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Northern Ireland Assembly

Monday 13 December 2010

The Assembly met at 12.00 noon (Mr Speaker in the Chair).

Members observed two minutes' silence.

Assembly Business

Petition of Concern: Victims and Survivors (Disqualification) Bill: Second Stage

Mr Speaker: I give the House advance notice that a valid petition of concern was presented in relation to the last item of business today, the Second Stage of the Victims and Survivors (Disqualification) Bill. The vote, which will be taken on a cross-community basis, cannot be held until at least one day has passed. Therefore, the vote will be the first item of business tomorrow morning.

Extension of Sitting

Mr Speaker: I have been given notice by Mr Weir and Lord Morrow of a motion to extend the sitting past 7.00 pm under Standing Order 10(3A). The question on the motion will be put without debate.

Lord Morrow: I beg to move

That, in accordance with Standing Order 10(3A), the sitting on Monday 13 December 2010 be extended to 10.00 pm.

Question put and agreed to.

Resolved:

That, in accordance with Standing Order 10(3A), the sitting on Monday 13 December 2010 be extended to 10.00 pm.

Ministerial Statement

North/South Ministerial Council: Trade and Business Development Sectoral Format

Mr Speaker: I have received notice from the Minister of Enterprise, Trade and Investment that she wishes to make a statement.

The Minister of Enterprise, Trade and Investment (Mrs Foster): I apologise to the House for being unable to deliver this statement last week due to ill health. With your permission, Mr Speaker, I wish to make a statement in compliance with section 52 of the Northern Ireland Act 1998 regarding a meeting of the North/South Ministerial Council (NSMC) in trade and business development sectoral format. The meeting was held in the offices of the North/South Ministerial Council in Armagh on Friday 12 November 2010.

I chaired the meeting and represented the Executive in my capacity as Minister of Enterprise, Trade and Investment along with Minister Conor Murphy MP MLA, the Minister for Regional Development. The Irish Government were represented by Mr Batt O'Keeffe TD, the Minister for Enterprise, Trade and Innovation. Máire Geoghegan-Quinn, the EU Commissioner for Research, Innovation and Science, also attended the meeting. Danny Kennedy MLA, the Minister for Employment and Learning, attended the meeting for the discussion on innovation. This statement has been agreed with Minister Murphy, and I am making it on behalf of us both.

The main focus of the meeting was a discussion on co-operation on innovation. Following a presentation by InterTradeIreland, Commissioner Geoghegan-Quinn outlined future EU plans on innovation and research. Ministers welcomed the commissioner, thanked her for her attendance at the meeting and said that they

looked forward to her continuing support for the innovation agenda.

Ministers welcomed the continued success and development of the US-Ireland research and development partnership and cross-border collaborative projects through the EU FP7 framework programme. They noted that seven successful partnerships projects have been created through the US-Ireland research and development partnership, which have a combined value of €15 million. Thirty three successful cross-border collaborative projects have been established through the FP7 programme.

The higher success rate of cross-border collaborative projects was noted, and the Council discussed how to increase collaboration to capitalise on the opportunities provided by the EU framework programme. It was noted that InterTradelreland will dedicate resources specifically towards increasing collaborative participation and developing an early alert system for potential FP7 proposals, working closely with Invest NI, Ireland's national support network for FP7, business and academia.

John Fitzgerald, vice-chairperson of InterTradelreland, and Liam Nellis, InterTradelreland's chief executive officer, presented a progress report on InterTradelreland's performance and business activities in 2010 to date. They reported that 1,370 companies have accessed InterTradelreland cross-border business information and advice services and 151 companies have initiated InterTradelreland trade or innovation projects. InterTradelreland's average return on investment across its portfolio of trade and innovation programmes is on target for 2010. Ninety four new jobs have been reported in 2010 by companies participating in InterTradelreland's programmes.

The Council agreed to meet again in trade and business development sectoral format in spring 2011. I commend this statement to the House.

The Chairperson of the Committee for Enterprise, Trade and Investment (Mr A Maginness): I thank the Minister for her short but succinct report, which contains some interesting news on developments between North and South and throughout the European Union and in the United States. Can any additional work be done through the North/South Ministerial Council on the framework programme that would increase

Northern Ireland's uptake of the substantial funding that is available, particularly for research and development?

The Minister of Enterprise, Trade and Investment:

I thought that it was an excellent meeting with Máire Geoghegan-Quinn. She engaged with all the Ministers present and had a very down-to-earth attitude to applying for more money for innovation. For our part, we pointed out that we felt that there were barriers for small businesses in accessing the money that is available through FP7. Commissioner Geoghegan-Quinn acknowledged that as an issue and said that it had come up across the European Union. I think that it is more of an issue for Northern Ireland than it is, perhaps, in other areas. We had a very good discussion with the commissioner, which was followed by a visit to the Northern Ireland Science Park and to Bombardier Shorts, to let her see the innovation that is going on in one of our biggest and best companies.

We should not underestimate the capacity for Europe to help us in this area. Huge amounts of European money are available to us, but the difficulty is, as the Chairperson rightly says, in gaining access to it. As I said in my statement, Invest Northern Ireland and its counterparts in the Republic of Ireland will be working very closely with business and, most importantly, with academia. Academia seems to be best able to pull down resources from Europe.

That being the case, we want to learn from them. We are obviously at a disadvantage in so far as there are only two universities in Northern Ireland compared with many more in other regions of the UK. However, as I have always said, that smallness should allow us the flexibility to work proactively with those universities. That is the key to our moving forward.

Mr Frew: In my experience and from what I have been told, Northern Ireland companies are being penalised by the protectionist policies that have been adopted by the Republic of Ireland. What is InterTradelreland doing to stop the Republic of Ireland campaign against Northern Ireland businesses?

The Minister of Enterprise, Trade and Investment:

Those protectionist policies against our food are hugely disappointing, and I know that the Minister of Agriculture and Rural Development shares that view. A differentiation has been made between Northern Ireland food and Republic of Ireland food. That campaign has been led by the

Irish Farmers' Association, ably assisted by the 'Irish Farmers Journal', and is very foolish for a number of reasons. The Republic of Ireland says that it wants to increase the number of exports into the United Kingdom, particularly into GB, yet it has put up barriers to the sale of Northern Ireland food in the Republic of Ireland. I cannot understand why that government-backed scheme is gaining that sort of primacy because, if the shoe is on the other foot and the UK decides to do the same in the United Kingdom, the Republic of Ireland will not benefit.

Some of our processors, such as Vion in Cookstown, process many pigs from the Republic of Ireland. If we took the attitude not to allow any Republic of Ireland pork to come to that factory in Cookstown, it would have a really big impact on food processing in the Republic of Ireland. I call on that Government and on all those who support the campaign to think again. If they do not think again, I will have to look at what I can do through my position to help processors in Northern Ireland. I will not stand by and allow the Republic of Ireland to get an unfair advantage over our world-class goods. I will not allow that to stand.

Ms J McCann: Go raibh maith agat, a Cheann Comhairle. The Minister spoke earlier about the opportunities to access European funding for innovation, research and development, and she also mentioned barriers. In light of that, does she feel that the absence of an all-island policy on energy is creating a barrier to drawing down money from Europe and thwarting opportunities to develop the renewable energy sector and to grow the economy, particularly through wind and wave power?

The Minister of Enterprise, Trade and

Investment: No; I do not agree. In Northern Ireland, we will have our own energy policies. We will work in co-operation with the Republic of Ireland when it benefits the citizens of Northern Ireland and only when it benefits the citizens of Northern Ireland.

Mr Cree: I thank the Minister for her statement. Indeed, the Northern Ireland Assembly and Business Trust visited Brussels a couple of weeks ago with 24 businessmen to discuss the same theme. Therefore, the statement is particularly helpful. The Minister referred to the US-Ireland R&D partnership and the seven successful projects. What is the flavour of those projects?

The Minister of Enterprise, Trade and

Investment: The US-Ireland research and development partnership is an alliance of academic and research institutes in the United States, Northern Ireland and the Republic of Ireland. Its aim is to promote collaborative and innovative projects among researchers across the three jurisdictions. We have focused on four areas, namely, healthcare; economic development in priority areas such as diabetes and cystic fibrosis; nanotechnology; and sensor technologies.

12.15 pm

Dr Farry: I thank the Minister for her statement. I note that the meeting occurred before the worst of the financial crisis struck the Republic of Ireland. In light of the challenging financial and economic situation in both parts of the island of Ireland, does the Minister see circumstances in which another meeting may take place before April next year, particularly to see whether there are opportunities to co-ordinate how money is best spent in both Budgets and to see whether there are ways of mitigating the adverse effect on cross-border purchases of the withdrawal of spending power?

The Minister of Enterprise, Trade and

Investment: I thank the Member for his question. The next meeting is scheduled to be in spring of 2011, so it may well take place before then. Not to put too fine a point on it, our focus has been on how we can gain the maximum amount of money to help us to get through the difficulties that we face. I am sure that that is the same for the Republic of Ireland Government. We believe that we can leverage in money from Europe that will help us in Northern Ireland to move forward in innovation. The Member may be aware that, recently, I announced the figures for spend last year on innovation and R&D in Northern Ireland. From memory, we are up by around 40%, which is a significant increase. I make no apology for that, because that is where the future lies for this economy, and, if we can use that money to try to get in more European funding, it will make a difference to the Northern Ireland economy.

Mr Givan: I am sure that the Minister will agree that Northern Ireland has a rich heritage of innovation, not least in my constituency, which is the home place of the late Harry Ferguson. Innovation is a core area into which we need to put our energies to take us out of the economic

downturn. Can she assure the House that the accessing of those funds will be a priority for her Department?

The Minister of Enterprise, Trade and

Investment: Absolutely, and I hope that the Member will acknowledge from my statement and my answers, particularly the previous answer on innovation, that I put a lot of my Department's emphasis on that. Last Thursday night, I was privileged to attend an event with the Propel candidates, who are people who have entered and worked with Invest Northern Ireland on innovative ideas. I met 18 or so companies that have been through that programme and which are already exporting, some of them globally and some to the home countries. That is tremendous, and that is only from last year to this year. Innovation and research and development are key elements of the Northern Ireland economy as we move forward, and, therefore, I will continue to give them primacy.

Mr O'Dowd: Go raibh maith agat, a Cheann Comhairle. Given the unprecedented cuts that have been introduced recently by the Dublin Government and, indeed, the IMF's introduction to the Dublin economy, has the Minister had an opportunity to assess the impact of both of those factors on cross-border trade and investment?

The Minister of Enterprise, Trade and

Investment: As the Member probably knows, I indicated to the House that I was very concerned about the state of the Republic of Ireland's economy, given that a wide number of our smaller businesses export for the first time to the Republic of Ireland. Therefore, there are difficulties ahead for some of those small companies, and that is one of the reasons why cash flow is a key issue for a lot of them and one of the reasons why I talk continually about access to finance.

If people are in difficulties with their export market in the Republic of Ireland, they need understanding from their financiers. Indeed, I asked the North/South Ministerial Council to look at that issue in its business monitor. It reported back recently, and it makes for some interesting reading. The fact that 88% of the Northern Ireland businesses surveyed have not even applied for a loan or overdraft because they know what the answer will be indicates that there is very low confidence in dealing with banks and other financiers. That continues to

be an issue, and we must encourage the banks — as the Member knows, we do not have any control over them — to help us to lift up the economy.

Mr Ross: I will follow on from Mr O'Dowd's question. We know the difficulties that businesses in the Irish Republic and in Northern Ireland are having in gaining access to finance. Is the Minister aware of any specific work that InterTradeIreland has done in helping small and medium-sized enterprises in particular to gain access to finance?

The Minister of Enterprise, Trade and

Investment: As I said, the recent business monitor survey shows clearly that there is a big difference in attitudes and confidence between large businesses and small and medium-sized businesses, which are, of course, the key element of the economy in Northern Ireland.

The key statistics are that 88% of Northern Ireland businesses do not even apply for a loan or overdraft, and, of the businesses that have applied, only 62% have been successful. However, we must bear in mind that 88% of people surveyed did not apply at all. Therefore, it is 62% of 12%, if you know what I mean, Mr Speaker.

There is a real issue around access to finance. I am pleased that the NSMC carried out this work, which we now need to build on. As I understand it, the UK Government are looking at the issue from a European-wide perspective, and we will see the outworking of that.

Dr McDonnell: I thank the Minister for her statement and for her answers so far. However, I want to double back to framework programme 7 and the European Commissioner. To my knowledge, this is the single biggest opportunity for business here in these difficult times. However, a number of questions are running through my head. How do we mobilise Northern business to access European funds? How do we remove the barriers that are there? Could Invest Northern Ireland better steer local companies towards those funds? Dare I ask the Minister whether she would be prepared to lead a team of Ulster business organisations and the universities to Brussels to tap into those funds?

The Minister of Enterprise, Trade and

Investment: I thank the Member for his questions. One key element is that the Commissioner has given her assurance that

she will work with the teams in Northern Ireland and in the Republic of Ireland. As well as that, I have recognised the importance of European funding. It is something that I often mention at the Executive, and I am delighted to see that our new office was opened last week by the First Minister and deputy First Minister.

We need to be in Europe at the start of policy formulations to make sure that we can then benefit from them. We have now appointed an R&D liaison service in Brussels, which is staffed by Farha Brahmi — I hope that I have got her name right — who has been making connections with the Commission and who has joined the European Regions Research and Innovation Network.

We have learned much from our time and experience in the aerospace sector and with Bombardier. One reason that the Commissioner visited Bombardier was the success that it has had in accessing funding. We want to see other sectors across Northern Ireland obtain that same level of traction.

I want to ensure that we get the maximum out of FP7, as the Member was absolutely right to say. However, I hope that the Member agrees that it is important that we are in at the start of the formulation of FP8 to make sure that we know what is coming down the line and that it is something that we can work with. I very much hope that small businesses will be to the fore of that discussion moving forward.

