the rest of Ireland. Amendment No 29 was tabled in response to concerns expressed by the Committee and stakeholders about the importance of protecting ancient woodland, even to the extent of having a presumption against felling in the part of the Bill that deals with felling licences. I am also committed to sustaining our ancient woodlands; that is part of the general duty under the Bill to sustainable forestry. It has always been our intention to protect ancient woodland by means of felling management plans to regulate the regeneration of ancient woodland sites.

Members should bear it in mind that felling licences are only one part of the equation; appropriate regeneration is the other part. It must be recognised that, even with ancient woodland, some level of woodland management, which can include some felling, will always be appropriate or necessary. Nevertheless, to make the intention of the Bill clear, I am happy to agree an amendment that will make it crystal clear that, in the case of ancient woodland, any felling management plan shall have regard to the desirability of maintaining the special character of that woodland.

I believe it to be an important and positive amendment, and I acknowledge the input of the Committee and stakeholders in adding that new condition to felling-management plans.

#### **4.00 pm**

The non-ministerial amendment No 30 seeks to enlarge upon amendment No 29, which already makes a strong case for ensuring that any felling-management plan takes into account the special character of ancient woodland. I should make it clear that felling plans are as much about appropriate regeneration as felling. They are felling and regeneration plans; one cannot exist without the other. Both sides of the equation have to be taken into account lest there be any misunderstanding. If that essential point is grasped, there is no need to fear net loss or any other type of loss of ancient or long-established woodland. I am entirely satisfied that amendment No 29 will ensure the necessary protection to our ancient woodlands. My Department is already obliged to give special recognition to ancient and long-established woodlands through the felling-licence process. The proposed amendment is entirely unnecessary, so I do not think that there is any need for Members to support it.

Amendment No 31 also relates to the felling of trees and to the scope given in clause 20 for the Department to charge fees in respect of felling licences. The amendment is in response to strong concerns raised by the Committee and stakeholders who viewed fees as a disincentive to landowners who might contemplate entering forestry. Furthermore, they viewed it as a potentially unfair competitive disadvantage in that fees are not imposed for felling licences in the rest of Ireland or in England, Scotland or Wales.

The original provision to give scope for fees was discretionary, and it was consistent with

Government and my Department's policy on cost recovery. I have decided to waive fees, given the purpose and undoubted public benefits of felling licences. However, I believe that the clause should be retained to enable fees to be applied in future if circumstances change or if the Tories get in. In light of the Committee's concerns, I have agreed that should it be the intention following review to introduce fees in the future, there will be discussion with the Committee and the provisions will be subject to agreement by the Assembly under affirmative resolution. I am satisfied that that is a fair and balanced solution that acknowledges contemporary circumstances as we embark upon a new felling regime in an era in which we are aspiring to creatively and realistically encourage forest expansion. I acknowledge the input of the Committee and stakeholders in that pragmatic settlement.

The debate is encouraging, because it shows without doubt the level of lively and passionate interest that there is in our woodlands. The Part of the Bill that covers the regulation of felling is absolutely integral to the sustainability duty. We all recognise that sustainable use of resources is a compelling imperative. We should not be in any doubt that, when we talk about felling and its licensing, regeneration is another part of that equation. That is part and parcel of felling-management plans, the purpose of which is to help Government to oversee the appropriate regeneration of our woodlands in line with the best forestry management standards. We will work with woodland owners and will not tie them up with unnecessary red tape so that we have a spirit of co-operation in an era when we want to attract landowners to forestry, not alienate them from it. That will be essential if we are to achieve our targets, and it is supported by the waiving of licensing fees.

I have also given strong and sincere assurances in opposition to the Alliance Party's amendment that those same felling-management plans are there for all woodlands, especially our ancient woodlands. That commitment is reinforced by my amendment proposing that the special character of ancient woodlands be taken into account in such plans.

There has been some discussion, flowing from the amendment tabled by Dr Stephen Farry and Kieran McCarthy, about whether other Departments should be exempt from licensing. In relation to the specifics of individual trees, I clarify that the purpose of this Part of the Bill is

to protect ancient woodlands. Tree protection orders (TPO) are operated by DOE and apply to smaller groups of trees that would not be classified as woodland. They can be effective in providing additional protection in urban areas, but that is not what the Forestry Bill is about. I hope that I have addressed Members' concerns and that they support the sound logic of my argument in the face of what is otherwise a practical and legal difficulty. I hope that we can move to complete the Bill in the same spirit of co-operation that we have had to date. Go raibh míle maith agat, a Cheann Comhairle.

**Dr Farry:** The debate was largely constructive, and the Alliance Party will push its amendments to a vote. I realise that it will probably be ourselves, and perhaps our colleagues in the Green Party, who stand up for the poor trees. Even though we have now joined the Executive, we delight in bringing the other four parties in the Executive together on such matters, and it is always encouraging to see consensus in the Chamber.

I reject the notion that we are being bad sports in tabling these amendments at the eleventh hour. That is part and parcel of Consideration Stage. There was no Alliance member on the Committee for Agriculture and Rural Development until my good friend Kieran McCarthy joined a couple of weeks ago. He is not quite sure what he did in a past life.

We are fully aware of the Committee's detailed discussions on the issue and with the Department, and we respect that work and the detail of the report. As the Chairperson of the Committee said, there were debates on those issues, and debates have, by their nature, different shades of opinion. We take the view of trying to strengthen the legislation, whereas the other parties want to go with the legislation at this stage. That is fine; that is the process.

Even if we had had a member on the Committee, it is still perfectly in order for a party that is represented on a Committee to bring forward amendments individually or with other parties at Consideration Stage. I welcome the fact that we are discussing legislation more frequently, rather than simply discussing private Members' motions that have no impact or that do not go anywhere. We are doing what we were elected to do, and we make no apologies for having such debates.

We recognise that the Department is taking steps to strengthen the legislation in both

the areas that concern us. We simply want to take things a little bit further. We note the concept of the desirability of maintaining the special character of woodland. However, that is desirability, and it implies that there can be other factors that have to be weighed up in the balance when decisions are being taken. That is why we think the wording could be a bit stronger.

Other Departments do not, by definition, have a particular responsibility for woodland and forests. They have their own responsibilities, and they may, from their perspective, wish to pursue other objectives. Woodland issues may well be secondary considerations. In contrast, I would like to think that DARD has put the interests of our woodland first and foremost. That process of communication between Departments, and the checks and balances, is of some weight.

Members spoke about Departments not being able legally to regulate each other. There are examples of Departments regulating each other. Departments make planning applications, for example, and are regulated under the auspices of a different Department. If Departments were going ahead with their own planning applications under their own auspices without the need for the checks and balances of a planning system, we would quite obviously see an impact on people's quality of life. They would be acting from their own perspective, which they should be doing, and not from the wider perspective that comes with the checks and balances of a planning system. There is merit in Departments being checked by someone else. The circumstances in which that happens may be few and far between. However, an important principle is at stake, and it is important that a mechanism is in place.

We are not suggesting that there are no circumstances in which an ancient tree or set of trees should be removed. There will be extreme circumstances when that happens, hence the term "net loss". However, the presumption needs to be heavily skewed against removing trees; it is not simply a case of the desirability of not removing them. There needs to be a very high bar.

We will put our amendments to a vote, and if people in future years or generations return to the issue, the record will show that there was some debate on those aspects of the Bill, and

other Members may wish to pick up on those in the future.

That said, my party thinks that the Forestry Bill is a substantive piece of legislation. We recognise the considerable efforts that the Department and the Committee have made. We think that the Bill is a good basis on which to proceed. We were simply trying to improve it in a number of ways to make it an excellent Bill.

*Question, That amendment No 28 be made, put and negatived.*

*Clause 14 ordered to stand part of the Bill.*

*Clauses 15 and 16 ordered to stand part of the Bill.*

**Clause 17 (Operation and conditions of felling licence)**

Amendment No 29 proposed: In page 10, line 13, at end insert

*"( ) In determining the felling management plan for any land which consists of, or includes, ancient woodland, the Department shall have regard to the desirability of maintaining the special character of that woodland." — [The Minister of Agriculture and Rural Development (Ms Gildernew).]*

**Mr Speaker:** An amendment has been tabled to amendment No 29. Therefore, I call Dr Farry to move amendment No 30.

Amendment No 30 proposed: In amendment No 29, at end insert

*"and ensure that there is no net loss of area of any ancient or long-established woodland". — [Dr Farry.]*

**Mr Speaker:** Amendment No 30 is an amendment to amendment No 29, so I will put the Question on amendment No 30 first.

*Question put and negatived.*

*Question, That amendment No 29 be made, put and agreed to.*

*Clause 17, as amended, ordered to stand part of the Bill.*

*Clauses 18 to 33 ordered to stand part of the Bill.*

**Clause 34 (Regulations)**

Amendment No 31 made: *In page 18, line 7, after "14" insert "or 20". — [The Minister of Agriculture and Rural Development (Ms Gildernew).]*

Clause 34, as amended, ordered to stand part of the Bill.