Mr Callaghan: I wish to pick up on Ms McCann's earlier question. This is a very welcome example of North and South working together in partnership with the European Commission on matters of mutual interest. There is clearly a lot of concern in the business community about energy security of supply. Can the Minister tell us whether she would consider discussing energy security of supply at NSMC level and European level? If not, what is her plan if Russia shuts off the valve on business energy this winter?

The Minister of Enterprise, Trade and

Investment: I am sure that the Member is aware that one key reason behind the strategic energy framework relates to security of supply. Security of supply is one reason that we have set our renewable target so high moving forward — at 40% — and is something that I discuss on an ongoing basis with Eamon Ryan, my counterpart in the Republic of Ireland. I do not see any need to discuss it at a North/South Ministerial

Council meeting on trade and business. However, I do see a need to discuss it with my counterpart in the Republic of Ireland, because it has an impact on the citizens of Northern Ireland. Therefore, I will continue to have those discussions.

The Member should be aware that this is not just about co-operation between Northern Ireland and the Republic of Ireland. It is about co-operation across, as I think it is called, the north-west region of Europe.

So, we are talking about the interconnectivity with GB and the connectivity between France and GB and France and the Republic of Ireland. It is about a regional marketplace, and we must participate in it if we are to get the competitiveness and the economies of scale that we need to get prices down, because, although the Member asked about security of supply, price is another key issue. That is the way forward, and it is one of the reasons why I welcome the ongoing work in the energy work stream of the British-Irish Council.

Mr Speaker: That ends questions on the ministerial statement. I ask the House to take its ease for a few moments while we prepare for the next item of business.

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

Executive Committee Business

Energy Bill: Consideration Stage

Mr Deputy Speaker: I call the Minister of Enterprise, Trade and Investment, Mrs Arlene Foster, to move the Consideration Stage of the Energy Bill.

Moved. — [The Minister of Enterprise, Trade and Investment (Mrs Foster).]

Mr Deputy Speaker: Members will 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 two groups of amendments, and we will debate the amendments in each group in turn. The first debate will be on amendment Nos 1, 2, 3, 4 and 5, which deal with the damage of gas equipment used for conveying, storing or supplying gas. The second debate will be on amendment Nos 6 and 7, which deal with minor changes to terms in the Bill. Once the debate on each group is completed, any further 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.

No amendments have been tabled to clauses 1 to 9. I propose, by leave of the Assembly, to group these clauses for the Question on stand part.

Clauses 1 to 9 ordered to stand part of the Bill.

Clause 10 (Damage to gas plant)

Mr Deputy Speaker: We now come to the first group of amendments for debate, which deal with the damage of gas equipment used for conveying, storing or supplying gas. With amendment No 1, it will be convenient to debate amendment Nos 2, 3, 4 and 5. Amendment Nos 1 and 2 are mutually exclusive. Therefore, if amendment No 1 is agreed to, I will not call amendment No 2.

The Chairperson of the Committee for Enterprise, Trade and Investment (Mr A Maginness): I beg to move amendment No 1: In page 6, line 40, leave out “or by culpable negligence”.

The following amendments stood on the Marshalled List:

No 2: In page 6, line 40, leave out “by culpable negligence” and insert “recklessly”. — [The Minister of Enterprise, Trade and Investment (Mrs Foster).]

No 3: In page 6, line 41, after “conveyor” insert

“(b) alters the index to any meter used for measuring the quantity of gas conveyed or supplied by a gas conveyor or gas supplier; or

(c) prevents any such meter from duly registering the quantity of gas conveyed or supplied.”. — [The Minister of Enterprise, Trade and Investment (Mrs Foster).]

No 4: In page 7, line 3, leave out “subsection (1)” and insert “subsection (1)(a)”. — [The Minister of Enterprise, Trade and Investment (Mrs Foster).]

No 5: In page 7, line 14, leave out “or disposal” and insert “, disposal or repair”. — [The Minister of Enterprise, Trade and Investment (Mrs Foster).]

I welcome the Minister back and wish her well. It is good to see that she has recovered from her brief illness. In speaking on amendment No 1, I will also note the Committee’s scrutiny of amendment Nos 2 to 5 on the Marshalled List.

12.30 pm

Amendment No 1 arose as a result of Committee members’ concerns that the definition of the term “culpable negligence” may be too broad to be included in the Bill. It was thought that the term might imply that a person could be found guilty of an offence if they did not take action to stop another person damaging their gas meter and would, therefore, be considered negligent as a result of another person’s action. I remind the House that clause 10 establishes a criminal offence in respect of persons who intentionally or negligently damage gas equipment. It is, therefore, of a serious nature.

On a number of occasions, both in writing and during oral evidence sessions, the Committee asked the Department to provide a clear definition of the term. However, neither the Department nor the Office of the Legislative Counsel was able to do so to the full satisfaction of the Committee. The Department informed the Committee that the Office of the Legislative Counsel had advised it that there is no precise legal definition and:

“‘culpable negligence’ denotes a high degree of negligence which merits criminal sanctions”.

Department officials were unable to provide the Committee with additional clarification of how the term would be applied in practice. In the absence of that clarity, members felt that it would be preferable to remove it from the Bill. A vote was taken on that, and I have to point out that the Committee's decision was majority rather than unanimous.

On 9 December the Committee considered a letter from the Minister, dated 7 December, in which the Minister informed us that she could not accept the Committee's amendment and outlined her reasons. The Minister also stated that she had accepted an alternative suggestion from the Attorney General to remove the term "or by culpable negligence" and replace it with the term "or recklessly". Amendment No 2 on the Marshalled List gives effect to that suggestion of the Attorney General. Unfortunately, the Committee was informed of the amendment only last week, after the conclusion of Committee Stage. As the amendment was tabled only at last week's meeting, the Committee did not have time to consider it fully and was able only to note the amendment.

Am I permitted to continue, Mr Deputy Speaker?

Mr Deputy Speaker: Yes.

The Chairperson of the Committee for

Enterprise, Trade and Investment: In response to a Committee suggestion that clause 14 refer explicitly to meter tampering, the Department re-examined clause 10 to ensure that the provision for damage to gas plant fully encompassed meter tampering. The Department concluded that it would be desirable to amend clause 10(1) to refer specifically to tampering with gas meters in order to avoid any doubt about whether tampering with a meter necessarily amounts to damaging it. Amendment Nos 3 and 4 give effect to that, and the Committee supports both.

Amendment No 5 also arises as a result of a suggestion that the Committee made to the Department. Having consulted the natural gas industry on the amendment, the Department informed the Committee that the industry would be content with the revised wording. It accepts that, in certain circumstances, it would be feasible for meters to be repaired rather than disposed of or destroyed. The Committee also supports amendment No 5.

In conclusion, I thank the Minister and her officials for their hard work and expertise during the Committee's scrutiny of the Bill. I also thank the Minister for adopting most of the Committee's recommendations, save for the one that I mentioned at the beginning of my address.

Mr Givan: I also thank the Committee staff for assisting us in scrutinising the legislation and the departmental officials who frequently attended meetings to try to address some of the concerns that were raised.

I support the amendments in the name of our Minister. I want to speak specifically about the amendment tabled by the Chairperson of the Committee and Ms Jennifer McCann. The Chairperson said that the proposed amendment on culpable negligence, which was discussed at length, was subject to a split vote in Committee. There was a good discussion, and we got into the meaning of "culpable negligence". I do not profess to be an expert on legal matters. The Chairperson tried to assist us in his other professional capacity to define the term. As a layperson, I was keen to know what exactly it means to be culpably negligent when it comes to tampering with gas meters.

The departmental officials were helpful in clarifying the term. It was made clear that the legislation applies to people who specifically and directly try to alter and potentially damage gas meters. The Minister came back with a revision from the Attorney General's office to replace the term "by culpable negligence" with "recklessly". That was to try to facilitate the members of the Committee who raised concerns about the term and to address the fears expressed by some members that innocent people could get caught out by the phrase "culpable negligence".

Obviously, nobody wants to catch out people who are innocent or unaware of the consequences of their actions. However, the legislation is specifically aimed at individuals who go out of their way to tamper with gas meters. Such behaviour defrauds gas companies and, more seriously, puts at risk not only the safety of offenders but, as my colleague Leslie Cree pointed out in Committee, that of their entire street. Tampering with a gas meter could have collateral damage because it affects more than the individual responsible. Tampering with electricity units or water supplies, which are criminal acts, will harm the individual

responsible. However, tampering with gas meters has the potential to harm many more than the individual who should not be engaging in that activity. The safety of others, not just the position of the perpetrator, must be at the fore of the argument. Obviously, meter tampering is a concern for the companies involved, and we do not want them to lose financially. However, the safety aspect causes me great concern.

When the Committee considered the phrase “culpable negligence”, we looked at comparable legislation for the water and electricity sectors. Interestingly, the measure in the water legislation is much weaker than our Minister’s proposal; it refers to mere negligent damage being a criminal act. Therefore, the term “culpable negligence” goes far beyond existing water legislation. The Electricity (Northern Ireland) Order 1992 refers to the same type of provision as is being put forward in this clause.

I find it interesting but confusing that some Committee members feel that it should not be a criminal act to interfere with gas installations but, when it comes to water or electricity, it is fine for people engaged in similar activities to be penalised.

We need to be careful with the amendment tabled by Ms McCann, because it sends out the poor and bad message to individuals that it is OK to interfere and tamper with gas installations and to put at risk not just yourself but other people. That is exactly the message that that amendment sends out, when we should be putting out the clear message that that is a criminal and dangerous act and, if you engage in such activity, you will be pursued by the full rigour of the law. The original “culpable negligence” wording in the legislation sufficed. Indeed, some may say that we should have used the language in the water legislation and said that it was merely negligible activity. However, the Minister did not do that and took on board comments that were put forward.

The Minister then sought to clarify the matter further for those who were concerned and proposed the amendment with the word “recklessly”. So, I will vote against amendment No 1, tabled by Ms McCann, and in favour of amendment No 2, which inserts “recklessly”. I appeal to other Members to reflect on the message that would go out if Ms McCann’s amendment were successful and to join us in

supporting the Minister and putting through amendment No 2.

Ms J McCann: Go raibh maith agat, a LeasCheann Comhairle. First of all, I want to clarify the fact that amendment No 1 was made by the Committee.

The Committee debated this matter because clause 10 states:

“A person who intentionally ... damages or allows to be damaged any gas plant provided by a gas conveyor shall be guilty of an offence and liable”.

Therefore, the clause is very clear: the person must intentionally do it. That is sufficient, without “culpable negligence” or “recklessly”. That is because no definition of “culpable negligence” was given and nor does “recklessly” provide a definition. “Intentionally” says clearly that a person is committing an offence when they do that.

No one wants to put anyone’s safety at risk. No one is condoning tampering with or damaging a gas meter. The issue is that someone could be innocently convicted of a criminal offence through no fault of their own. The difference between gas meters and, for instance, electricity meters, particularly in social housing, is that gas meters are outside the building. A person cannot be held responsible for knowing what is happening to their gas meter 24 hours a day if it is outside their home.

A person who intentionally tampers with or damages a meter is already covered by the legislation. To go beyond that and include “culpable negligence” or “recklessly” will put at risk people who are innocent, and we have to protect innocent people. Having “intentionally” in the legislation is sufficient, and that is why I argued that point in Committee.

12.45 pm

Mr Cree: I will vote against amendment No 1. As Members said, the Committee discussed this issue at some length. At its November meeting, which was a light meeting, the Committee made the decision to which we have already referred. I was not present at that meeting, and I certainly do not support that amendment.

As someone who has considerable experience in the gas industry, I know that we need such a clause. It represents a common-sense approach and would create a criminal offence, albeit that

the person who is in the house need not be the person who intentionally or negligently damages the gas equipment. That aligns with a similar provision in the electricity legislation. To do less in the case of gas would be very foolish and short-sighted.

We need maximum protection for people who use gas, which is an excellent fuel. It is a super servant but a very bad master, and there can be catastrophic results if people are allowed to tamper with equipment, particularly high pressure distribution systems. I could write a book on the number of examples that I have seen over the years in different parts of the country and abroad where people have got up to mischief. Therefore, that needs to be included in the Bill. I support the Minister and will vote against amendment No 1.

Dr Farry: I am at a slight disadvantage because I am substituting at the last minute for Sean Neeson, who, regrettably, is unwell and unable to join us. Therefore, I am listening with great interest to the unfolding debate. On behalf of my party, I pay tribute to the Department and the Committee for progressing the Bill to this stage.

I am wary about the Assembly sending out a negative message of rowing back in respect of health and safety and people's responsibilities. Regardless of what we do, some very regrettable incidents have occurred over the past year. That point is doubly valid. I am also conscious that I speak as a layperson in this matter and that the Chairperson of the Committee and the Minister are both legally trained and probably have a lot more knowledge in these matters. However, from my limited knowledge base, I am comfortable with the language as originally drafted in the legislation.

I appreciate that there has not been a proper definition of culpable negligence, but surely that is an issue for the courts to work out as case law evolves and is taken forward on the basis of the legislation. Sometimes, measures have to be drafted in a manner that simply allows a door to be opened to the issues. Obviously, we cannot legislate for every circumstance or define every circumstance where an issue of negligence may be relevant. Therefore, it is important that, under our legal systems in these islands, we allow the courts, through case law, to work out precisely what is meant and to adapt the law to fit whatever circumstances arise.