Clauses 35 to 37 ordered to stand part of the Bill.

### Clause 38 (Commencement)

#### The Minister of Agriculture and Rural

**Development:** With your indulgence Mr Speaker, I add my thanks to my officials who have worked very hard on the Bill, and I am pleased that it is nearing its conclusion.

Amendment No 32 made: In page 19, line 21, at end insert

*"( ) No order may be made under subsection (1) in relation to any provision of section 9 unless a draft of the order has been laid before, and approved by a resolution of, the Assembly." — [The Minister of Agriculture and Rural Development (Ms Gildernew).]*

Clause 38, as amended, ordered to stand part of the Bill.

Clause 39 ordered to stand part of the Bill.

Schedules 1 and 2 agreed to.

Long title agreed to.

4.15 pm

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

## Private Members' Business

### Quangos and Arm's-length Bodies of Government Departments

**Mr Deputy Speaker:** The Business Committee has agreed to allow up to one hour and 30 minutes for the debate. The proposer will have 10 minutes in which to propose the motion and 10 minutes in which to make a winding-up speech. All other Members who are called to speak will have five minutes.

**Mr Molloy:** I beg to move

*That this Assembly calls on the Executive to review the roles and functions of quangos and arm's-length bodies of government Departments to ensure that there is accountability and value for money.*

Go raibh maith agat, a LeasCheann Comhairle. I welcome the opportunity to move a motion to ensure that quangos and arm's-length bodies are accountable to, and provide value for money for, the Assembly and the Executive.

What are we talking about? What if the public body concerned is not part of the government? That is the problem, and that is what we must stop and change. Such bodies must be made accountable. At present, they are one step removed from government, but to whom they are accountable is sometimes not too clear. We must make quangos and arm's-length bodies accountable and responsive.

We also need to look at Executive agencies, which are excluded from the directory that lists arm's-length bodies. Agencies that have been formed in various Departments must be made accountable. Non-departmental public bodies (NDPB) fall into different categories such as Executive NDPBs, advisory NDPBs and tribunal NDPBs. In March 2009, there were 78 public bodies. We must look at Executive agencies, which are formed when a Minister sets up his or her own agency in a Department. Those agencies are accountable to that Minister.

Ministers also appoint members to those bodies, often a mix of the great and the good, who seem to rotate around various government agencies. They often seem to be appointed

because their faces fit, while other people's faces are unacceptable. There appears to be a pool of people who sit on one quango or another and then move around other public bodies. It does not matter how unaccountable they are, who they are, or how much they have been criticised or held to account for their failure to deliver, they always seem to turn up in another position.

Certain parties get more of a turn at appointments than their share of support demands. However, I acknowledge the change that has occurred from the time when the Northern Ireland Office favoured people who could not otherwise get elected and tried to insert them into quangos. In the Assembly's first mandate, we found that direct rule Ministers, particularly the Secretary of State, appointed a number of such people to public bodies, in which they have remained for a long time without being accountable to the Assembly.

We must look at all those bodies, how their members are appointed, the pool of people from which those members are drawn, and how people get into that pool in the first place to be in a position to be appointed.

The big issue is to wipe out quangoland completely and make it accountable to the Assembly. That was OK when there was direct rule and Ministers flew here one day a week and rubber-stamped what quangos and Departments put forward. That has changed. The make-up of government here and how it is run also have to change.

Under the review of public administration (RPA), we were to get a complete review of quangos; their powers were to be relocated to local and central government. I declare an interest as a local councillor. More powers should be given to local government. Elections are held every four years, so those bodies are accountable; they have to put forward rates budgets so that they are accountable for the money that they spend. The public will respond very quickly to that. We need to look at the role of local government in the future because that role is unclear at present.

Unfortunately, it now looks as though the RPA will not come into operation. That is because of various factors, and ministerial intervention in that process has led to boundaries being an obstacle to the RPA moving forward. We need to remember that the gerrymandering of boundaries in the first place led to the collapse of local government and the Stormont regime. Under direct rule, a new structure of government

was put in place to move away from that, and quangos were put in place to do the job. More and more powers were given to quangos.

On 10 December 2001, the Programme for Government committed the Assembly to a review of public administration by spring 2002. That review never happened. It was said that we would have a different structure under devolution, but that did not happen either. The direct rule quangos were given more powers and functions. Research and Library Services have provided a useful document by Morison stating that the idea of depoliticising government was pursued by removing political or constitutional issues from representatives who may have been elected to local councils or regional Assemblies and giving them to quangos, which were supposed to be at arm's length and non-political.

Morison also said that quangos were potentially more democratic. That leaves a question about how they came about. The people who appointed those quangos might have believed them to be more democratic, because the Northern Ireland Office appointed people whom it liked or with whom it carried favour. Therefore, no accountability was necessary. We need to move to a new situation.

Executive agencies are another issue, as different agencies in Departments have become like arm's-length bodies. One of the issues that got my back up recently was the Roads Service response to the recent severe weather. The various agencies responded differently; they did not work collectively to put together a structure, and there was no flexibility in responding to local needs. Correspondence was needed, but nobody stepped out of the line to meet local needs. The simple answer was that they had their programmes; they had responded in the same way for years and they would not change. One hundred and one reasons were given for doing nothing and not one was given for how something could be done.

During that time, Northern Ireland Water did not respond to breakages and pumping problems; it would not even deliver water to areas if the roads were not gritted. That was particularly the case in rural areas.

Roads Service said that it was not responsible for gritting the road, so it was not gritted and the water service would not deliver. Indeed, as far as the water service was concerned, if the

road did not appear on its computer screen somewhere in Belfast, that road did not exist.

We need to find a way to make bodies accountable, and, to allow us to bring ministerial control back and allow the Ministers to respond, the motion affords us an opportunity to review the structures that govern quangos. The Assembly will then be able to hold Ministers responsible, and they will not be able to take the line that they are acting according to regulations. If a Minister hides behind legislation to avoid doing something, we need to change that legislation. This is a legislative Assembly, and its role, when necessary, is to change legislation.

To make arm's-length bodies, agencies in Departments and quangos accountable to Ministers, we need to change legislation so that Ministers can come here to be questioned by Members about their respective roles. In that regard, I congratulate the Minister for Regional Development, who took action recently on Northern Ireland Water. That showed that Ministers can hold bodies to account and bring them back into line. Ministers can take back power and change situations. Therefore, I hope that the Assembly will take back power.

We have changed the structure of government here from a situation involving direct rule and quangos to one in which the Assembly is accountable to the public and Ministers are accountable to the Assembly. Ministers must take back the power to make decisions, for which the Assembly can then hold them accountable.

**Mr Deputy Speaker:** The Member should bring his remarks to a close.

**Mr Molloy:** Let us cut out the middle tier of bureaucracy and bring ministerial control back to the Assembly.

**Mr Ross:** The fact that many MLAs are not in the Building does not reflect on the seriousness of the issue. Indeed, I am sure that many of those on the doorsteps this afternoon will be hearing the public's frustration about the number of quangos and arm's-length bodies, what they are for and whether we are getting value for money from them.

The issue is a favourite with the tabloids. I do not want to be the human embodiment of the 'Daily Mail', but we might consider the figure of £170 billion that has been spent on

quangos across the United Kingdom since the Labour Party came into Government, including, for example, £6.5 million that the British Potato Council spent on promoting spuds. Passenger Focus spends £5.3 million a year to give rail passengers a voice. Those are the sort of examples that really irritate the public, particularly when people find out that five times more money is spent on quangos than on the Ministry of Defence budget. At a time when our troops in Afghanistan and Iraq are not getting the equipment that they need, that sort of thing leads to anger.

It is not sustainable to continue feeding public money to bodies, which, in many cases, simply duplicate work that could be done elsewhere. Some individuals who sit on two or three funded groups are making a lot of money from those groups. They are paid thousands of pounds for perhaps only three or four days of work a month. In the current economic climate, that is unsustainable.

In the Northern Ireland context, just under £10 billion of public expenditure has been spent on public bodies. For a country this size, that is a very high figure. My research papers include a quote from the Alliance Member Mr Kieran McCarthy, who said that he had been "gobsmacked" by that amount of money and that it was a "major scandal". I agree. The cynic in me finds that slightly surprising given that, over the years, the Alliance Party has done so well out of quangos, which is a point that was made in the opening comments. Nevertheless, Mr McCarthy's point about the impact on front line services was well made.

That said, for balance, it is important to say that some arm's-length bodies and quangos play an important and useful role. Indeed, as a member of the new Justice Committee, I recognise that, in recent weeks, a number of arm's-length bodies have come under the Assembly's control, and the Committee has received briefings on them. For example, the police, criminal justice authority, the Police Ombudsman, the Law Commission and the Policing Board are now under our control. They fulfil a role and serve a purpose that the public recognises.

#### 4.30 pm

We can point to other bodies in the Department of Education and the Department of Health, Social Services and Public Safety, such as the boards, which play an important role. We can

look also at Translink. I think that Northern Ireland Water was mentioned earlier as one of the Go-co agencies. It is one example of an area in which we could see lots of changes being made. It has not been a very good example. Those are the sorts of bodies that could be looked at.

The Assembly has discussed and identified other areas where money is not being used efficiently. We have had debates in the Chamber on the Civic Forum. The motion proposes that bodies and quangos such as the Civic Forum, which do not provide value for money, should be looked at. The Civic Forum sat and did not come up with any proposals of note, and none of its recommendations has been implemented. It is a challenge to those on the other side of the House that we must look for efficiency savings in some of those arm's-length bodies and quangos.

Some of the North/South structures should also be looked at. It is interesting to note that some of the North/South bodies were the first areas that the Irish Republic's Government looked at when they were looking for efficiency savings in government structures. They looked at whether they were getting value for money and whether business on a North/South axis could be carried out more efficiently without such expensive bodies.

The amount of money that is spent on quangos and arm's-length bodies is in particularly sharp focus. Over the past couple of days, we have heard a lot about the comments that David Cameron made at the weekend. He said that £200 million could be slashed immediately from the Northern Ireland Budget. That sort of thing brings into focus the areas in which our money is being spent and whether it is being spent wisely.

As a party, the DUP is committed to slimming down government, and we have said consistently that we want to see fewer of these unelected quangos, we want to slim down the Executive and have fewer Departments, and we want to see a reduction in the number of Members. We have been a driving force in the review of public administration process. This morning, I spoke on the Local Government (Finance) Bill.

**Mr Deputy Speaker:** Will the Member draw his remarks to a close?

**Mr Ross:** We also hope to see a reduction in the number of councils. It is important that all Ministers take this issue seriously. If they

sponsor any arm's-length bodies, it is important that they look to see whether those bodies are serving a purpose and whether they will give greater value for money. I support the motion.

**Mr Elliott:** I thank the Member for tabling the motion. I declare an interest as a member of Fermanagh District Council. I do not know whether that declaration is necessary or whether the council can be called an arm's-length body or a quango, but I feel that they all come under the overall review of public administration, through which we have been trying to reduce the number of bodies.

It is ironic that the motion comes from the party to my right, Sinn Féin, because it has been trying to establish the education and skills authority. It could be one of the biggest quangos that we will ever see in the Province and one that may prove disastrous — just like the Minister who is trying to implement it. The establishment of the education and skills authority would be disastrous for the people of the Province, especially the children and the parents of young children, for whom it would be absolutely scandalous. It has moved far beyond what it was originally envisaged to do.

**Mr Molloy:** Does the Member accept that the establishment of the education and skills authority would mean that several bodies that have been in place for many years, with no change, would be removed and replaced by one body?

**Mr Elliott:** That would be the case, if it were to be brought forward in the way that was originally envisaged. That is the point that I was trying to make. The Minister has tried to change that body, beyond all recognition, from the one that was envisaged by many Members, and that is one of the huge difficulties with it.

Another huge failure in this society has been the Human Rights Commission. Elected people here should be taking decisions, but the bill of rights cultivated by the Northern Ireland Human Rights Commission is a fine example of a failed project which is a proven disaster and on which millions have been squandered. Its failure is blatantly evident in the refusal of the Northern Ireland Office to endorse the Human Rights Commission's political pet project. It is universally recognised that the commission went far beyond its original mandate. The bill of rights has, ultimately, been a failure and a political whim of some of the commissioners. That is a

profound disservice to the people of Northern Ireland. Not only has it been an exceptionally costly exercise, but the commission has attempted to hoard power by undermining the responsibility and authority of locally elected politicians.

I heard the last two Members say that elected representatives here should make the decisions. I agree with that, but clearly, in many circles, politicians are afraid to take the hard decisions, and they farm issues out to quangos to do it for them, which almost exonerates them of their elected responsibility.

Local government reform has been ongoing for some time, and it seemed that we were getting close to some arrangement, although it was not agreed by everybody. However, it is now doomed to failure, at a cost of millions of pounds to the population of Northern Ireland.

I support the motion in principle, but our Province's history of dealing with such issues has not been good. If we are going to progress the issue, we must do so with vigour and authority and actually deal with quangos. Let us shift them on instead of creating new quangos that will try to take away responsibility from elected representatives.

**Dr Farry:** First, I declare an interest as a member of the Community Relations Council, but I stress that it is an unpaid post. No doubt Members will want to refer, implicitly or explicitly, to the urban legend that the Alliance Party is somehow particularly dependent on quangos for current and former members. I must stress that that is a myth, and it has been perpetuated by our political opponents over the years. Any proper analysis of the figures will confirm that there is no such bias in that respect.

We are more than happy to support the motion calling for a review of quangos, but we have some concerns about the implications of the debate and about the comments that some Members have made. We want to see some sense of balance in this. There is a role for quangos, which is a very pejorative term in our politics, between the Executive and Departments and the community. That relates to the delivery of services and the conduct of particular functions.

The whole drift in modern policy-making in government organisations is very focused at departmental level on policy-making and the

support functions around that, but delivery is farmed out to other bodies that can specialise in that. Our system of government and governance in Northern Ireland tends to reflect that model. I would be wary if we were talking about taking functions that are conducted by quangos back into core Departments. That would be very unwieldy, and it would open up a whole new set of problems.

On the other hand, there may be a temptation to farm those functions out to local government, particularly in the context of moving to 11 councils under the RPA. However, in some respects, that might be counterproductive because a number of the functions that we are talking about that are performed by quangos are best conducted at a single Northern Ireland level. We should not delude ourselves about how small Northern Ireland is in the policy-making and service-delivery world. Northern Ireland is big geographically, and we are all familiar with that, compared to the situation in England and Wales and further afield. However, the provision of services on the basis of 1.7 or 1.8 million people is not terribly unusual. Therefore, a little perspective is required on that.

Similarly, if we are to go down the line of rationalisation, that may be a motivation for some in terms of saving costs. However, I would caution against seeing a review of quangos as part of a wider drive in tackling waste in government, as a bottomless pit that can produce constant savings for us and help avoid difficult decisions on public expenditure. The fact that the sums do not add up is not, in itself, a reason not to make an effort, but let us not feed any unrealistic expectations.

That said, there is also a case for rationalisation based on better service delivery. When quangos or the division of functions between quangos are regarded as arbitrary, consideration should be given to whether a merger of quangos or, in some cases, their abolition may produce much more rounded results.

It is tempting to provide a list of good quangos and a list of bad quangos. We could pat on the head the first list, of which we approve and which the public regard as doing a good job, and we could all give a good kicking to the second list of bad quangos because we do not like them. However, that is another arbitrary distinction, and it is not such a black-and-white issue. Some popular quangos perform poorly,

whereas others that are negatively perceived perform pretty well. The picture is, therefore, neither straightforward nor simple.

There is no reason not to conduct a review as part of the general process of good financial management, and we are happy to support the motion.

**Mr McLaughlin:** Go raibh maith agat, a LeasCheann Comhairle. Most reasonable people would welcome the measures that are being taken to address the devastating results of allowing a sector as powerful as banking to operate virtually without regulation. Many who feel that those measures are not extensive enough will recognise that they are, at least, first steps in the right direction.

The public reaction is not only to the abuses of power and privilege in the financial sector. Society wants to see the root-and-branch reform of all aspects of public life. That desire is fuelled, to some extent, by the parliamentary scandals. However, a recurring theme, one that is at the heart of the motion, is the existence of quangos, their proliferation and the disclosures about the salaries and additional payments made to those appointed to them.