It is also important that we distinguish between sins of commission and sins of omission, if I can frame it in those terms. If we follow amendment No 1, we will simply be talking about the ability to act when there is an active sin of commission whereby someone actively does something. However, there are many other walks of life where we legislate against sins of omission, where someone, through their actions or, more relevantly, through their lack of action, contributes to the emergence of a serious situation. Again, we have to stress that that does not open the door to all comers. The bar for that type of action not just under this legislation but in other walks of life is extremely high. Essentially, it is a matter of what is a reasonable test in respect of the actions that someone should take, maybe taking on board Jennifer McCann's point about how things work in social housing or apartments. I do not think that that would cross the definition of reasonableness in respect of what someone should or should not have done. However, there may well be other situations where someone has been reckless in the approach that has been taken, and, although they may not actively have done something, through inaction they may have contributed to a serious situation.

For that reason, my party and I are certainly happy to support amendment No 2. If it has the Attorney General's backing, who are we to question his learned opinion on such matters? That probably provides sufficient cover for the Assembly's purposes. I would have been happy to stick with the original language. I appreciate that matters are never defined absolutely in legislation, because one cannot legislate for every circumstance that arises. The principles and framework must be in place to deal with circumstances and to allow the courts to take action as and when cases actually come forward — if, indeed, they do. We hope that that will not be the case. My party is happy to back amendment No 2 and the rest of the amendments, but we oppose amendment No 1.

Mr Frew: I, too, commend the Committee staff for their thorough work during the scrutiny of the Bill and the departmental officials who came to see us on quite a few occasions to discuss issues that we raised. I also thank the Minister for her input during Committee Stage.

It has been mentioned in the debate that the phrase "culpable negligence" is not clearly defined. The Department liaised with the Office

of the Legislative Counsel on this, and it advised that culpable negligence denotes a high degree of negligence which merits criminal sanctions and is more commonly referred to as “gross negligence”. The phrase “culpable negligence” was drafted to reflect equivalent provisions in the Electricity (Northern Ireland) Order 1992. It also keeps the Bill consistent with similar legislation. It must be remembered that the gas and electricity sectors are similar. In fact, it could be argued that, in the wrong hands, gas can be much more dangerous. Indeed, if something were to go wrong, an entire street or building could be affected, with much more severe consequences in loss of life and damage to property.

Of course, “culpable negligence” denotes a high degree of negligence. It could be construed that the term “recklessly” in amendment No 2 could be used in that regard. That would be ample. I will support amendment No 2 and oppose amendment No 1. Indeed, that matter was raised in Committee. I certainly did not support the Committee’s taking up of that amendment. My colleague Paul Givan and I voted against that. The danger is that to leave those words out of such essential legislation will dilute the Bill. Let us be clear: amendment No 1 does not replace those words; it leaves them out. That sends out a dangerous signal. People might think that they can get off with something merely because they did not tamper with a meter or equipment themselves but, perhaps, paid or instructed someone to do the work for them in order to save money. We live in the real world, and there are people who are prepared to take on that work. That is why the Bill is essential in the first place. I stress that tampering with any gas equipment, particularly meters, is extremely dangerous. Amendment No 2 is satisfactory. It covers Committee members’ concerns in that regard.

We have to remember the water legislation, which, of course, penalises negligent damage to water fittings. In this context, water is not as dangerous as gas, nor does it pose the same risk to life, individuals, streets and communities when it is used wrongly or is in the wrong hands. We have to be very careful.

We also have to make sure that the onus is on the users, who can check their premises and equipment from time to time. It is important that the onus is on them to ensure that the equipment that is used on a day-to-day basis

is fit for purpose. It is their lives that we are debating. It is also important that the message that comes from the House is that there is an onus on the user, there are penalties and users risk damaging not only their life and property but the life and property of those who live on their street or in their block.

Mr Irwin: I thank the Minister and the Committee staff for their hard work on the Bill. I welcome the Bill and, of course, the necessary provision contained therein to bring our legislation up to date with our neighbours in the rest of the United Kingdom. Provisions such as enhanced powers of access for gas companies are vital, given the nature of the fuel and, in particular, recent incidents involving gas-related appliances and supply networks. I also welcome the inclusion of increased safeguards for customers, such as providing evidence of authority and notice of the need to enter premises. Customers are entitled to such safeguards.

Amendment No 2 would replace “by culpable negligence” in clause 10(1) with “recklessly”. That is an important alteration, and it was the topic of much discussion by the Committee in recent times. Inserting the word “recklessly” leaves no doubt as to the seriousness of the offence of damage to gas equipment. To remove completely the “culpable negligence” description — gross negligence, as it has been described — without an adequate but simplified replacement would be straying too far from similar legislation, for instance, electricity supply legislation. That would present problems for other industries, such as water and electric, and that would be unhelpful.

In light of the obvious issues with gas equipment, there must be an onus on consumers to act quickly, because ignoring obvious damage could endanger people’s safety along a supply route or result in difficulties with the metering of supply. That is why the inclusion of the word “recklessly” is important. It must be included. Therefore, I support amendment No 2.

Mr McHugh: Go raibh maith agat, a LeasCheann Comhairle. I want to comment on the amendments. As others have done, I thank the Minister and the Committee staff for the work that they have done on the Bill, which is no simple matter. It is important to stress that we must not simply rubber-stamp everything that comes in here, including parity legislation from the British side or anywhere else, and

merely float it on through as we have done with EU legislation in many instances. In many instances, we do not have a choice about EU legislation, but it does not always do justice to those at whom it is aimed or hit those whom it is intended to keep under some sort of check or control. In fact, it can often hit those who are least able to handle it.

If someone is allowed to enter a house at will, it will throw up the possibilities that we have seen before. The same people — those who are less able to pay — will be targeted by the legislation. Such legislation is not usually aimed at the well-off and those who are well able to pay. There is often a broad-brush method of challenging, attacking or aiming at those who have least ability to pay.

I often have difficulties with what is said in such legislation. If the Department wants to aim it at a specific point, it should be done. However, the term “culpable negligence” and the way in which it is set is quite broad; it could target anyone. Often, innocent people, even pensioners, will find themselves with a mark of criminality brought to bear on their person.

We have to look at the legislation in that light. I would not be happy to do that, and I support Jennifer McCann’s contention that it should be removed. I do not know what should be put in place of it. Including the word “recklessly” runs us into a different area entirely, but it is up to the Assembly what it wants to do in relation to that.

1.00 pm

There is like-minded legislation in the other two energy areas. Perhaps gas is a bit different in that there is greater risk to many more people if something is tampered with, but how many instances of that have taken place? Is it that widespread that we have to include in legislation terms such as “culpable negligence” to be applied to pensioners or whoever might be caught tampering with those devices? I do not know, but maybe the Minister can throw some light on that. We do not want to support interference with any of that equipment, but neither do we want to send out a message that we are prepared to allow that interference to go on.

Mr Givan: I appreciate the point that the Member is now trying to make about not giving out a message that you should interfere. Can he clarify his earlier comments if he is now saying that if a person cannot afford to pay for gas or any

other utility, it would still be wrong to interfere? Earlier, he seemed to suggest that he felt it was almost justification, and if a person could not afford it, it was OK to interfere. Is he now saying that that is wrong?

Mr McHugh: I am not prepared to say that I was wrong in making a defence of those who are not able to pay. The fact is that there is a broad-brush attack on those in that category, because the well off will never have to face that situation. Quite a lot of them do not actually pay their bills, but it is more unlikely that it was aimed for that purpose. I have no difficulty in defending my position on that. We are not sending out a message that those who are not willing to pay should be allowed to get away with that. That is not the message that I am talking about. The message about tampering with equipment is much more severe and serious and we do not support that, but, at the same time, it is important for people in the Assembly and in Committees not just to rubber-stamp things. I think that the courts will deal with any of those instances as they come up, and they have until now. There has been no difficulty with that. I stand by the removal of “culpable negligence”.

The Minister of Enterprise, Trade and

Investment: I thank members of the Committee in particular for their helpful scrutiny of the Bill and other Assembly Members for their comments during the debate, particularly in relation to clause 10. Clause 10 will establish a criminal offence for people who intelligently — intentionally, not intelligently; no one would do it intelligently — or by culpable negligence damage, or allow to be damaged, gas equipment. The provisions are largely aimed at tackling that issue of meter tampering.

The last Member who spoke asked me whether I had any figures in relation to meter tampering. From 2006 to 2008, there were approximately 1,033 cases of suspected meter tampering, and in 2009 alone, there were 733. It is a huge issue, and we must send out a very strong message from the House today. It would be very regrettable if we did otherwise.

The Committee for Enterprise, Trade and Investment has expressed some reservations in relation to the use of the phrase “culpable negligence”. In amendment No 1, the Committee suggests that the term “or by culpable negligence” should be removed in its

entirety from clause 10(1) and that the redrafted clause should just read:

“A person who intentionally damages or allows to be damaged any gas plant”.

I oppose that amendment on the following grounds. The clause was drafted to reflect equivalent provisions in paragraph 6(1) in schedule 6 to the Electricity (Northern Ireland) Order 1992. It is important that we have consistency on this. If someone tampers with electricity, he may well kill himself, but if someone tampers with gas, he could blow up a whole street. People need to reflect carefully on that. It is not OK for people to tamper with gas equipment because they cannot afford to pay. That is not the situation. I am Minister with responsibility for health and safety as well, and the health and safety aspect is key to this legislation. Members need to reflect on that.

The Committee’s suggested amendment would limit the criminal offence to intentional damage to gas equipment and would mean that gas legislation would be out of line with, and weaker than, electricity legislation, despite the risks to individuals and the wider community from tampering with gas plant. Interfering with gas plant carries more potential danger than interfering with the other utilities, electricity and water. The legislation on water has the highest penalties for tampering, though it is the least dangerous of all the utilities. There is a contradiction there.

I have at all times tried to work with the Committee and we have agreed all the other amendments. I take issue with Mr McHugh’s remark about rubber-stamping. That is not the job of the Assembly and we have never sought to do that. I am determined to have some consistency and to put the needs of the community first in relation to this matter. I sought advice from the Attorney General. He tabled an alternative amendment, which I put forward in my name. Amendment No 2 suggests replacing the term “by culpable negligence”. I want to put on the record that I am perfectly happy with that wording, and I agree with Mr Farry that it is right to maintain consistency with electricity legislation. However, in the spirit of trying to find a solution to this matter, we put forward the term “recklessly” as a substitution. That does not constitute —

Ms J McCann: Will the Minister give way?

The Minister of Enterprise, Trade and

Investment: I am about to explain what “recklessly” means, but I am happy to give way.

Ms J McCann: Does the Minister agree that most gas plant is situated outside people’s homes? It is not inside their homes, as most electricity meters are. Can she give a clear definition of “recklessly”? What if a householder leaves their back gate open, allowing someone to come in to damage the gas plant? No one here underestimates the safety aspect. The word “intentionally” covers it. There is no need to use the word “recklessly”. In the areas that I represent, gas meters are situated in back gardens.

The Minister of Enterprise, Trade and

Investment: Of course the word “recklessly” does not cover that sort of situation. Does the Member seriously expect that a judge sitting in court will accept that as a reckless act? Of course he would not. This does not constitute a policy change. Rather, it is a clarification of the terminology that helps to explain the level of misbehaviour required to merit criminal sanction. For example, it is unlikely that vandalism by a third party to a gas meter in a public area, such as a hall in a block of flats, will result in the unfair prosecution of the owner of the gas meter, unless he or she had committed a reckless act that was seen as contributing to that vandalism.

I want to explain what “recklessly” means. I ask the Assembly to agree that this is a more suitable way of addressing the very serious issue of damage to gas plant and meter tampering. I ask Members to support amendment No 2, my Department’s amendment, and to reject amendment No 1. We have already heard about the differences between water, electricity and gas. I listened carefully to what the Committee told me, which was that there is no legal definition of “by culpable negligence”, whereas the definition of recklessness, as the Chairperson will know from many legal cases and criminal and common law, is a term of art used in the law. Essentially, “recklessly” means intentionally or by being so careless that it is obvious to the objective bystander that those actions would lead to damage. Therefore, “recklessly” is a high degree of intent, or not caring, so that it is obvious to everyone else that damage will happen to the gas plant.

I submit that the Committee's concern about having no definition of "culpable negligence" has been dealt with by my suggesting the insertion of the term "recklessness". I am interested to hear what the Chairperson of the Committee has to say about that matter.

I will move on to amendment Nos 3 and 4. During the Committee's scrutiny, it was noted that meter tampering is not specifically mentioned in clause 10, which deals with damage to gas plant in general. My Department was asked to consider whether meter tampering was sufficiently covered by the present wording, and, after receiving legal advice, I agreed that, for the purposes of clarity and to ensure that meter tampering is fully covered as intended, it was desirable to amend clause 10(1). I, therefore, propose to insert a specific reference to meter tampering in line with existing provisions on meter tampering under the Electricity (Northern Ireland) Order 1992, the Gas Act 1986 and the Electricity Act 1989 in GB.

I propose that clause 10(1) of the Bill be amended to read:

"10. — (1) A person who intentionally or recklessly damages or allows to be damaged any gas plant provided by a gas conveyor; alters the index to any meter used for measuring the quantity of gas conveyed or supplied by a gas conveyor or gas supplier; or prevents any such meter from duly registering the quantity of gas conveyed or supplied shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale."

The House may wish to note that level 3 on the standard scale translates to a fine of up to £1,000.

Finally, I turn to amendment No 5 to clause 10. The Committee for Enterprise, Trade and Investment suggested that subsection (4) of clause 10 should be amended to add "or repair" to the existing sentence, which describes how a gas company must handle a gas meter that has been removed as a result of tampering. The provision currently reads:

"(4) A meter removed under subsection (3) shall be kept safely by the gas conveyor until the Authority authorises its destruction or disposal."

The clause was originally drafted to reflect equivalent provisions in paragraph 6(4) of schedule 6 to the Electricity (Northern Ireland) Order 1992. However, my Department consulted the natural gas industry on the suggested amendment. The industry advised that it would be content with the revised wording and accepted that, in certain circumstances, meters could be repaired instead of disposed of or destroyed. I understand that a gas company will ultimately base its decision on whether to repair or to destroy a gas meter on the cost of repair versus the cost of replacement. I, therefore, propose that clause 10(4) of the Bill be amended to read:

"(4) A meter removed under subsection (3) shall be kept safely by the gas conveyor until the Authority authorises its destruction, disposal or repair."

That concludes what I have to say about the amendments.

The Chairperson of the Committee for Enterprise, Trade and Investment:

I am grateful to all colleagues who contributed to the debate. It has been an interesting discussion on the term "culpable negligence" in clause 10. Mr Givan mentioned that that was a split decision by the Committee. I accept that, and I averred to that in my opening remarks. He also emphasised that the Attorney General suggested the alternative term "reckless" or "recklessly", and that he preferred that amendment to the deletion of "culpable negligence", which is, effectively, the amendment that the Committee tabled. He emphasised, quite properly, the potential danger posed by any interference or tampering with gas equipment. Indeed, other colleagues emphasised that as well. In fairness to all members of the Committee, it was generally recognised that gas equipment posed a particular danger to individuals and the public at large. That is not lost on any Members involved in the debate, regardless of whether they are for or against the amendment to clause 10.

1.15 pm

Ms Jennifer McCann spoke in favour of the amendment. In her opinion, culpable negligence was not properly and clearly legally defined. The thrust of her argument was that the clause, because it creates a criminal offence, required definition. She also emphasised that she did not want to put anybody's safety at risk. However, she emphasised, importantly, that

many gas meters are situated outside people's homes. As a result of that, such meters are more vulnerable to interference by third parties. She was concerned that adopting the original clause or the alternative put forward by the Attorney General in advice to the Minister — now proposed by the Minister — could put innocent people at risk of a potential criminal prosecution. She was concerned that people, particularly those with meters outside their homes, should be protected.

In fairness, the Minister doubted that, in the circumstances of third party interference, a judge would find a person guilty of such an offence. She said that recklessness or culpable negligence required a high degree of negligence. I presume that it would probably not amount to recklessness or culpable negligence if someone's gas equipment was tampered with by a third party without the knowledge of the occupant.

Dr Farry also indicated that his party supported the Minister's position, and he emphasised the risks to the public. He adopted what one might term a theological bent by talking about sins of commission and of omission. He felt, I presume, that someone who omitted to do something could be found guilty of an offence in certain circumstances. In any event, he felt that the Attorney General's advice to the Minister and the Committee was preferable to the deletion of the original culpable negligence aspect of the clause.

Mr McHugh made the important point that the Assembly should not rubber-stamp everything that comes before it. Again, in fairness, the Minister accepted that. However, we should reflect on what Mr McHugh said: as an Assembly and as individual Committees, we have a duty to look carefully at all aspects of legislation, and we should try to remedy potential problems when we detect them. In this instance, the Committee has attempted to do that by tabling the amendment to delete "culpable negligence" from clause 10.

A number of Members made the point that there should be consistency across utilities, whether water, electricity or gas. It is important that there are consistent standards, and, therefore, this legislation should be consistent with that for the electricity industry, in particular, so that consistency is maintained across the utilities. That is something that bears consideration.

A further point made by other Members, including Mr Frew, Mr Givan, Mr Farry and the

Minister, was that we should not send out a message that may encourage those who seek to benefit from interference with gas equipment. It is important that we consider that issue. However, the Minister made the point strongly that removing "culpable negligence" will weaken that part of the Bill, which would not be good. That view was supported by other Members. The Minister said that she has taken the Committee's criticism on board. Her view is that the Attorney General's advice about "or recklessly" should be preferred and that it meets the criticism levelled by the Committee. However, the Committee felt there was not a clear definition of "culpable negligence". I prefer "recklessly" to "culpable negligence", but, as Chairperson, I am bound by the decision of the Committee, and I represent its views as strongly as I can. I accept that it is difficult to define all those terms, including "culpable negligence" and "recklessly". Nonetheless, it is important to take the Committee's majority view of "culpable negligence" into consideration. I invite the Assembly to consider that seriously as its preferred position.

Question put, That amendment No 1 be made.

Mr Deputy Speaker: Members will resume their seats, please. *[Interruption.]* Members will resume their seats. *[Interruption.]* Order, please.

Mr Campbell: Order.

Mr Deputy Speaker: I wonder whether I should thank Mr Campbell for that little bit of help. Now that all Members have resumed their seats, I will put the Question again.

Question put, That amendment No 1 be made.

The Assembly divided: Ayes 39; Noes 49

AYES

Ms M Anderson, Mr Boylan, Mr D Bradley, Mrs M Bradley, Mr P J Bradley, Mr Brady, Mr Burns, Mr Callaghan, Mr W Clarke, Mr Doherty, Mr Gallagher, Mrs D Kelly, Mr G Kelly, Mr Leonard, Mr A Maginness, Mr A Maskey, Mr P Maskey, Mr F McCann, Ms J McCann, Mr McCartney, Mr McDevitt, Dr McDonnell, Mr McElduff, Mrs McGill, Mr McGlone, Mr McHugh, Mr McKay, Mr Molloy, Mr Murphy, Ms Ní Chuilín, Mr O'Dowd, Mr O'Loan, Mrs O'Neill, Ms Purvis, Mr P Ramsey, Ms S Ramsey, Ms Ritchie, Ms Ruane, Mr Sheehan.

Tellers for the Ayes: Mr Leonard and Mrs McGill.

NOES

Mr S Anderson, Mr Beggs, Mr Bell, Mr Bresland, Lord Browne, Mr Campbell, Mr T Clarke, Mr Cobain, Rev Dr Robert Coulter, Mr Craig, Mr Cree, Mr Easton, Mr Elliott, Sir Reg Empey, Dr Farry, Mrs Foster, Mr Frew, Mr Gardiner, Mr Gibson, Mr Girvan, Mr Givan, Mr Hamilton, Mr Hilditch, Mr Humphrey, Mr Irwin, Ms Lo, Mr Lunn, Mr Lyttle, Mr McCallister, Mr McCarthy, Mr McClarty, Mr B McCrea, Mr I McCrea, Mr McFarland, Mr McGimpsey, Miss McIlveen, Mr McNarry, Mr McQuillan, Lord Morrow, Mr Moutray, Mr G Robinson, Mr K Robinson, Mr Ross, Mr Savage, Mr Spratt, Mr Storey, Mr Weir, Mr Wells, Mr B Wilson.

Tellers for the Noes: Mr Frew and Mr Givan.

Question accordingly negatived.

Amendment No 2 made: In page 6, line 40, leave out "by culpable negligence" and insert "recklessly". — [The Minister of Enterprise, Trade and Investment (Mrs Foster).]

Amendment No 3 made: In page 6, line 41, after "conveyor" insert

"(b) alters the index to any meter used for measuring the quantity of gas conveyed or supplied by a gas conveyor or gas supplier; or

(c) prevents any such meter from duly registering the quantity of gas conveyed or supplied,". — [The Minister of Enterprise, Trade and Investment (Mrs Foster).]

Amendment No 4 made: In page 7, line 3, leave out "subsection (1)" and insert "subsection (1)(a)". — [The Minister of Enterprise, Trade and Investment (Mrs Foster).]

Amendment No 5 made: In page 7, line 14, leave out "or disposal" and insert ", disposal or repair". — [The Minister of Enterprise, Trade and Investment (Mrs Foster).]

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

Clauses 11 to 23 ordered to stand part of the Bill.

Mr Deputy Speaker: We now come to the second group of amendments for debate, which deal with minor changes to the terms in the Bill. With amendment No 6, it will be convenient to debate amendment No 7.

Clause 24 (Restrictions on voluntary winding up)**The Minister of Enterprise, Trade and Investment:**

I beg to move amendment No 6: In page 16, line 8, leave out "leave" and insert "permission".

The following amendment stood on the Marshalled List:

No 7: In clause 35, page 23, line 40, leave out "Energy" and insert "Utility". — [The Minister of Enterprise, Trade and Investment (Mrs Foster).]

The Minister of Enterprise, Trade and Investment:

During the Committee's call for evidence, Northern Ireland Electricity suggested a minor amendment to clause 24(4), which covers restrictions on voluntary winding-up by a protected energy company as part of the provisions for a special administration regime. The suggested amendment involves changing the reference to "an application for leave" to "an application for permission". The Department sought legal advice on that issue and has accepted that the amendment would improve the clarity of the clause. I therefore propose that clause 24(4) should be amended to read:

"(4) If an application for an energy administration order in relation to the company is made to the High Court in accordance with section 19(1) after an application for permission under this section has been made and before it is granted, the Court may exercise its powers under section 20 instead of granting permission."

Turning to amendment No 7, during the Committee's call for evidence, the Utility Regulator highlighted a minor error in clause 35(1), which refers to:

"the Northern Ireland Authority for Energy Regulation".

That is the former name of the Utility Regulator, and I have agreed that, for the purposes of accuracy, that reference should be amended to:

"the Northern Ireland Authority for Utility Regulation".

That concludes what I have to say about those two amendments.

The Chairperson of the Committee for Enterprise, Trade and Investment:

Amendment Nos 6 and 7 are, in essence, minor and technical. During the Energy Bill's Committee Stage, Northern Ireland Electricity advised the

Committee for Enterprise, Trade and Investment that the reference to “leave” in clause 24(4) with regard to a voluntary winding-up order should be changed to “permission”, to accord with the wording in the Energy Act 2004. The Committee advised the Department accordingly, and, following advice from the Office of the Legislative Counsel, the Department accepted the Committee’s advice.

During Committee Stage, the Department informed the Committee of a minor drafting amendment to clause 35 to accurately reflect the name of the Northern Ireland Authority for Utility Regulation. That name is contained in the amendment. The Committee supports amendment Nos 6 and 7. I thank the departmental officials and the Committee staff for all their work on this legislation.

The Minister of Enterprise, Trade and

Investment: I thank the Chairperson for his comments. The Bill is a good example of the way in which Committees can make legislation better. The amendments in the second group came about as a result of the Committee’s call for evidence. There is a lot of scepticism in the press and among the public about the usefulness of the Assembly and its Committees. This exercise has shown that they are useful when it comes to legislation. I know that we had a disagreement on one clause, but that is a very healthy sign that we are prepared to debate to make laws better.

1.45 pm

I am grateful to Members who contributed to the debate on all the amendments. As I outlined, I have accepted that amendment No 6, which changes the phrase “application for leave” to “application for permission”, is appropriate and will not impact on the intended overall aim of the clause. I have also agreed that amendment No 7 will correct the minor inaccuracy in the wording of clause 35.

Question, That amendment No 6 be made, put and agreed to.

Clause 24, as amended, ordered to stand part of the Bill.

Clauses 25 to 34 ordered to stand part of the Bill.

Clause 35 (Interpretation)

Amendment No 7 made: In page 23, line 40, leave out “Energy” and insert “Utility”. — [The Minister of Enterprise, Trade and Investment (Mrs Foster).]

Clause 35, as amended, ordered to stand part of the Bill.

Clauses 36 and 37 ordered to stand part of the Bill.

Schedule agreed to.

Long title agreed to.

Mr Deputy Speaker: That concludes the Consideration Stage of the Energy Bill. The Bill stands referred to the Speaker.

Committee Business

Statutory Committee Membership: Committee for Culture, Arts and Leisure

Mr Deputy Speaker: As with similar motions, the motion on Statutory Committee membership will be treated as a business motion. Therefore, there will be no debate.

Resolved:

That Mr Pat Sheehan replace Mr Raymond McCartney as a member of the Committee for Culture, Arts and Leisure. — [Mr P Maskey.]

Standing Committee Membership: Assembly and Executive Review Committee

Mr Deputy Speaker: As with similar motions, the motion on Standing Committee membership will be treated as a business motion. Therefore, there will be no debate.

Resolved:

That Mr Pat Sheehan replace Mr John O'Dowd as a member of the Assembly and Executive Review Committee. — [Mr P Maskey.]

MLAs: Financial Support, Pensions and Expenditure

Mr Deputy Speaker: The Business Committee has agreed to allow up to one hour and 30 minutes for the debate. The proposer will have 15 minutes to propose the motion and 15 minutes to make a winding-up speech. All other Members who are called to speak will have five minutes.

Mr Doherty (Representative of the Assembly Commission): I beg to move

That this Assembly approves the Assembly Commission's report on the financial support and pensions for Members of the Northern Ireland Assembly (December 2010); and makes the Northern Ireland Assembly (Members' Expenditure) Determination 2010.

Go raibh maith agat, a LeasCheann Comhairle. I move the motion on behalf of the Assembly Commission, and, during the debate, I will speak on its behalf. I will start by providing Members with some background information on the genesis of the Assembly Commission report, which makes interim changes and improvements in governance, pending the establishment of the independent financial review panel.

In 2007, prior to the restoration of devolution and the re-establishment of the Commission, the Secretary of State wrote to the chairperson of the Senior Salaries Review Body (SSRB) to seek its agreement to conduct a review of the existing structure for salaries, expenditure and pension benefits payable to members and office holders of the Assembly. In June 2007, the newly appointed Commission engaged with the SSRB to initiate the independent review under agreed terms of reference. The SSRB consulted with Members of the Assembly through a variety of qualitative methods during 2007 and 2008. It employed the Hay Group as consultants to look in detail at the roles of MLAs, Ministers and office holders in the Assembly to assess the respective job weights. The SSRB then completed its report in November 2008, and the Commission initially considered the review recommendations at its meeting on 13 January 2009.

The final report made 25 recommendations on pay, pensions and expenditure for Members of the Assembly. In addition to the recommendations that were outlined by the

SSRB, the Commission also considered issues referred to it as identified in the fourth and fifth reports in 2009 from the Committee on Standards and Privileges. The Committee's relevant recommendations were in relation to the Assembly's rules governing the use of Members' financial support in the areas of accommodation and dual mandate. We are keen to ensure that a best-practice approach is applied to our financial systems, and we will continue to monitor the ongoing developments in other places.