People must be satisfied that the process is objective, fair and transparent. Some measures have been taken in that direction, but they are insufficient to achieve their intended purpose. I would not argue that it is possible to step back from the application of that particular form of management in all circumstances. However, I have substantial reservations about the quantity of quangos, and I wonder whether, in many instances, they represent a dereliction of duty on the part of those who are elected or are full-time public servants in this region.

If the Assembly and the Executive were seen to address the issue, they would inject a measure of public confidence. The matter need not primarily be addressed as a cost-saving exercise, but it would have the beneficial impact of saving money. It would demonstrate that there is accountability and that the buck stops here with the Executive and the Assembly. There has been an emergence of agreed political structures, and we have demonstrated that a durable, sustainable and robust form of government is being delivered. Now we must follow through in other aspects of public service.

The general perception of quangos is negative, irrespective of the good work that some do or the vital service that others provide. People's view is that quangos appear to mushroom during the good times. However, when there is an economic decline, rather than reducing the number of quangos, the Government turn to front line services in health, education and welfare payments as the first option for making spending cuts.

**Mr Ross:** Does the Member agree with me and, indeed, the Irish Government that some of the North/South bodies are among those that could be considered on the basis of whether they provide value for money in seeking to make savings? Does he also agree that there may be a better way in which to do business on a North/South basis than through those expensive bodies?

**4.45 pm**

**Mr McLaughlin:** I agree with the Member to an extent, although not entirely. I do not believe that anything should be ring-fenced and excluded from examination. I am convinced that North/South bodies are mutually beneficial; however, I respect the fact that that is not the opinion of every Member. I share many Members' belief that none of those bodies should be free from the most rigorous scrutiny and accountability. I would be confident enough to look at whether those bodies offer value for money and show demonstrable mutual benefit.

Since the Member has given me the opportunity, I want to refer to an issue that was raised by Tom Elliott. I find the attitude to the education and skills authority inexplicable and unconscionable. The establishment of the ESA would release many millions of pounds that could be used and are absolutely necessary in the education sector. If there are problems, it is not beyond the genius of Members and their parties to find solutions. Rather than looking for problems, we should look for solutions. We have a ludicrous situation in which people complain about the duplication of the work of two bodies that supposedly address the same issue. Well, those people have created the problem. They should have facilitated the Minister in replacing the wasteful bureaucracy of the tier of education and library boards with the single education and skills authority. At a stroke, that would have released many millions of pounds.

The RPA is another example, although I will not go into that. However, it is another example of politically motivated interference that holds up reforms that would expedite service delivery and defend our limited budget.

Nine point eight billion pounds is tied up in quangos. Although not all that money could be released, I can say this much: if we reduced the number of quangos, we would not have to worry about the cost of water services and the measures that the Minister of Finance must address. There is far too much bureaucracy; it is another tier of government. Many quangos could disappear and nobody would miss them; service would be as good without them.

**Mr Deputy Speaker:** I call the Minister of Finance and Personnel to respond to the debate.

**The Minister of Finance and Personnel**

**(Mr S Wilson):** I am eating a sweet, Mr Deputy Speaker. I will try to get rid of it. I expected Mr McLaughlin to speak for a while longer.

I thank Members for their contributions, even though it is late in the afternoon and I should be out canvassing in East Antrim. I have been detained in the House until now. Nevertheless, an important issue is being discussed. There is a public perception that non-governmental agencies, or quangos, are too numerous and are not properly accountable, and that was borne out in Members' assertions.

Before I deal with issues that Members raised, I want to put the matter in context: there are 74 public bodies in Northern Ireland, which employ about 115,000 people. As Mr Farry said, many of them have traditionally been a means of delivering services. Indeed, even if those bodies did not exist, the work would still have to be done, and, even if they were done away with, the money would still have to be spent; it would simply be governed differently.

Members' points fall into three categories: first, appointments to bodies; secondly, the bodies' accountability; and, thirdly, another common theme was what is being done to review the number of bodies.

I will deal first with appointments to bodies because that brought criticism from a number of parties. In fact, the only party to defend the appointments system was the Alliance Party, oddly enough. Mr Farry gave a stout defence. In fact, he may have protested a little too much

in favour of appointments to public bodies. Members will be aware of the old game show 'Who Wants To Be a Millionaire?' The Alliance Party has its own version: "Who Wants To Be a Quango Chair?" Quite a lot of its party leaders won that game on a number of occasions. However, Mr Farry has not been fortunate on that front.

I will go through the appointments procedure. Responsibility for the appointment of board members lies with individual Ministers and their Departments. Although I am responding to the debate, that aspect does not lie primarily with my Department, other than for the bodies that are under its control. Although arrangements may have been looser in the past, appointments must now comply with the code of practice issued by the Office of the Commissioner for Public Appointments. The overall responsibility for policy on public appointments is a matter for OFMDFM, which produces a report on all public appointments made under that code on an annual basis. There are 1,200 such appointments made to public bodies in Northern Ireland, and that does not include the new Department of Justice, which has about a dozen of those bodies under its control.

**Dr Farry:** Twenty nine.

**The Minister of Finance and Personnel:** Twenty nine. Thank you very much. The Member is always a mine of information when it comes to such things.

Remuneration is an issue that has been raised on a number of occasions, especially with regard to the position of chairman. The remuneration of board members is a matter for individual Departments and Ministers, and it varies from nothing, in some cases, to quite substantial sums.

**Mr McLaughlin:** If I had had time, I would have made this important point. A Sunday paper used the Freedom of Information Act to establish some of the levels of remuneration. I will not abuse the privilege of the House to name names, but the chairperson of Invest NI gets £40,000 a year plus expenses for working four days a month. Is that the type of remuneration that the Minister is concerned about?

**The Minister of Finance and Personnel:** Others have been raised as well. Although there is always the desire to attract the best individuals, some levels of remuneration are difficult to

justify. Perhaps that is one of the reasons why some of the quangos have been regarded as sinecures for a small circle of individuals, as Mr Molloy described them.

That brings me to the second point, which is about accountability. Quangos are not insulated from accountability. There are opportunities for Committees and Members to raise concerns with Ministers, since it is the responsibility of Ministers to decide on appointments and remuneration, and the House should be used to raise those concerns.

I will continue with the second point, which relates to accountability and guidance for quangos. There was some confusion, and I think that it was Mr Molloy who talked about the fact that, very often, people were dissatisfied with Executive agencies. The whole point is that Executive agencies are part of central government and have the same accountability arrangements in place as Departments. Indeed, on many occasions, quite rightly, questions have been asked in the House about those Executive agencies, and that is the way in which concerns should be raised.

With regard to the guidance issued to public bodies on this matter, it is my Department's role to ensure that the ground rules for the administration of public money are set. There are a number of things that are done with regard to arm's-length bodies. 'Managing Public Money Northern Ireland' sets out the accountability and governance principles with which public sector organisations must comply when dealing with public resources. That publication has an annex for arm's-length bodies, "Model Management Statement and Financial Memorandum (MS/FM)". That provides Departments with a template that sets out a clear framework for the strategic control between Departments and their bodies. It covers a range of issues, such as operational performance, financing, accountability and control, and it sets out the conditions under which government funds are provided.

The bodies must then make a clear statement of the accountability arrangements, their governance requirements and the requirements for arm's-length bodies to ensure that value for money is achieved. When that is agreed against all the requirements of the MS/FM, all bodies will be monitored by their sponsoring Department to ensure that individual Ministers

have put in place appropriate arrangements between them and the arm's-length bodies to determine the terms and conditions of the MS/FM for the individual bodies. The importance of that document and that arrangement is that oversight cannot be overstated, and it is for that reason that my Department has the overall approval role when signing off those individual MS/FMs.

In addition to the guidance for managing public money, my Department issues guidance on a range of governance-related topics that are relevant to public bodies. That includes 'Public Bodies: A Guide for NI Departments', which is designed to provide additional guidance for Departments involved in establishing and sponsoring public bodies. The Department of Finance and Personnel also provides guidance on issues such as risk management. It produces the 'Audit Committee Handbook' and regularly gives additional guidance through "Dear accounting officer" and "Dear finance director" letters.