All party leaders were then consulted on the report. However, the report was withdrawn in November 2009. In December 2009, it was agreed that further consideration would be required on a range of possible options to progress the recommendations set out in the Commission's report on pay, pensions and financial support for Members of the Assembly. Additionally, there was a consensus that further meetings with party leaders would be helpful in setting out a way forward. It was agreed to take forward a further report that excluded any reference to pay arrangements for Members and to leave those decisions for an independent financial review panel upon its establishment. At that point, the necessary process was initiated for the establishment of the independent financial review panel. I will focus on that matter in more detail in a moment. The report brought forward options for changes to the resettlement allowance but was withdrawn pending further discussion with parties.

The Assembly Commission has agreed a range of measures to ensure that the Assembly has arrangements in place that effectively and fairly support MLAs in carrying out their duties. To further ensure good governance, transparency and accountability, the Commission also commenced publication of Members' expenses on a quarterly basis, releasing information back to 2003.

The report that we are debating today has been developed following extensive consideration and consultation. It proposes a total of 17 recommendations across three main sections. The key issues are the adoption of the 10 principles, the establishment of an independent financial review panel, and enhanced governance and expenditure issues for Members. I will focus briefly on each section and the main recommendations that are being proposed.

Section 3 of the report relates to the adoption of the 10 principles that were developed in consultation with party leaders. The Commission wholly supports the adoption of the 10 principles to underpin the basis on which expenditure is paid to MLAs. We have proposed a methodology for the application of the principles and provided detail on the approach to dealing with any potential breaches of the rules on the claiming and use of expenses. I am sure that Members will agree that the principles provide a sound basis for underpinning the financial support regime for MLAs and for greater transparency and accountability.

Section 4 of the report relates to the establishment of an independent financial review panel to determine all aspects of financial support for MLAs. During discussions with party leaders, there was a unanimous view that the future determination of salaries, pensions and financial support should be delivered by an independent mechanism. To allow for the establishment of the body, amendment of the Northern Ireland Act 1998 was required. In April 2010, at our request, the Assembly Members Bill was passed at Westminster. The Assembly Members (Independent Financial Review and Standards) Bill was then jointly drafted by the Assembly Commission and the Assembly Committee on Standards and Privileges. The purpose of the Bill is to provide for the establishment of a panel to determine the pay, pensions and other financial support for Members of the Assembly. The Bill also provides for the establishment of the post of an Assembly Commissioner for Standards.

The Assembly Members (Independent Financial Review and Standards) Bill is currently progressing through the House, its Second Stage having been taken on Tuesday 23 November 2010. An Ad Hoc Committee has been established to deal with the Bill. Committee Stage began on 24 November 2010, and the estimated date for Consideration Stage is the week commencing 31 January 2011.

Section 5 of the report proposes a total of 15 recommendations in relation to entitlements and the governance of expenditure incurred by Members. This section covers an array of improvements to our existing services, including revisions to the terminology used in existing regulation, proposed changes to the calculations used to determine a number of

our existing allowances, and the enhancement of our governance structures. The Assembly Commission is not recommending any changes to the current arrangements for the pension scheme provided for in the Assembly Members' Pension Scheme 2008.

The Commission has agreed that it would be appropriate not to take a view on certain recommendations detailed by the Senior Salaries Review Body in relation to dual mandates as the matter falls under the responsibility of the Assembly and Executive Review Committee. However, assuming that some dual mandates may continue until 2015, the Commission has proposed a series of related recommendations regarding claims under office cost expenditure and winding-up expenditure. Additionally, in support of recommendations raised by the Committee on Standards and Privileges, the Commission is also recommending the immediate development of protocols for splitting expenses that are claimed by MLAs who are also MPs or councillors.

In supporting Members in their role as employers, the Commission is recommending the development of a capped bonus scheme for Members' support staff in defined circumstances in the event that Members choose to pay a bonus to their staff.

2.00 pm

The Commission considered the recommendation of the Independent Parliamentary Standards Authority in its new expenses scheme for MPs and the restriction that it imposed on new MPs from receiving:

"Staffing Expenditure for the salary of more than one employee who is a connected party."

It recommended that a similar approach be adopted in the Assembly.

In the interests of accountability and of securing public confidence, the Commission agrees with the recommendations of the SSRB that an independent assessment of MLAs' constituency offices should be undertaken by chartered surveyors to ensure that rental charges are reasonable for the area in which the office is located. The Commission also recommends that such independent valuations be sought before the renewal of the existing leases and before new lease arrangements or agreements

are entered into. In line with the views of Assembly parties and as outlined in the rules that govern the expenses scheme for MPs, the Commission agreed that no expenses should be claimed relating to a Member's rental of a property where the Member or a connected party is the owner of the property or holds a lease in relation to the property in question. The Commission also recommends that all constituency offices comply with the statutory obligations that are placed on leased premises.

The Commission also proposes changes to the calculations used to determine resettlement, ill health retirement and winding-up allowances, as proposed by the Senior Salaries Review Body. In line with the recommendation outlined by the SSRB, the Commission also proposes that, from the start of the next mandate, the mileage allowance for business travel in excess of 10,000 miles will be paid at 25p, in line with the Income Tax (Earning and Pensions) Act 2003.

If the Assembly accepts the recommendations, it will improve its accountability and transparency to the general public; it will also increase public confidence in the governance of the Assembly. The Commission acknowledges the work of secretariat staff in preparing the report. I am aware that there has been much iteration in recent months, and I also acknowledge the work and support of Commission members in a difficult and ever-changing area.

Mr Weir: At the outset, I declare an interest as a Commission member. As recommendation 8 refers to the Northern Ireland Local Government Association, I also declare an interest as a member of that august body. I suspect that there will not be a vast number of Members who want to speak during the debate, which focuses on terms and conditions and what could be described as peripheral issues. Indeed, the Chamber is not exactly full.

If the issue under debate is not a case of turkeys voting for Christmas, it is certainly turkeys talking about Christmas. The Commission worked hard to strike a balance. On one hand and in one of the recommendations, there is a clear indication that a great number of issues will be rolled into the recommendations of the independent financial review panel. Those issues will rightly be taken out of the hands of Assembly Members and a range of measures will be made binding upon us; I think that everyone in the House will agree with that approach. However,

there is a desire to put our own house in order as much as possible and to get things right ahead of that action being taken. Therefore, there is a balance between considering what will be taken out of our hands and what we should not tamper with and trying to make sure that things are put right. The Commission's recommendations strike that balance.

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

I do not intend to go through the detail of the recommendations, as the proposer of the motion did that in some detail. However, I do want to touch on a couple of things.

The House should be able to unite around the 10 principles in recommendation one. Those very good principles can act as guidance for the Assembly. The establishment of an independent financial panel referred to in section 2 has, to some extent, been overtaken by events. Indeed, the related legislation is already in Committee. A lot of the regulations on a range of governance issues are very sensible. In some cases, those will bring us into line with legislation and allowances that are in place elsewhere. The proposer mentioned the regulations on travel expenses, for example, and it is right that those are introduced.

Some people will ask why, if the independent panel will deal with most of the measures, we do not simply leave it all to the independent panel. Why bother doing anything at this stage? The reason, particularly in respect of one aspect, is that a number of the allowances and so on will kick in prior to the establishment of an independent panel. If a fully functioning independent panel could be established tomorrow, we could abandon this. However, a range of things will kick in at the next election, and it is important that we do our best to put our house in order.

There has been considerable discussion about resettlement, which will happen at the time of the next Assembly elections, and we must try to ensure that we get that right. That will happen before the independent panel is fully operational. Therefore, we are not in a position to simply ignore it, principally because of what is sometimes colloquially called the Marietta Farrell case. It could have happened to any individual or party, but that was a case in which someone came in about a month before the Assembly elections. To be fair, the party involved had no choice in the matter because the person

whom she replaced had been appointed to a public position. Marietta Farrell then lost her seat and got a substantial pay-off, given the length of time that she served.

If we had simply left things as they were, a genuine accusation could have been levelled at the Assembly that we were simply ignoring the loophole and flaws in the system that allowed someone who had been here for a short time to receive a large pay-off. People who had served a relatively short time got a minimum six-month pay-off, a situation that you would find almost nowhere else, either in private life or the public sector. There was a desire to close that loophole. The proposal is a graduated system under which, instead of the six-month pay-off, anyone who has served —

Mr Deputy Speaker: I ask the Member to draw his remarks to a close.

Mr Weir: Sorry, I thought that we were debating legislation. That is OK. I misunderstood my timings.

Mr Wells: On a point of order, Mr Deputy Speaker. My understanding is the same as Mr Weir's. We are debating legislation, and, therefore, speeches are not subject to time limits.

Mr Deputy Speaker: The proposer has 15 minutes to propose the motion and 15 minutes to make a winding-up speech. All other Members have five minutes in which to speak.

Mr Weir: I support the motion. Members will have to continue wondering what other pertinent remarks I was about to make.

Rev Dr Robert Coulter: As a member of the Assembly Commission, I wish to follow on from the last paragraph of the proposer's speech and highlight the work that has been done on this matter over the years. I have been involved with this topic since 1998. Having gone through so many machinations, discussions and debates, I have the highest regard for the secretariat staff who have worked with the Assembly Commission on this subject. Few people recognise the many hours that staff and the Assembly Commission have put in to bring about a resolution that will be accepted by the Assembly. We, as an Assembly, should pay tribute to our staff for the work that they have put in. In supporting the motion, I also wish to say that it is time we put our own house in order after all these years.

It is true that I keep reminding the Assembly that, when we discussed the matter on the Floor of the House at the very beginning, Members turned down a rise of £10,000 a year. That seems to have been forgotten by the press and others who like to pillory Members over many different issues. When that is added up, the amount of money that Members have forgone over the years must be taken into account. Therefore, it is right that, at this stage, we should bring forward these provisions to have them in place for those who are new and come to the Assembly after the election or even before it, so that they know exactly where they stand, financially and otherwise, with their income. Many people do not take lightly the decision to put themselves forward for election. It is right that the Assembly should bring forward these recommendations so that those who come in know exactly where they stand.

Mr Weir: I did not get the opportunity to make this point. The Member has focused on the position of new Members, but will he confirm that the proposals that are being put forward today will mean that, although some existing Members will lose out — by a considerable amount of money in some cases — no Member will benefit financially? So, in some cases the proposals will be cost-neutral, and in many cases they will lead to a reduced payout for Members. That should also be borne in mind when people look at the wider context of the position that we are placing ourselves in.

Rev Dr Robert Coulter: I thank the Member for his intervention. The wisdom of what he has said enhances what I was saying about bringing it to the attention of the public that we are not out to grab everything that is going and we want transparency and equity all the way through.

I support the motion. I am glad that we have brought it to this point, and I trust that every Member will support it.

Mr P Ramsey: I thank Pat Doherty for leading on behalf of the Assembly Commission and for acknowledging the hard work of the Assembly secretariat.

This process has been ongoing for a long time. This is, I think, our third attempt to get the proposals through the House and is the result of extensive consultation in the communities and of party leaders reaching consensus on the way forward. We have always been mindful of developments, particularly contentious

developments, in other legislatures on financial support. We have looked at models of best practice in going forward to try to show that we are open and transparent.

The Commission, as Pat Doherty said, is making 17 recommendations for consideration today. Mindful of the clear public interest in the financial support provided to Members, we are bringing those recommendations forward. The recommendations will not only create a much more effective and efficient method of dealing with Members' expenditure but improve transparency and accountability and increase public confidence in the whole system. The Assembly Commission believes that financial support for Members should be based on 10 clear principles. I want to go through some of the areas that those principles cover, which are important for public representatives.

The first principle is that MLAs have a duty to observe the seven Nolan principles of public life at all times when incurring and claiming for expenditure. That is our clear goal. One of the other key principles is openness and transparency in the overall expenses claimed by Members. Those claims must also be subject separately to data protection, security considerations and other considerations.

Another principle is that resources provided to enable MLAs to undertake their Assembly duties must not benefit financially, directly or indirectly, any political parties or be used for party political activities. Principle 7 makes it clear that arrangements should be avoided that could give rise to an accusation that any MLA, relative or someone close to an MLA is obtaining an element of profit from public funds or that public money is being used or diverted in any way for the benefit of a political party.

2.15 pm

The recommendations are important, as some Members outlined. One Commission recommendation that we hoped to commence earlier related to the evaluation of Members' rental and lease arrangements for their offices. That is a pity. Some Members expressed concern that we were not able to process that work during the present mandate, but time constraints prevented us from ensuring that independent evaluations were carried out. If an independent valuation exercise were to estimate that an office was of a lesser value,

the Assembly Commission would adhere to that and pay only the amount of that evaluation.

The Commission also recommends that Members be required to ensure that their constituency offices comply with regulatory standards in respect of their statutory obligations on disablement and a range of other important areas. They should also be required to provide a declaration to that effect when renewing existing leases.

The Commission strongly recommends that no expenses be claimed that relate to a Member's rental of a property when a Member or a member of his or her family has any connection with that property or holds a lease on it. Our party is keen to go the extra distance by stipulating that no political party should gain financially from any expenses claimed for owning or leasing an office. Perhaps we will deal with that later.

Peter Weir spoke about resettlement money. The difficulty was that a Member with 10 years' service, a Member who retires because of sickness and a Member who serves for only 10 weeks in the Assembly would all have received the same resettlement money. There was something odd about that, and we would have been unable to defend that position publicly.

Mr Deputy Speaker: I ask the Member to bring his remarks to a close.

Mr P Ramsey: I support the motion.