It is the responsibility of each Department to ensure that all relevant matters that are drawn to its attention are shared with public bodies under its sponsorship. All DFP guidance reinforces the accountability links between individual Ministers and Departments and the boards and executive staff of arm's-length bodies. Some Members have suggested that arrangements are not in place for accountability, but I hope that I have illustrated that at least measures are set in place not only for setting the standards but for monitoring and reviewing them and for ensuring that Ministers apply them.

Many Members raised the review of arm's-length bodies. It is important that we continually review arm's-length bodies. The following example about a certain body illustrates the point, and I know that is not regarded as an arm's-length body. It is one thing for Members to say what they have said during the debate, but implementing that is another matter. I had a salutary experience in my former role as Minister of the Environment, and I am looking at some of the culprits for that, who are in the Chamber. I can see the Member for Lagan Valley Mr Lunn smiling because he knows what I am going to say. After three fairly damning reports on the Road Safety Council were published, I decided that the Department would no longer fund it. A vast sum of money was not involved; it was only £160,000. I finished up being hauled

before the Committee for the Environment twice, having three debates in the Assembly and receiving questions at nearly every Question Time for six months.

It is good to have a high-level debate such as this and to talk about the need to review arm's-length bodies. However, once that starts, every person will crawl out of the woodwork to say how wonderful, valuable, important and indispensable they are. Inevitably, plenty of Members will say that they did not mean that arm's-length body and that they meant another one.

Let us be warned of that when we talk about reviewing arm's-length bodies.

### 5.00 pm

Nevertheless, we have taken a number of measures, such as the review of public administration. Mr McLaughlin and Mr Elliott referred to the ESA. I am not against finding some way of concentrating the way in which we administer the delivery of services in the education sector, although I think that, if we are going to replace what we have, it must be replaced with something better that takes into consideration the sensitivities of the education sector and the various providers within that sector. That is where the issue has arisen, and the Minister of Education bears some responsibility for dealing with that, along with others.

Under the review of public administration we have already looked at a number of public bodies. For example, the two phases of the restructuring and streamlining of health and social services have now been completed. Overall, the number of health and social services bodies has been reduced from 38 to 17, and the number of trusts has been reduced from 19 to six. Therefore, we have already started doing some streamlining. In addition, we are moving towards reducing the number of councils from 26 to 11, and we hope that that aim will be fulfilled.

In addition, in April 2009 the Assembly agreed to an efficiency panel review to examine the number and organisation of Departments and the implications of the RPA to ensure that the departmental structure is best organised for the delivery of public services in an efficient manner. That is ongoing.

**Mr Deputy Speaker:** Will the Minister draw his remarks to a close?

**The Minister of Finance and Personnel:** I will.

Other work to review the number of public bodies is ongoing. That is something that we have to look at continually. Some minor bodies could disappear without a great deal of reorganisation, whereas other changes will take much more reorganisation. Such reorganisation is an important issue in getting the best use of the public purse, and we should keep it under review. I thank the Members for raising the issue.

**Mr Deputy Speaker:** I ask Members to please switch off their mobile phones and BlackBerries, as they interfere with the recording equipment.

**Mr McElduff:** Go raibh maith agat, a LeasCheann Comhairle. It falls to me to conclude the debate on behalf of the proposers of the motion: Francie Molloy, Mitchel McLaughlin and me. I thank each of the Members who contributed to the debate, which, I think everyone will agree, was an important and necessary debate on the roles and functions of quangos and arm's-length bodies, principally from the point of view of achieving greater accountability and ensuring value for money.

I welcome the fact that there has been unanimous support for the motion, and I thank the Minister of Finance and Personnel for attending today's discussion, despite the fact that he would prefer to have been in East Antrim. This is a ruse that we have used on a number of occasions to prevent the Minister from being in East Antrim, because the margin between he and Oliver McMullan is closing by the day. We will, therefore, be tabling more motions of this character in support of Mr McMullan's candidature in that area.

As Chairperson of the Committee for Culture, Arts and Leisure, I am aware that over 80% of the functions of that Department are devolved to arm's-length bodies. When I was briefed on the roles and remits of that Department, that is the first thing that was brought to my attention by the then permanent secretary, Mr Sweeney. Speaking in a party political capacity, all one has to do is remember the debacle of the Northern Ireland Events Company, a company limited by guarantee but which also came under the responsibility of the Department. When we discuss the very existence of arm's-length bodies, the way in which they function and are

managed can sometimes be as interesting as their very existence.

The outcome of the debacle involving that arm's-length body, if it can be called that, was that the Department of Culture, Arts and Leisure adopted a number of the Committee's recommendations regarding the management of its arm's-length bodies. Those included recommendations that a departmental observer should attend all meetings relating to arm's-length bodies; an individual who joins the board of an arm's-length body should undertake the relevant mandatory training within six months; and that a skills audit should be performed across all board members of arm's-length bodies under the aegis of the Department of Culture, Arts and Leisure to establish members' financial and governance skills.

The Minister said that government in a different way will still cost money, and he is right. He enumerated the appointments in the system, saying that it now exceeds 1,200. Mitchel McLaughlin said that the chair of an arm's-length body receives £40,000 per annum plus expenses in remuneration for a few days' effort a week. The Minister spoke about appointments and the whole business of accountability. He said that the Department of Finance and Personnel has issued guidance notes on financial accountability. He also said that all bodies are monitored from a value-for-money perspective and that they must make a clear statement on accountability arrangements. All of that is welcome; it is what we want. However, the wider review of quangos and arm's-length bodies remains of the utmost importance.

Francie Molloy emphasised the number of agencies within Departments. He cited the example of DRD's Roads Service and NI Water not working effectively together to address the problems caused by the freezing conditions during the winter, when NI Water faced the challenge of delivering water to households in rural areas where the roads were not gritted. Mr Molloy said that there are too many agencies in DRD and other Departments. He said that there was a lack of clarity about the number and remit of public bodies and executive agencies. He also said that the great and the good were regularly appointed, as if there is a pool of quango servers, which the NIO has certainly drawn on. He also referred to quango land and commented on the review of public administration being uncertain at this time.

Alastair Ross suggested that it is not sustainable to continue to feed public money into all public bodies and agencies at current levels. He said that arm's-length bodies carry out some useful and important functions and that they cannot, therefore, be ruled out per se. If arm's-length bodies deliver, they deliver, and that should be recognised. He cited the Civic Forum as a bad example. However, I believe that we must examine that issue, because it is important that we hear the voice of civic society. The challenge for the Assembly is to ensure that democracy is participatory and that the voice of civic society is heard in some format. However, we should certainly learn from the lessons of the Civic Forum.

Mr Ross said that his party was the driving force behind the review of public administration. However, some Members believe that that party is, in fact, holding it up. He also said that the North/South is one area where bodies could be axed. However, I take a contrary view. Given that there are two systems of everything on this small island of six million people, a North/South approach not only makes sense but saves money. One can approach the subject from that perspective as well. If Members were to talk to the people in border communities about GP out-of-hours access, they would see that there is a lot of scope for the expansion of North/South bodies in the spirit of accountability and making best use of public resources.

Tom Elliott had an interesting exchange with Francie Molloy about the education and skills authority. He lambasted the Human Rights Commission, which was, perhaps, predictable.

**The Minister of Finance and Personnel:** That is fair enough.

**Mr McElduff:** OK. He said that politicians were afraid to take responsibility and make decisions.

Stephen Farry declared an interest and conceded that he is a member of the Community Relations Council. He almost pleaded guilty in respect of the myth that the Alliance Party did not benefit unduly or disproportionately from such appointments in the past. Trevor Lunn will, obviously, agree with that, but others will continue to question it. Stephen said that he supports the review, but wants a sense of balance in the debate because some arm's-length bodies have merit, deliver services in an efficient way and, at times, specialise.

Mitchel McLaughlin reminded us that the banking sector is unregulated and that reining in the banks is a job and a half. He also mentioned the proliferation of bodies and said that some salaries are on the high side for not a very large amount of work. He had reservations about the number of such roles and asked whether it is sometimes a dereliction of duty on the part of Ministers and public servants to rely extensively on delivery by arm's-length bodies. He engaged in a discussion about the merit of North/South bodies and said that, although nothing should be excluded from rigorous scrutiny or review, North/South bodies may come out favourably. He challenged some Members' attitude to the education and skills authority. He felt that it is an effective use of public resources to release millions of pounds to establish one overarching body, rather than creating too many lesser bodies under its aegis.

In conclusion, I thank the Members who participated in the debate and hope that we can pass the motion unanimously.

*Question put and agreed to.*

*Resolved:*

*That this Assembly calls on the Executive to review the roles and functions of quangos and arm's-length bodies of government Departments to ensure that there is accountability and value for money.*

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

*Motion made:*

*That the Assembly do now adjourn. — [Mr Deputy Speaker.]*

## Adjournment

### **Lagan Valley Hospital: Maternity Services**

**Mr Deputy Speaker:** I remind Members that the proposer of the topic will have 15 minutes to speak and that all other Members who wish to speak will have approximately seven minutes.

**Mr Donaldson:** I welcome the opportunity to lead this afternoon's debate on the future of maternity services at Lagan Valley Hospital. At the outset, I pay tribute to the staff at Lagan Valley Hospital, particularly those who work in maternity services: the consultants and the medical staff who lead the obstetric service that is a fundamental part of the maternity service in the hospital, the midwives, the nursing staff, and others who are involved in providing a very high standard of service to the local community.

Lagan Valley Hospital's maternity service has a very good reputation, and, in recent years, it has consistently delivered a birth rate of more than 1,000 a year. In fact, the birth rate there is higher than that at the Mater Hospital in Belfast, which has, potentially, a larger catchment area. The maternity service at Lagan Valley Hospital offers a safe environment for expectant mothers. That is evidenced by the fact that the hospital has the lowest rate of Caesarean births in Northern Ireland and is well below the UK average for such births. That is a clear indication that the service provided at Lagan Valley Hospital is safe and has a very strong reputation in the community. It also shows that those who are involved in providing that service operate to the highest professional standards.

### **5.15 pm**

For several years, there has been a debate about the nature of the service provided for the community in the Lisburn area. In response to a departmental document on the modernisation of hospital services in Northern Ireland, the South Eastern Health and Social Care Trust proposed the withdrawal of consultant-led obstetrics services at Lagan Valley Hospital

over a period of time. The initial proposal was for the replacement of that service by a midwifery-led maternity service at Lagan Valley Hospital. Lisburn City Council and the community in Lisburn led a campaign to retain maternity services at Lagan Valley Hospital. Their preferred option was the retention of the consultant-led inpatient obstetrics service. However, the trust came down in favour of the maternity service becoming midwifery-led.

Recently, the Minister announced that there would be a review of maternity services which would focus particularly on the Belfast metropolitan area. Once again, that has raised a question about the intentions of the South Eastern Trust and the Belfast Health and Social Care Trust for the provision of maternity services in the Belfast metropolitan area. The city of Lisburn has a growing population and a large number of young families. Therefore, there is no evidence to suggest that the demand for maternity services in the Lisburn area has reduced. Consequently, I and my colleagues from the Lagan Valley constituency contend that there is a continuing need for an inpatient maternity service at Lagan Valley Hospital.

Therefore, we are anxious to hear from the Minister this afternoon about the review of maternity services that he has initiated and what that might mean for future maternity services at Lagan Valley Hospital. In particular, we are anxious to hear whether there is sufficient capacity in the other maternity hospitals, including the Royal Jubilee Maternity Hospital in Belfast, the Ulster Hospital in Dundonald, which is part of the South Eastern Trust, and Craigavon Area Hospital, which is based in the Southern Health and Social Care Trust. We would like to know the Minister's view on whether those hospitals are capable of coping with the additional births that would be allocated to them in the event of a withdrawal of the consultant-led obstetrics service from Lagan Valley Hospital. We would also like to know the implications of the review for the configuration of maternity services in the Belfast metropolitan area.

There have also been discussions between the various trusts — the South Eastern Trust and the Belfast Trust in particular — about maternity services and the implications of withdrawing the obstetrics service from Lagan Valley Hospital. Again, I would welcome clarification from the Minister on the progress that has been made in the discussions between the trusts. Is he

able to provide us with any information about those discussions, and will he indicate the likely timescale for any proposed transfer of obstetrics services from the maternity unit at Lagan Valley Hospital to other maternity units?

Of major concern to myself and my colleagues is the idea that a gap could be created between the transfer of consultant-led inpatient obstetrics services from Lagan Valley Hospital to other maternity units and the creation of a midwifery-led maternity service at Lagan Valley Hospital. That was the experience in Downpatrick. As the Minister will know, after the maternity hospital in Downpatrick was closed, there was a gap until the opening of a midwifery-led maternity service in the new Downe Hospital. We in Lisburn are anxious that that should not happen with the Lagan Valley Hospital. If the Lagan Valley's obstetric service is to be transferred, we seek a firm assurance from the Minister today that there will not be a gap between that transfer and the creation of the new midwifery-led maternity service. It is our view — one that is shared by the Royal College of Midwives — that there should be a seamless maternity service at the Lagan Valley Hospital. Any transfer should be smooth. If obstetrics is to be removed from the hospital, it should not happen until a midwifery-led unit is firmly in place and properly resourced. There is concern about a gap being opened up.

There is talk that the trust, in seeking to create further efficiencies, is considering not proceeding with the creation of a midwifery-led maternity service at the Lagan Valley Hospital and, instead, downgrading the maternity service to an outpatient service. I want to put it on record that such a proposal would be entirely unacceptable to the community in Lisburn. That community conducted a hard-fought campaign, which included a petition to preserve maternity services at the Lagan Valley that was signed by thousands of local people. There would be anger in the community if the trust removed the proposal to retain inpatient maternity services at the Lagan Valley Hospital and opted instead for an outpatient service. In effect, that would mean that there would be no further births at the Lagan Valley Hospital.

The trend in other places is to move away from the centralisation of maternity services. It has been tried in England, but the authorities there are beginning to move back to the provision of local maternity services in local community

hospitals. Indeed, the Department of Health, in its document about developing better services, talked about the concept of community hospitals. We are looking at healthcare provision for a lifetime, but a local community hospital that does not provide an inpatient maternity service is hardly a community hospital worthy of the name.

I would welcome an assurance and a commitment from the Minister today that he and the trust will uphold their previous undertaking that inpatient maternity services will be retained at the Lagan Valley Hospital. If that is to be in the form of a midwifery-led maternity service, we would welcome a commitment to that effect. We want an assurance that the review that is now under way will not result in a complete withdrawal of inpatient maternity services from the Lagan Valley Hospital. It is essential that the South Eastern Trust not be allowed to precipitate the closure of the consultant-led obstetric service at the Lagan Valley Hospital, at least until a replacement inpatient maternity service is in place. We would welcome an assurance from the Minister that that will not happen.

We want a seamless transition. If we are to lose the obstetrics service from Lagan Valley Hospital, which is not what the community desires, we need a firm commitment that the midwifery-led maternity service will be put in place and that, until it is put in place, there will be no precipitate closure of the inpatient maternity unit at the hospital. I look forward to hearing what other colleagues have to say this afternoon. I especially look forward to receiving the assurances that we seek from the Minister on a subject that is very important to the people whom we represent.

**Mr Butler:** Go raibh maith agat, a LeasCheann Comhairle. Ba mhaith liom labhairt sa díospóireacht. I thank Jeffrey Donaldson for securing the Adjournment debate. As he said at the outset, the standard of maternity services at Lagan Valley Hospital is excellent. That is reflected in the fact that the rate of Caesarean sections in the hospital is the lowest in the North of Ireland. The hospital also has excellent midwives.

Mr Donaldson said that there were concerns about the proposed transfer from a consultant-led service to a midwife-led unit. I take some of my lead from the Royal College of Midwives, which has some concerns about whether such a transfer would be seamless. There is good

evidence to support those concerns. Several years ago, the hospital in Downpatrick was promised a midwife-led unit, but that never happened. In Belfast, the Jubilee Maternity Hospital merged with the Royal Maternity Hospital, and, as the Royal College of Midwives would attest, women were giving birth in cramped conditions there, which is not what we would expect in this part of the world in this century.

We do not want a similar situation to occur at Lagan Valley Hospital. I know that the Minister asked the South Eastern Health and Social Care Trust to come up with a business case and an implementation plan to carry the transition forward so that mothers in the greater Lisburn area could avail themselves of the hospital's services. As Mr Donaldson said, there are approximately 1,200 births a year in Lagan Valley Hospital, more than half of which are not complicated. Those are low-risk births that could be accommodated in the new midwife-led unit.

Concerns were also expressed about the suggestion in the original consultation document that women in Lisburn would travel to the Ulster Hospital in Dundonald. We all know that, if women are asked to travel to Belfast or Craigavon, it will place additional pressure on services in those areas. There is some evidence — the Minister might touch on it — that, in Belfast, for example, some extra units are being refurbished to cope with expected increases in demand at the Royal Victoria Hospital.