Mr Lunn: I am standing in for Sean Neeson, who is not well today. As I am probably the only Member to speak who is not also a member of the Commission, I am at a slight disadvantage. If I raise queries that have already been discussed by the Commission, I hope that I will be forgiven.

I welcome the recommendations and acknowledge the hard work of the Assembly Commission and secretariat in producing the report, which provides some clarification. As Mr Ramsey said, the key words are "openness" and "transparency", and we have nothing to fear from those.

Recommendation 4 relates to pension arrangements. I imagine and presume that the new body will not in any way usurp the current position of the pension trustees and that they will still have the same responsibility and freedom of action as they enjoy currently.

Recommendation 8 states that protocols will have to be developed. Frankly, I wish the various bodies luck in developing a protocol for the cost of mobile phones, for instance. We have phones supplied by the Assembly and paid for in that way. As councillors, we may be entitled to a different phone, and we also have mobile phone accounts that allow for 1,000 free minutes. It would be a job to separate them, but I am sure that some accommodation can be arrived at.

Recommendation 9 relates to employing family members. It is good to have that issue clarified. Given the abuse that was heaped on the heads of some of us for employing family members during this mandate, it is a wee bit ironic, but absolutely right, that we are now establishing a situation whereby it is perfectly in order to employ one family member.

Recommendation 11 relates to lease agreements. I presume that it does not mean that a lease agreement that covers the period before and after the election or the determination can be interfered with and that it will just apply to new leases. I am sure that a rental valuation now would produce a lower rent than one that was established three years ago. However, I am making an assumption there.

Finally, recommendation 13 relates to rental of a property with a connected party. That is useful clarification. When I joined the Assembly, I asked the Assembly's finance people whether it was in order to rent a property that I owned or a family member owned, and I was told that it was in order but I should not do it. That was sage advice, and I did not do it. However, that will now be set in stone in recommendation 13.

We welcome the report and the recommendations. Only a brave man would not welcome them in this context.

Mr P Maskey: Go raibh maith agat, a LeasCheann Comhairle. Like Trevor, I am not a member of the Commission, but I, too, will speak on the report. I will be very brief. I am a member of the Committee on Standards and Privileges, which looks at other parts of the report.

Sinn Féin welcomes the Assembly Commission's report on the financial support and pensions for MLAs. On behalf of the party, I thank the Commission and the secretariat for this important work. We have made submissions to the SSRB and to the review of the financial services handbook. We are committed to

transparency and accountability in all aspects of financial matters relating to MLAs and political parties. In fact, I was one of the party representatives who met Sir Christopher Kelly last week on similar matters.

Sinn Féin is one of the first parties, if not the first, to publish our accounts annually, and I would welcome other parties also doing that. We successfully opposed the system by which MLAs could set and vote for their own salaries. I welcome the other parties that are coming round to the position that our party had taken and led the way on.

We support the adoption of the 10 principles, as we hope that they will deal with potential breaches and misuse of expenses. We hope that that has become a thing of the past, because we have seen too much of it in other places. We also support the establishment of an independent panel to deal with pay, pensions and financial matters for MLAs. Finally, we support the 15 recommendations in the report.

Mr P Doherty: Go raibh maith agat, a LeasCheann Comhairle. I am mindful of the time. I thank all the Members who contributed to the debate. The Assembly Commission has made recommendations in the report that will put in place the necessary governance, accountability and transparency measures to ensure public confidence in the financial services support systems in the Assembly.

I am pleased that Members have again confirmed their agreement to the establishment of an independent financial review panel, which, when established, will determine all issues relating to Members' pay, pensions and financial support. I will seek to address the issues that were raised during the debate, and, if Members feel that I have not covered them all, I am more than happy to write to them.

Mr Weir, who is a member of the Commission, summed it up very well when he talked about putting our house in order. That phrase has carried us through all this business. He talked about support for the principles and ironing out any flaws in the system.

Rev Bob Coulter spoke of his length of time on the Commission. It has been a lengthy period and time well served. He paid tribute to the Commission and the secretariat, and he reminded the media — I support him in this — that MLAs turned down an increase of

up to £10,000. That should be well and truly noted. He committed himself to the principles of transparency and accountability.

Mr Pat Ramsey said that it is the Commission's third attempt to get the report through the Assembly. He, too, supports those principles, particularly the Nolan principles, which he highlighted. He focused particularly on new arrangements for the independent evaluation of constituency offices and the fact that those offices must be to the highest standards.

Mr Trevor Lunn stood in for Mr Sean Neeson. I hope that Sean is recovering from his illness. Mr Lunn spoke of transparency, accountability and openness. He queried certain arrangements. As he is not a Commission member, I understand why he is not fully familiar with the details. I propose to respond to his detailed queries in writing.

Paul Maskey said that he welcomed the report on behalf of Sinn Féin. I am glad that he said that. There would have been some difficulty had he said something else. He committed himself to transparency and accountability, as other Members have done. He supports the report in its entirety.

I am mindful of the time. The Assembly Commission is confident that the report's recommendations will enhance existing governance arrangements and will ensure that robust systems are in place for Members to carry out their duties as public representatives effectively. I commend the report to the House.

Question put and agreed to.

Resolved:

That this Assembly approves the Assembly Commission's report on the financial support and pensions for Members of the Northern Ireland Assembly (December 2010); and makes the Northern Ireland Assembly (Members' Expenditure) Determination 2010.

Mr Deputy Speaker: As Question Time begins at 2.30 pm, I ask Members to take their ease for a few minutes.

2.30 pm

Oral Answers to Questions

Enterprise, Trade and Investment

Northern Ireland Electricity: Network

1. **Sir Reg Empey** asked the Minister of Enterprise, Trade and Investment for her assessment of the potential sale of the Northern Ireland Electricity grid to the Electricity Supply Board. (AQO 719/11)

The Minister of Enterprise, Trade and Investment (Mrs Foster): The potential sale is a commercial matter between Arcapita, the Bahrain-based private equity owner of Northern Ireland Electricity plc (NIE), and the Electricity Supply Board (ESB) in the Republic of Ireland. The transaction has been the subject of scrutiny by the UK Office of Fair Trading and the Irish Competition Commission, both of which have concluded that there are no impediments to the transaction completing. Completion of the sale is well advanced and is expected to conclude early in the new year, with financing for the transaction having been secured by ESB.

I have received assurances from the Irish energy Minister, as well as from the chairman and chief executive of ESB, on matters relating to the long-term operation of NIE and the investment in the Northern Ireland grid that will be required over the next 10 to 15 years.

Sir Reg Empey: The Minister will be aware of the considerable concern in Northern Ireland at the proposed takeover of our electricity grid by an Irish state body, especially given the difficult financial climate in the Republic. She will also be aware that the First Minister and I wrote to the Irish Prime Minister about the issue in the summer of this year. Leaving the commercial aspects aside, will the Minister tell the House whether she is for or against the takeover?

The Minister of Enterprise, Trade and Investment: It is interesting to hear the language that the Member uses. He asks whether I am “for” or “against” the takeover, but, on 17 August 2000, when he was Minister of Enterprise, Trade and Investment, he was happy to endorse ESB’s

involvement in Coolkeeragh. It is interesting to see how things change in relation to the matter.

The House is very much aware of the fact that I have grave concerns about the issue. It is because of my concerns that I have been proactive in dealing with them. Unlike the Ulster Unionist Party, which whips up concerns, I try to address them. Therefore, I have received assurances from the Irish energy Minister and from the chairman and chief executive of ESB on a number of matters, including, most importantly, the protection of jobs and pension arrangements in NIE. I have also received assurances that adequate funding, which is a key element, will be provided to ensure the long-term strategic development of the Northern Ireland electricity grid; that there will be effective governance measures to prevent interference in the operation of the respective companies by the Irish Government; and that there will be Northern Ireland representation on the board of NIE and ESB.

It is disappointing when a former Minister of Enterprise, Trade and Investment makes such allegations as to whether I am for or against the takeover. He will well know that I have no control over this commercial transaction. In fact, it was the Tory party that privatised NIE many years ago. If it had not done so, we would have had some control over the transaction. The Member would be better advised to ask his franchisee about the matter.

Mr A Maginness: Leaving aside the spat between the Ulster Unionists and the DUP, I thank the Minister for her answer. The deal should be welcomed, not least because ESB brings with it the intention to invest £1 billion in the grid system in Northern Ireland. That will be of enormous benefit to us all, in particular in the development of renewable energy.

Mr Deputy Speaker: Will the Member come to his question?

Mr A Maginness: Does the Minister agree that that is of benefit to the whole of Northern Ireland?

The Minister of Enterprise, Trade and Investment: It was precisely in relation to those matters that I met with ESB to make sure that it was going to invest in the grid, particularly with respect to the renewable elements. As I have indicated, ESB has been involved in the energy market here for some time. Its first entry was its involvement in the Coolkeeragh power station. I have sought

the leave of the chief executive of ESB to place his letter of assurance in the Library so that all Members can read it. It is a lengthy letter, and it sets out what he intends to do in relation to NIE's further work plan. It is a comprehensive and detailed letter. I hope that Members take the time to look at the letter, because it is significant.

Mr Leonard: Go raibh maith agat, a LeasCheann Comhairle. To save those intra-unionist spats, and given the potential of Ireland to generate wind, tidal and wave power, plus the development of the single market, does the Minister agree that the best approach would be a well-integrated, all-island energy policy?

The Minister of Enterprise, Trade and Investment: No, I do not. As I have already said in the House today, we will set our own agenda on energy as part of the United Kingdom. As I also said today, the market for electricity and energy as a whole is not just in relation to this island, or even to the British Isles. It is much wider than that. It is a European issue now, and that is well recognised by the European Commission. If we want to secure our energy supply well into the future, interconnection between this island and GB, and between GB and mainland Europe — all those interconnectivities — needs to take place, and I will be pushing for that.

Broadband: Rural Areas

2. **Mr Craig** asked the Minister of Enterprise, Trade and Investment what action her Department is taking to improve broadband access for business and residential customers in rural areas. (AQO 720/11)

The Minister of Enterprise, Trade and Investment: I am taking forward a number of initiatives aimed at improving broadband access for business and residential consumers located in rural areas. These include the £48 million next-generation broadband project, which is rolling out the highest level of fibre-to-the-cabinet technology in the United Kingdom; the £1.9 million Northern Ireland broadband fund, which has seen significant roll-out of fixed-wireless broadband services; and the £1.2 million remote broadband services contract, through which satellite broadband services have been made available region-wide.

Mr Craig: I thank the Minister for outlining those issues. Will she outline in some more detail what will be done in the Lagan valley area,

particularly in the Hillsborough exchange, where there are some major issues with broadband?

The Minister of Enterprise, Trade and Investment: I am delighted to announce the outcome of the fifth call under the Northern Ireland broadband fund. One application has been successful and will see BT deploying fibre-to-the-cabinet technology to an additional 23 cabinets in rural areas of Northern Ireland, five of which are located in the Hillsborough telephone exchange area. I hope that the Member will be a little bit more content on that matter. It is something that he has constantly lobbied me on, and I am delighted to see that we can add another 23 cabinets in rural areas of Northern Ireland to the broadband upgrade.

Mrs McGill: Go raibh maith agat, a LeasCheann Comhairle. I thank the Minister for her earlier response. Like the previous Member, I ask the Minister to outline how people in West Tyrone, in places such as Plumbridge, Greencastle, Donemana and elsewhere will benefit from whatever funding is due.

The Minister of Enterprise, Trade and Investment: The Member will know — we are to have a meeting in the near future on the specific issues that she has raised in relation to broadband — that £505,000 of support has been offered to two communications providers to deliver commercial wireless broadband services in counties Londonderry, Tyrone and Fermanagh, and, most recently, to the north Antrim coast. Some £48,000 of support has been offered to H2O Ireland Ltd, which is using waste-water disposal infrastructure to develop an optical fibre network in Enniskillen town centre. I know, because I have been there.

A fifth call for projects, which I have just mentioned, has prioritised 18 areas across Northern Ireland, and the successful project will see the deployment of fibre-to-the-cabinet technology. There will be an additional 23 cabinets in Lagan Valley, and cabinets will also be placed in Armagh, Down and Tyrone. I do not have the specifics of the issue that the Member raised, but I am happy to allow her to see the 23 areas that we are talking about.

Mr McGlone: Go raibh maith agat, a LeasCheann Comhairle. I thank the Minister for her answer. I note that she referred to areas of County Tyrone where there is likely to be additional investment. Obviously I do not expect her to have the detail with her today,

but I ask her to specifically look at the areas around Moortown, Ardboe and Brackagh, which have suffered from a lengthy period of poor broadband availability, which is inhibiting access by ordinary consumers and inhibiting the growth of business in those areas.

The Minister of Enterprise, Trade and Investment:

I will get back to the Member in relation to those three areas. The contract that we signed with BT to deliver faster broadband speeds was carried out in conjunction with some money from the Department of Agriculture and Rural Development to specifically target rural businesses, and I was very pleased that that was the case. For rural areas, the contract with BT stipulates that businesses are going to be able to access broadband services of at least two megabytes per second. In reality, more than 25% of rural businesses are expected to have over five megabytes per second, or better. As I said, I will get back to the Member about his particular interest in those three areas.

China: Trade and Investment

3. **Mr Bell** asked the Minister of Enterprise, Trade and Investment for her assessment of the developing trade and investment opportunities between Northern Ireland and China. (AQO 721/11)

10. **Mr I McCrea** asked the Minister of Enterprise, Trade and Investment for an update on the recent trade mission to Shanghai and Hong Kong. (AQO 728/11)

The Minister of Enterprise, Trade and Investment: With your permission, Mr Deputy Speaker, I will answer questions 3 and 10 together.

Last week, I led a delegation of 25 companies to China and Hong Kong, and early indications from the participants suggest that new business orders will follow from what was a successful trade mission. I also used the mission to showcase the international competitiveness of Northern Ireland companies and their ability to compete in the high-growth Chinese marketplace.