I agree with my colleague from Lagan Valley. I have been involved in several campaigns during my 14 years as a member of Lisburn City Council just to ensure that Lagan Valley Hospital had a future in Lisburn, let alone its maternity services. We are all relatively happy that that future has been secured. However, given the situation surrounding the new midwife-led unit, I know that the representatives of the Royal College of Midwives, some of whom are here today, also want a smooth transition so that women who are going to avail themselves of that service in the new unit can go there with confidence if their births are expected to be uncomplicated and women who need consultant-led services in an obstetrics unit can go to the Royal Victoria Hospital or Craigavon Area Hospital without having to give birth in cramped and substandard conditions.

The Minister mentioned the implementation plan and business case in his statement last year.

As elected representatives from Lagan Valley, we need to be assured that there will be a smooth transition, carried out in a planned and strategic way, towards putting a midwifery-led unit to be proud of in Lagan Valley Hospital, and so that women who need to avail themselves of services can go there with confidence.

### 5.30 pm

**Mr Lunn:** I am glad that Jeffrey Donaldson brought the debate to the House. It is not often that I agree with every word that he says, but on this occasion, I have no difficulty in doing so whatsoever.

The debate about Lagan Valley Hospital in its totality, never mind the maternity services, has been going on for as long as I have been a member of Lisburn City Council, which is 10 years. I was reminded by Alderman Ivan Davis, our local historian in Lisburn, that the debate has been going on for the 20 years prior to that. He has correspondence dating back to the early 1980s that casts doubt on the future of the hospital, and more recently, the future of specific areas, particularly maternity services. Lisburn has continued to grow over the past 30 years. Although the birth rate may have dipped slightly at times, there is evidence that it is now on an upward curve again.

The question has already been asked, and I also put it to the Minister: where would those women go if there were no maternity service in Lisburn? Anecdotally, at least, there is no space in the Ulster Hospital, the new unit at the Royal Jubilee Maternity Hospital is operating at capacity, and Craigavon Area Hospital is bursting at the seams.

Last year, I asked the Minister a question about Craigavon Area Hospital. I asked him how many times the hospital had to turn away expectant mothers because of capacity. He assured me that it happened only once and that the mother had been transferred to Daisy Hill Hospital without any complications. I was prompted to ask that question by a senior member of the Craigavon Area Hospital medical staff, who had major concerns about the situation there.

If there is no capacity elsewhere, and if there is no maternity unit in Lagan Valley Hospital, what is the Department's solution? Paul Butler referred to there being 1,200 births a year in Lagan Valley Hospital. I have been told by those who know more about the situation than I do that that number is not sufficient to support a

consultant-led obstetrics unit. However, I have a feeling that it is not far from the number that is required, given that the birth rate is rising.

I believe that the argument about the maintenance of a full unit in Lagan Valley Hospital has already been lost, mainly because of the situation with anaesthetics. Under the overall plan for the hospital, 24-hour anaesthetic cover cannot be provided. That leaves us with the option of a midwife-led unit. That has been suggested for some years and appears to have found favour with the Royal College of Midwives, which gives me confidence. However, the idea has been tossed around for a long time and has been through many reviews and battles. We are now undergoing another review, and I am filled with dread as to what the outcome may be.

At one stage, we were told that the consultant-led obstetrics unit had to close and that there had to be a gap of some 18 months before a midwife-led unit could be established. It was beyond my comprehension as to why there had to be a gap, but we were assured of that by the trust. We subsequently received reassurance that that was not the case and that there did not need to be a gap, but now there are rumours that the review might produce a situation in which there will not be a unit there at all, midwife-led or otherwise.

I ask the Minister for the same reassurances that Jeffrey Donaldson and Paul Butler asked for. I am quite sure that other Members from Lagan Valley will also request those assurances, and I look forward to hearing what the Minister has to say.

**Mr Craig:** I reiterate what Alderman Donaldson said about the work at Lagan Valley Hospital. Staff have been under considerable pressure. Members indicated the length of time that there has been uncertainty about services at Lagan Valley Hospital, so it is understandable that that creates a lot of stress for those working there. I want to acknowledge the hard work and commitment of the staff.

I remind the Minister of what he said when he launched the review of maternity services. He said:

*"Safe sustainable maternity services are a top priority".*

I have no doubt that that is exactly what the Minister wants to deliver and that he will try to

stick to his word. However, I raised concerns at the time about how capacity at other hospitals would be swallowed up. There was some spare capacity at the Ulster Hospital. The difficulty that I saw was that most people in Lagan Valley, and in Lisburn in particular, will choose not to go to the Ulster Hospital. That is just the nature of geography in Lagan Valley. They will end up going to Belfast, or, at the constituency's other extreme, Craigavon. We have all had representations from those hospitals about capacity.

It is unfortunate to hear bad reports about anyone's experience in hospital. I have a constituent who is a mother of two. One child was born in the Royal, and the other in Lagan Valley Hospital. That mother's experience was of two extremes. In the Royal, she was referred to by a number on many occasions. She never saw the same doctor twice. The level of care was a lot lower than that which she received elsewhere, and she was pushed out the door as quickly as possible.

That is what goes on when services are centralised, because staff are put under tremendous pressure. The Minister is fully aware of the pressures at the Royal, and he has introduced remedial measures to try to correct that, for which I commend him. However, there is still huge pressure, because everything is being centralised in Belfast.

That same mother was overjoyed with the level of service that she received when she chose to have her second child in Lagan Valley Hospital. The staff referred to her by name, which is a very simple thing. She had the same doctor and consultant from day one and throughout her delivery. The doctor was able to refer to her by name and knew her history. That made a massive difference to her experience of giving birth. Those seem like simple things to you and me, but we are men; we do not have to go through the experience of giving birth.

I plead with the Minister to take on board the fact that people want to give birth locally. I also ask him to take on board the other points that Members made. The statistics clearly show that the birth rate is rising rather than declining and that the number of births in Lagan Valley will increase naturally if there is time for that to occur.

I plead with the Minister not to have another review into Lagan Valley Hospital. We have had review after review. We are at the stage when people on the street are saying they believe

that the hospital will close. That is not good for morale in the hospital or for morale right across Lagan Valley. The Minister gave a commitment to the House for a midwifery-led unit.

I have no doubt that the Minister will stand over his word, because he is a man of honour. However, there is huge concern in the profession that a gap may be left as we move to a midwifery-led service while other hospitals are unable to take up the additional capacity. Like other Members, I plead with the Minister for assurances that our concerns are unfounded.

**Mr B McCrea:** I follow my colleague Mr Craig in commending the Minister for the honourable stance that he has taken, and I hope the Minister takes on board the points that by my colleagues in the Assembly made.

Although Mr Craig stated the obvious — we are all men and we do not have to go through childbirth — we are involved. Part of my thinking on this matter is coloured by the fact that I am the proud father of two daughters. My wife was determined that our first daughter should be born at home. Although we were all prepared, complications arose, and, regrettably, we had to move at speed to a major hospital. We were very please to have around us all the necessary medical expertise, equipment and backup. That is central to Members' argument about the risks that are involved in first pregnancies. My second daughter was born successfully at home, with just the midwife, my wife and I present. It was a tremendous experience; nevertheless, one understands the risks that are involved.

Central is the issue of choice, and here, too, the Minister is to be commended. My party made a commitment in its 2007 manifesto to extend choice. The Minister has not only overturned the decision of the trust, but he has delivered on a manifesto commitment to ensure that there was a choice through the provision of midwifery-led maternity services in the Lagan Valley Hospital.

There is a dilemma, and I understand the case that others made, which is that although there are about 1,000 births annually in the Lagan Valley area, that figure is a little below what is required to make the unit viable, yet the neighbouring units are full to capacity. I am sure that the Minister will address the issue of making sure that appropriate capacity is available for any eventualities.

I thank my colleagues — local politicians one and all — for their endorsement of the Minister's actions on Lagan Valley Hospital. I note that, on 18 March, the Rt Hon Jeffrey Donaldson welcomed the proposal to establish the unit as a community midwifery-led unit. Moreover, on 25 June last year, Jonathan Craig welcomed the Minister's investment in the hospital, including the midwifery-led unit. I thank those esteemed colleagues for their comments. All local politicians agree that Michael McGimpsey has been a good Health Minister for Lagan Valley. There has been considerable debate; we have fought as a united team in the council to save the services at Lagan Valley Hospital, and I am pleased to say that this appears to have been well received by those who can make the decisions.

Others have made this plea in their own eloquent ways, and I concur with them. It is unfortunate that budgets are tight. I would like to see that there are others in the United Kingdom who have made a commitment to defend and ring-fence the health budget, because the Health Service has the greatest impact on the biggest number of people. I hope that, in coming comprehensive spending review periods, colleagues will consider making a similar commitment for health in Northern Ireland.

In that regard, their support would be particularly well received.

I look forward to hearing what the Minister has to say, but I thank him personally for his efforts on behalf of Lagan Valley Hospital.

#### 5.45 pm

**The Minister of Health, Social Services and Public Safety (Mr McGimpsey):** The most important factor underlying any decision to do with maternity services is safety — the safety of mothers and that of newborn babies. Other factors are also important, such as giving mothers-to-be the maximum possible choice as to where and how they give birth and making services accessible to all, no matter where they live. To achieve those standards, service planners are left with a difficult balancing act. They must try to provide as many services as possible in local areas close to people's homes. At the same time, they must ensure that our specialist acute services are maintained at a high standard in suitable surroundings for those who need that level of care.

My decision that there should be a midwifery-led unit at Lagan Valley Hospital will mean that women in the Lisburn area will have access to maternity services that would not have been possible under Developing Better Services. In 2002, the DBS strategy for acute services confirmed that Lagan Valley Hospital was to be developed as a local hospital. DBS also established that maternity services would not be provided in local hospitals. Therefore, under DBS, Lagan Valley Hospital would have been stripped of all maternity services.

The reasons for restricting obstetric services to acute hospital sites are based on modern standards, which dictate that a consultant-led obstetric service must be supported by immediate round-the-clock access to paediatrics, anaesthetics, intensive care and all the other services that may be needed when complications arise. It is not possible to provide all those vital services in a local hospital, where there will be an insufficient workload to sustain staff skills to the necessary level.

It is important that Members fully appreciate the current standing of maternity services at Lagan Valley Hospital. On average, 1,100 babies are delivered there each year. That number of births is too low to sustain the full team necessary to deliver a consultant-led maternity service and to maintain the necessary level of skills for staff. Lagan Valley Hospital has no on-site paediatric cover; dedicated anaesthetic cover is not available for maternity; and there is no on-site laboratory and no dedicated obstetric theatre.

Nevertheless, I recognise that the maternity unit at Lagan Valley Hospital has a strong record and is greatly valued by local people and by those who have used the service. Therefore, I have decided that maternity services will remain at Lagan Valley Hospital. Although a consultant-led service is not possible, a midwife-led service is. Until that change happens, I have ensured that the present maternity service is maintained.

To support many women's wishes, we have introduced midwife-led units beside consultant units at the Ulster Hospital, Craigavon Area Hospital and Altnagelvin Area Hospital, as well as a stand-alone unit at Downpatrick. Those units can provide the full range of services for women classified as being at low risk of complications and not requiring the intervention of an obstetrician, which means that they are

able to give birth in a homely environment supported by a midwife.

Not all the current maternity services provided by Lagan Valley Hospital will change. Mums will still be able to use the hospital throughout their pregnancy. There will also be a consultant presence for antenatal care, ultrasound screening, assessment of complications and post-natal care. Although every effort is made to screen women for likely complications during labour, there will be rare occasions when things do not go as planned. The midwife-led unit at Lagan Valley Hospital will work in partnership with neighbouring, consultant-led maternity units.

Before the midwifery unit is established, all protocols for the transfer of patients will be in place and agreed with the neighbouring obstetric units and the Northern Ireland Ambulance Service. That will ensure that, when needed, the transfer of women to a neighbouring obstetric unit will happen smoothly and quickly.

I visited the maternity unit at Lagan Valley Hospital on 18 March 2009, when I announced the planned changes, and I was greatly impressed by the staff and their support for the development of a midwife-led unit in the area. Indeed, on the same day, it was not just staff who supported the move: Jeffrey Donaldson, the local MP, and other local elected representatives also supported the move, particularly in light of the delays to the proposed women's hospital. The impact on other units has been an integral part of planning the way forward.

It is anticipated that the Lagan Valley Hospital midwife-led unit will handle 500 births annually. That leaves around 700 births to be shared among the Ulster Hospital, the Royal Maternity Hospital and Craigavon Area Hospital. With those pressures in mind, I recently invested £4.2 million in maternity services at the Royal Hospitals, which will provide an additional capacity of up to 1,200 births, and £3.5 million at Craigavon Area Hospital, which will provide extra capacity for 300 births. A community-led midwifery unit has opened recently in Downe Hospital, with a capacity of just over 300.

The trust will ensure that a midwife-led unit is in place at Lagan Valley Hospital before obstetric services are withdrawn. Ensuring that there is the capacity in the right place to match demand is always an issue, particularly with the dramatic rise in the birth rate. There have been an additional 3,000 births over the past

two years alone. However, there is still spare capacity in the system to deal with demand. The maternity review that I announced on 2 April will take a comprehensive look at the provision of maternity services for women across Northern Ireland. It will look at the services that are available at each stage of pregnancy. It will also take account of workforce issues and consider the role of midwife-led care.

As far as discussions between the trusts are concerned, naturally, the South Eastern Health and Social Care Trust is in discussion with the Belfast Health and Social Care Trust and the Southern Health and Social Care Trust, because Craigavon Area Hospital and the Royal Maternity Hospital will have a role to play in the changes. I will speak about timescale in a moment. My plan is that there will be no gap between the withdrawal of obstetric services and the continuation of midwife-led provision at Lagan Valley Hospital. The maternity review has started, but it is a regional review. It is not specific to Lagan Valley Hospital. It will consider a much wider range of issues in respect of maternity services in Northern Ireland.

Mr Butler talked about what happened with the Jubilee Maternity Hospital. Who closed the hospital? It was his party that closed the hospital when it had the Health ministry. That was one of the biggest mistakes in the provision of maternity services. The closure of that obstetric-led unit, which was on an acute hospital site and dealt with 3,000 births each year, precipitated many of the challenges that the service has encountered. Indeed, I was one of many people who campaigned year after year to maintain that unit. It gives me no pleasure to say that those of us who campaigned were right. We demanded that the unit should stay open and that, before it closed, the new women's hospital in Belfast should be built. Neither of those steps was taken, and that is where we are.

I plan to have this unit opened as quickly as possible. However, there is a financial implication. Each of the other parties voted to cut the Health Service budget on three occasions — not once, not twice, but three times. One cannot continue to cut the Health Service budget and expect to get the sort of extra provision that is being demanded. That is what the community quite rightly demands. The year before last, demand for health services rose by 12%. It was up 9% last year, but the resource showed a real-terms increase of only

1.1%. The year before that, the real-terms increase was only 0.9%. If one experienced a 20% increase in business and asked staff to provide cover with a real-terms increase of only 2% one would see why we are getting into crisis in the Health Service.

**Mr Donaldson:** I thank the Minister for his commitment to continuing maternity services at the Lagan Valley Hospital. He talked about funding an additional service. Will he clarify whether the midwifery-led unit will replace the existing consultant-led obstetrics service or be an additional service?

**Mr Deputy Speaker:** The Minister will have an additional minute in which to speak.

**The Minister of Health, Social Services and Public Safety:** There is, of course, a resource issue. These things do not come free, and the obstetricians who are working in Lagan Valley Hospital will work elsewhere. The midwife team in Lagan Valley will require and merit investment support, particularly capital investment. The Member will no doubt recall that, in order to give the Lagan Valley unit the best possible chance, I looked for capital investment in it.

I have demands for £700 million of efficiencies over three years, which the Alliance Party, Sinn Féin and the DUP voted for, and those three parties also voted in an Assembly debate to cut health funding. Indeed, just last week, a further £115 million of cuts was proposed.

**Mr Deputy Speaker:** Bring your remarks to a close.

**The Minister of Health, Social Services and Public Safety:** This cannot go on. I cannot go on asking staff to stretch themselves. The Health Service can only work if it gets support. However, where I am going on Lagan Valley or, as Mr Craig and Mr McCrea said, what I have announced in the past, is that I am determined that, if it possibly can, the investment in the Lagan Valley Hospital will go ahead. At this stage, providing full support for and achieving a seamless transition to a midwife-led unit in the Lagan Valley Hospital is not a big "if", but it might be if those three parties carry on as they have been doing.

*Adjourned at 5.57 pm.*