I was pleased to visit the offices of Andor Technology, which is establishing a strong presence in Shanghai. The mission also helped to highlight the activities of the Invest Northern Ireland Shanghai office, which was established some years ago to exploit trade and investment opportunities there. Invest NI is aware of opportunities that can come from China and,

through its Shanghai office, will monitor the opportunities for foreign direct investment (FDI) and ensure that it takes advantage of the opportunities that arise. My visit programme included discussion with trade and tourism bodies, including representatives from the British Embassy and Tourism Ireland.

Mr Bell: I thank the Minister for the work that she has done to attract investment from China to Northern Ireland. How does she assess the ability of Northern Ireland businesses to maximise the potential job opportunities that can flow?

The Minister of Enterprise, Trade and Investment:

China is one of the so-called BRIC countries — Brazil, Russia, India and China — that we have heard so much about recently from the Chancellor of the Exchequer. They are growing at a rate that means that we cannot ignore those markets. When I was in Hong Kong, I was told that it had experienced 6.5% growth this year. China has experienced 8% growth. The sheer size of those economies means that we have to take them seriously. There is no doubt that the size of and distance to China make it a daunting and challenging prospect for many of our smaller businesses, but I hope that our presence in Shanghai, together with a proactive team in Belfast, will allow them to look for those global markets. We need to work with those markets that are growing so that we can experience growth, and I hope that some of the smaller companies will take up that challenge.

Mr K Robinson: I thank the Minister for widening the scope beyond China to the BRIC countries. It saves me from having to introduce it by some nefarious means. Will the Minister give the House some details of the successes that Northern Ireland has had in trade missions over the past three years, let us say, with those BRIC countries?

The Minister of Enterprise, Trade and Investment:

The Member knows that, last September, I was on a particularly important trade mission to India. Out of that, foreign direct investment came from India to Northern Ireland within a short period of time. We have sent trade missions to Russia, but not as proactively as to India and China. Brazil is the market that we have been least active in, and it is one that we need to look at. Brazil provides us with Marfrig, which now owns Moy Park and O’Kane’s. It is one of our biggest foreign direct investors.

In relation to China, F G Wilson (Engineering) Limited is Northern Ireland's most successful exporter, with sales of its generator sets. Others have gone there, too. Radox is quite successful there, as is B/E Aerospace with its aircraft seats, Andor Technology, of course, and Wrightbus. If you are in Hong Kong, it is likely that you will be riding along on a Wrightbus from Ballymena. It is tremendous to be in Hong Kong and to see the W come towards you. It gave me a great sense of pride to see those new buses arrive in Kowloon and to know that they will be used in Hong Kong. Wrightbus is to be commended. When it was in difficult times, it went out and looked for new markets. Now it has gained new export markets in places that it would probably not have thought of before. I commend Wrightbus for its work.

Mr Brady: Go raibh maith agat, a LeasCheann Comhairle. Does the Minister agree that the development of the renewable energy sector, both in manufacturing and infrastructure, is vital to developing trade and exports to other countries?

2.45 pm

The Minister of Enterprise, Trade and Investment:

Yes. Last month, Invest Northern Ireland assisted with an inward investment visit by the XEMC Wind Power Corporation, which is a wholly owned subsidiary of the XEMC Group. It is 38% state owned and manufactures in the Hunan province in China. The company is coming out into the world and is looking for places in which to invest, which applies to Chinese companies across the piece. That has been seen most recently in the purchase of EDF Energy, a power company in GB, which means that the Chinese Government have a say in the power infrastructure of GB. One wonders what the Ulster Unionists would have to say about that.

It is an indication that China is coming out into the world and is looking for places in which to invest. I think that we can attract Chinese investment in renewable energy. Chinese investors are also interested in other infrastructural investments, and we are keen to talk to them.

Ms Lo: I welcome the Minister's recent visit to China. Wrightbus has operated there for a long time, perhaps 20 years. Every year, I hear about our companies making two trips to China, but follow-up work is needed with China. We need

to build up that relationship and friendship. The odd visit is not really worth that much.

Mr Deputy Speaker: Question.

Ms Lo: Will the Minister explain what kind of follow-up work our offices in Shanghai and Hong Kong normally do?

The Minister of Enterprise, Trade and Investment:

As I said, we have an office in Shanghai. On the visit, I was accompanied by the chief executive of Invest Northern Ireland, and one reason for the visit was to assess what more we needed to do in the Far East. Should we have an office in Hong Kong, for example? I think that we should, because Hong Kong, as the Member knows, is the gateway into and out of China. If our companies were there, it would give them a good stepping stone into the Chinese market, which is absolutely huge. Hong Kong is a free trade area with China, so that is a strong proposition for some of our companies. The visit was partly a trade mission, and we were looking for foreign direct investment. However, we were also assessing what more we could do. The Member's question is apt, because we need to do more in the Far East.

2012 Olympics: Training

4. **Mr Lunn** asked the Minister of Enterprise, Trade and Investment, in light of the tourism potential of the 2012 Olympics, for her assessment of the remarks by the chief executive of Sport NI on the failure to date to attract teams to train in Northern Ireland. (AQO 722/11)

The Minister of Enterprise, Trade and Investment:

I concur with the remarks made by my colleague the Minister of Culture, Arts and Leisure. It is regrettable that the chief executive of Sport NI chose this particular time to air what is obviously a personal viewpoint. Given the global exposure afforded to the Olympic Games, it is our intention to use the event as a lever to generate additional overseas visitors to Northern Ireland. We will also utilise contact with non-accredited press during the games and use the opportunities to showcase Northern Ireland throughout the torch relay.

Mr Lunn: The Minister has pre-empted my supplementary question. Does she agree that, given the enormous number of people who will attend the Olympic Games and the large proportion who will claim Ulster connections,

any negative comment by people in the public eye or in authority should be avoided?

The Minister of Enterprise, Trade and Investment:

I am tempted to say that we should leave it to the press and media to make negative comments, because that seems to be what they are best at. However, it is unlikely that the world's largest event will be so close to Northern Ireland again during our lifetimes, so the opportunities to build on that are unprecedented.

We have been working with the tour operators who are responsible for co-ordinating the travel arrangements for athletes participating in the games to ensure that we are included in the pre- and post-Olympics packages. If people will be travelling from afar, from places such as Australia or New Zealand, they may want to add something on to their visit. We are arranging pre- and post-Olympics familiarisation visits for key media contacts attending the games, and we are also targeting displaced Londoners who may wish to escape the whole Olympics experience. We are trying to tell them to come to Northern Ireland because we have great value offers and packages linked to other events. We are trying to present ourselves as a destination in which to relax and rejuvenate. Therefore, we are being proactive. The year 2012 is hugely important for Northern Ireland for many reasons, not least the London Olympics.

Mr Campbell: The Minister referred to using leverage around the 2012 Olympics. While trying to ensure that visitors come to Northern Ireland from London, will she ensure that considerable mention is made of the fantastic achievement of the rowers from the north coast? Will she further ensure that, to use a pun, some considerable leverage is deployed to get people who are interested in that sport to come to the north coast?

The Minister of Enterprise, Trade and

Investment: There has been a lot of talk about golf recently, and rightly so. We have had tremendous successes, most recently by Graeme — I will not say his second name because, if he is here, Mr McClarty will correct me again.

Mr McDevitt: McDow-ell.

The Minister of Enterprise, Trade and

Investment: McDow-ell. I much —

Mr Campbell: G-Mac.

The Minister of Enterprise, Trade and Investment:

G-Mac, yes, I will call him G-Mac. That is much safer in the House.

It is the Department of Culture, Arts and Leisure's (DCAL) remit rather than mine, but the rowers have been tremendously successful over the years and, sometimes, their achievements have not been recognised. We are working closely with DCAL in the pre-games training camp group and we are pushing in all the areas in which we have been successful, and I hope that we have some success.

Mr Burns: Will the Minister detail her Department's input with tourism bodies to attract international teams that may, prospectively, use Northern Ireland as a base?

The Minister of Enterprise, Trade and Investment:

As I indicated, DCAL is working with us in the pre-games training camps. Obviously, the Department of Culture, Arts and Leisure takes the lead in that matter. The Northern Ireland Tourist Board represents my Department's interests and it is committed to supporting the work of that group. We fully support the games strategy, a point that is illustrated through the agency's representation on a number of groups and the delivery of key tourism projects for 2012. We have a great product to offer in 2012, right across the spectrum from the Titanic Quarter to the Giant's Causeway. Therefore, it is important that we sell that product through the Northern Ireland Tourist Board or Tourism Ireland.

Research and Development

5. **Lord Browne** asked the Minister of Enterprise, Trade and Investment for her assessment of the research and development statistics recently published by her Department. (AQO 723/11)

The Minister of Enterprise, Trade and Investment:

The exploitation of research and development to grow the economy is highlighted in the Programme for Government. Therefore, I welcome the encouraging results of the 2009 survey. Total business expenditure on R&D has increased by 76%, which is a positive indicator of how our companies are investing for the future. The 36% increase among our indigenous small and medium-sized enterprises is, perhaps, most noticeable. Much of that has been delivered through enhanced collaboration between firms and universities. Such collaboration will remain a key driver in our forthcoming economic strategy.

Lord Browne: I thank the Minister for her answer. I welcome the fact that that was the highest research and development expenditure on record in Northern Ireland. However, will the Minister give details of Belfast companies that have benefited from research and development, which, it has been proven, is critically associated with success?

The Minister of Enterprise, Trade and Investment: Of course, Bombardier, in the Member's constituency, is the biggest driver of innovation and research and development. The CSeries aircraft's composite wing, which is made using a resin transfer infusion process, was developed in Belfast with R&D support from my Department. The benefits of that process are significant for the aerospace industry. Progress in making such advanced materials will also help other industries such as Wrightbus.

The CSeries wing programme will result in £520 million of investment in Northern Ireland. As the House knows, that is the largest ever single outside investment in Northern Ireland, and it will greatly develop, to a completely new level, the capability and skills at Queen's Island and generate more than 800 jobs during the peak production years. Another company called APT Licensing was recently acquired by CSR plc, and that will further strengthen our region's research expertise and skills base.

That was a spin-out company from the university. So, again, we are seeing innovation and research and development leading the way. There is much more to be done, particularly in accessing European funds under the seventh framework (FP7), and the new eighth framework (FP8) when it comes.

Mr McDevitt: I join the Minister in acknowledging the significant progress that we are making in developing an innovation culture here in the region. Does she agree that now is absolutely not the time to cut back research or university education funding and that this is the time to redouble our investment in those areas?

The Minister of Enterprise, Trade and Investment: I am happy to agree with the Member that one key element in increasing our research and development and innovation has been the work between the industry and the universities. We have only two universities in Northern Ireland, as I said earlier, in relation to the European moneys that we hope to access. However, having only two to work with gives us the chance

to be even more proactive. I believe absolutely that both are world-class universities. We cannot allow funding difficulties to dumb them down because it is so important for us to have them driving forward research and development and innovation so that we have further spin-out companies, which we so need.

Mr Kinahan: I thank the Minister for her answers. She partially covered what I was going to say and mainly did so without petty point-scoring. In connection with the development of the Northern Ireland economic strategy, does the Minister plan to further stimulate innovation, research and development and other areas of growth, apart from the universities?

The Minister of Enterprise, Trade and Investment: If the Member had have been in the House earlier, he would have heard me talk about the plans for innovation in relation to the FP7 money and the fact that Invest Northern Ireland has appointed someone in Brussels to liaise with the European Commission to make sure that we get the maximum amount of money out of FP7 and to try and focus FP8 so that smaller businesses here in Northern Ireland can take advantage of those. I know that, for small businesses, it is a daunting prospect to look to European funds because of all the bureaucracy. We made those points very clearly to Máire Geoghegan-Quinn, the European Commissioner, when she visited us in November, and I hope that she will take those messages to Brussels.

Government Assets

6. **Mr F McCann** asked the Minister of Enterprise, Trade and Investment to outline any discussions her Department has had with the Minister of Finance and Personnel about transferring assets to the community and voluntary sector to assist with the development of the social economy. (AQO 724/11)

The Minister of Enterprise, Trade and Investment: My Department has had no discussions with the Department of Finance and Personnel (DFP) about transferring assets to the community and voluntary sector to assist with the development of the social economy. DETI officials have met officials from the DFP to consider wider social economy issues in relation to capacity building in the sector. Both Departments are also represented on a number of stakeholder groups that provide for a two-way exchange of views

on matters that relate to the social economy sector.

Mr F McCann: I thank the Minister for her response. Will she confirm her commitment to the social economy as a key priority for her Department? Will she assure the House that the social economy will be protected in the Budget?

The Minister of Enterprise, Trade and Investment: I hope that, by now, the Member knows how much emphasis I place on the social economy. It can be seen in how supportive I have been of Invest NI's social entrepreneurship programme and the fact that we have published a social economy strategy. I have visited Sector Matters in NICVA (Northern Ireland Council for Voluntary Action) to see the excellent work that it carries out on behalf of the whole social economy sector. I was in Glengall Street and visited the fair that it held there. At every opportunity, I promote the social economy because it can do things for Government perhaps even better than Government can.

Mr McCallister: I am grateful to the Minister for her reply. What more can she do to encourage the social economy partners, particularly to help economic growth at this very difficult time?

The Minister of Enterprise, Trade and Investment: As I said to the previous Member, I have been very proactive about the social economy sector, because it can provide services for the communities in a way in which Government would not be able to provide them. It is very much of the local community, and it understands what goes on at local community level in a way in which perhaps Government does not. It can provide services; indeed, social economy organisations carry out very inspiring work, as they provide jobs for young people who would not otherwise have a job.

We need to support the social economy ever more, and I will not be found wanting when it comes to that economy.

3.00 pm

Regional Development

Mr Deputy Speaker: Question 13 has been withdrawn.

Gritting: Roads and Footpaths

1. **Sir Reg Empey** asked the Minister for Regional Development who is responsible for gritting and clearing snow on public footpaths. (AQO 734/11)

9. **Mrs D Kelly** asked the Minister for Regional Development what steps his Department is taking, in conjunction with local councils, to ensure that all key roads and pavements are gritted during particularly cold spells of weather. (AQO 742/11)

15. **Mr Gardiner** asked the Minister for Regional Development how his Department works in conjunction with local councils to grit and clear snow on public footpaths. (AQO 748/11)

The Minister for Regional Development (Mr Murphy): A LeasCheann Comhairle, with your permission, I will reply to questions 1, 9 and 15 together, because they all concern gritting and the clearing of snow from public footpaths.

During the most recent review of Roads Service's winter service policy, which was fully debated and accepted by the Assembly, it was recognised that the cost of salting all footways would be prohibitive and that the basic logistics of introducing such a service, which is largely a manual task, made it impractical. In the same review, it was proposed that in periods of prolonged lying snow, the Department for Regional Development would seek to enlist the help of other agencies, such as district councils, to assist in clearing busy town centre footways and pedestrian areas. In consultation with NILGA, Roads Service drew up a draft legal agreement to try to facilitate that process. However, at that time, only a small number of councils signed up to the agreement.

After last year's spell of wintry weather, I asked the chief executive of Roads Service to revisit the issue. Since that time, Roads Service has provided NILGA with further clarity on an amended model. The main change is that the indemnity offered to councils in the original agreement can now be extended to a private sector organisation acting as the council's subcontractor or agent. I recently met NILGA representatives to discuss and clarify a number of issues about that agreement, and I am hopeful that councils will now be in a position to sign up to that voluntary partnering agreement.

Roads Service has confirmed that it continues to provide 3,500 salt boxes and 39,000 grit piles at strategic locations, which can be used by the general public on a self-help basis to help prevent the formation of snow and ice on pavements and roads. With regard to ensuring that all key roads are gritted during particularly cold spells of weather, Roads Service has no statutory obligation to salt roads. However, it earmarks funds to provide a salting service with the aim of helping main-road traffic to move safely and freely in wintry conditions.

Sir Reg Empey: I thank the Minister for his reply. He will be well aware of the deep frustration and, indeed, anger throughout the community about the recent chaos during the cold weather, the number of people who have been injured and the number of businesses that have been damaged. What steps will the Minister take to resolve the liability and insurance issue whereby those who actually do help themselves by gritting areas adjacent to their property are subject to liability? If that could be resolved, at least one problem would be solved.

The Minister for Regional Development: That question arose during my recent meeting with NILGA. In the original proposition, to which Belfast City Council and Ballymena Borough Council signed up, the issue of indemnity for councils that carry out that work was resolved. However, a further issue arose when I asked that the negotiations around indemnity for third parties who may carry out such work on behalf of councils be restarted following another cold spell earlier this year. When I met NILGA the other week to provide it with further clarity, the issue of blanket cover for all people involved arose.

I am quite happy to see whether some kind of statement can be made. The statement from the Attorney General in the South was given as an example. However, Roads Service has been distributing grit boxes throughout housing estates for many years, and people have been going out on a self-help basis to clear the areas around their homes and those of their neighbours without any indemnity issues. I cannot understand why people would think that what does not apply on housing estates would apply on shopping streets. I am quite happy to provide clarity, if people think that they need it. However, I do not believe that there is an issue. The issues around indemnity were resolved a long time ago.

Mr Gardiner: Does the Minister agree that it would be more convenient for the public if they were able to get grit boxes, sand and salt in various towns, rather than having to drive into the centre of Craigavon? Some people are doing a 5- or 6-mile round trip to the depot there to collect sand or salt. It is limited to the sand boxes, and boxes are no longer available for the public in the Craigavon area. Can the Minister further clarify —

Mr Deputy Speaker: One question only.

Mr Gardiner: Thank you.

The Minister for Regional Development: Different local councils have different arrangements with their local Roads Service sectional offices, and they can make particular arrangements that suit them. I know that that has worked in other council areas. I advise the Member to talk to Craigavon Borough Council about what local arrangements it has with Roads Service in the Craigavon area. It is difficult for Roads Service when a lot of people turn up at its depots, because there is usually a lot of activity with gritting lorries coming in and out and salt barns being replenished. If members of the public or, indeed, some council officials, turn up in the middle of that work, a hazard can be created.

However, I have heard councillors from other areas express the view that they have come to satisfactory local arrangements with their local Roads Service depot. I think that there has been a willingness to do that. I advocate that the Member talk to Craigavon Borough Council about coming to a similar satisfactory arrangement.

Miss McIlveen: Is the Minister content for people in houses on unadopted roads to be at the mercy of developers to provide salt and grit? Furthermore, what will his Department do to assist those who find themselves in a situation in which the developer has been declared bankrupt?

The Minister for Regional Development: The Member will know that the issue of unadopted roads is one where the end of the property boom meant that construction contractors got into difficulties, particularly in recent times. Roads Service has the option of deploying the bond that it holds to finish the work that a contractor has left behind. It is reluctant to do that in the first instance, because, once a bond

is called in, the developer is effectively declared bankrupt. Therefore, if Roads Service were to take that as a first option, I am sure that many Members would come to me to ask that people be given some space and time. Those people may be able to remain solvent and get the work done, and they may be waiting for other contracts or payments to come in. The option to finish properly the job that contractors have left behind is not one that Roads Service would visit first, but it is open to it. In such cases, roads can be adopted, and the normal arrangements that apply to other estates will be in place.

Ms M Anderson: Go raibh míle maith agat. Is the Minister confident that a resolution will be found with local councils soon?

The Minister for Regional Development: I cannot see any reason why a resolution should not be found. As I said, two councils signed up to the agreement originally, and activities connected to that agreement came into place in about 2003. Up to seven councils have now made arrangements with Roads Service, be they formal or informal, to get the work done. I have heard people who have been interviewed over the past week or two say that they have been quite satisfied with their local arrangement with Roads Service. Members of the public in the towns and boroughs that those people serve are also quite satisfied with the service that has been provided. Therefore, if councils have questions about indemnity issues, I think that they should be resolved.

However, if the issue is one of resources, it is, of course, up to each council to decide how much clearing and salting it wants to do. As I said publicly when I was being interviewed, our chief executives told me that the conditions mean that manual staff cannot be deployed at this time of year but that they could be usefully deployed in salting and gritting footpaths. Therefore, I am hopeful that councils will sign up to the agreement. I think that it is the best arrangement. It is a voluntary arrangement; it cannot be imposed on people. However, if we are to keep footways safe for people to walk on, particularly in town centres and shopping areas, it is a good arrangement. Where councils have become involved in the arrangement, they have, by and large, been satisfied with the way that it has worked out.

Mrs D Kelly: This matter is quite serious, and, as we know, a Scottish Minister fell on his own

sword over it. Does the Minister now agree that there is a need for clear leadership and that, given the complex nature of the issue, it would be best if an interdepartmental task force were established?

The Minister for Regional Development: I am not sure why the Member wants to make a complex arrangement any more complex by establishing an interdepartmental task force. I am not sure how that would satisfy anything. The discussion has been quite clear. The Assembly debated the matter back in 2001 or 2002. Indeed, I think that the Member on the opposite Benches brought a proposal on winter services to the Assembly.

The Assembly debated and agreed that proposal, and it also agreed that, in circumstances such as snow lying on footpaths, it would seek to enter into voluntary arrangements with councils and other agencies so that the work in question could be carried out. An agreement was drawn up through NILGA, and discussions with councils were held. Two of those councils signed up to the agreement, which has been revisited. I took the lead earlier this year by asking Roads Service to go to NILGA again to see whether we could revisit the agreement and find out about and deal with the issues that councils felt were preventing them from becoming involved. Further indemnity issues arose, and we put in an amended proposal that dealt with those issues. On that basis, I think that another five or six councils have come on board, and I have been told that more are likely to do so.

As I said in response to the previous question, where councils have come on board, the arrangements seem to be satisfactory. I have not heard of any indemnity issues that have arisen with either Belfast City Council or Ballymena Borough Council, which have both been carrying out the service for a number of years.

I am not sure how the Member feels that the situation would be eased or made less complex by reversing things and setting up a cross-departmental task force to deal with the issue. The clear way to deal with it is to set up voluntary arrangements with local government organisations, and I am glad to say that that approach is proving to be successful.

NI Water

2. **Mr Dallat** asked the Minister for Regional Development when he intends to bring forward legislation on the role of the Utility Regulator and the Competition Commission in relation to water. (AQO 735/11)

5. **Mr P J Bradley** asked the Minister for Regional Development, in relation to his ministerial statement of 13 September 2010, to outline any proposals regarding NI Water that he has brought to the Executive. (AQO 738/11)

The Minister for Regional Development: With your permission, a LeasCheann Comhairle, I will reply to questions 2 and 5 together.

In my statement on 13 September, I advised the Assembly that I intend to put proposals to the Executive on both short- and long-term governance arrangements and structures for NI Water. I said that I would propose short-term legislative changes to stabilise existing governance arrangements before Christmas and that I would submit longer-term proposals on the status of NIW in the new year. Legislation resulting from the short-term proposals should be taken forward at the start of next year, and legislation resulting from the longer-term recommendations will need to be taken forward under the new Assembly. The short-term proposals are as outlined in my statement of 13 September. A paper on the longer-term proposals has been formulated, and I intend to circulate it among Executive colleagues prior to the Christmas recess.

Mr Dallat: Will the Minister assure the House that, despite internal or external advice that he might have received, he will continue to support the involvement of the Utility Regulator in NI Water, so that standards can be driven up and efficiencies achieved?

The Minister for Regional Development: Standards in the provision of clean drinking water and in the work carried out by NIW and its contractors are very high. The efficiencies targets that have been set for NIW are twice those set for other Departments and agencies. Although the broad efficiency target is 3%, the target set for NIW is 6%, which it is confident that it can achieve. The reality is that the Utility Regulator was brought in to regulate a self-financing, private-sector-type company. However, that is not the situation that emerged with NIW, because of the Executive's reluctance to follow

through on direct rule proposals, which, with the exception of the Alliance Party, all parties here were opposed to. Therefore, there is a need to look again at the Utility Regulator's powers, which came about as part of the contradictory process around NIW, as opposed to that which was envisaged under direct rule. Consequently, some changes will be required. Nevertheless, I am happy to talk to the Utility Regulator. I have already met its chairman, and my officials are dealing with the regulator's office. I am quite happy to talk about whatever proposals might be required.

Mr P J Bradley: The widespread view among those who note the happenings in the Assembly is that the Minister's statement on 13 September was little other than a Sinn Féin kite-flying exercise. Does the Minister concede that a positive consensus should be sought in the Executive, even in advance of the next elections?

The Minister for Regional Development: If the Member had listened to what I said at the time, he would know that that is clearly my intention. I said that I would bring forward proposals to Executive colleagues to get a consensus that would inform the mandate that comes in after the election. I am glad that he supports that, because, when I went in front of the Committee, his party colleague was less than enthusiastic about the idea of changing legislation relating to NIW's powers. However, it is not unusual for the SDLP to adopt one position in private and another in public.

Mr Leonard: The Minister indicated that he is considering long-term proposals. What are those long-term proposals?

The Minister for Regional Development: The current governance system is a hybrid of a regulated self-funding utility in law and a publicly funded non-departmental public body (NDPB) for financial purposes. As I said, that causes numerous inconsistencies and risks, which I want to address. Three options are being considered: the status quo; a statutory corporation; and an NDPB. Officials are carrying out an appraisal that will consider monetary and non-monetary costs and benefits, along with any wider impacts. That appraisal will inform decisions on the way forward. The future roles of key stakeholders will depend on which option is accepted.

Road Maintenance

3. **Mr Gallagher** asked the Minister for Regional Development whether road maintenance is currently a priority for his Department. (AQO 736/11)

The Minister for Regional Development: Maintaining the surface and underlying structure of roads and footways is essential for the social and economic well-being of the North, and road maintenance continues to be one of my Department's highest priorities. In recognition of that, I confirm that the current structural maintenance allocation for 2010-11 is some £71 million. That level of expenditure has allowed my Department's Roads Service to give priority to the maintenance of the strategic road network, which carries the greatest volume of traffic. Other roads, including rural roads, have and will receive resurfacing treatments as far as the Budget allocation permits.

3.15 pm

Mr Gallagher: The Minister will know that his Department's timeline for repairing and resurfacing rural roads is once every 187 years. Will he give us a timeline for the repair of potholes, more of which will emerge after the freeze that we have had, from reporting to completion of work?

The Minister for Regional Development: The timeline is the same as that which existed before the freezing weather. There is an intention, which is accepted under law and is part of the reasonable defence case for damage to vehicles as a result of pot holes. All Members will know that not enough money is going into structural maintenance, nor has it been for a long time; the Snaith report, which was commissioned by my Department, provided further evidence of that. Roads Service bids every year for what it considers sufficient, and it gets an allocation that it has to manage as best it possibly can. I cannot see how any Member would be satisfied with the allocation; I am certainly not satisfied with it. However, it is up against the allocations that are awarded to all other Departments and to all other essential services and key requirements that Ministers argue for at all other times.

When Members make proposals to upgrade roads, spend money on cycle paths or increase threefold the provision of winter service, we have to balance the costs associated with such

proposals against the amount of money spent on a ton of salt as opposed to that spent on a ton of bitmac and decide which of those will have the longer-term effect on road structures. Those are hard choices to make, and I do not anticipate them getting any easier.

Mr Campbell: Will the Minister ensure that some priority will be given to unplanned maintenance? The past week's extreme weather conditions, which were mentioned by the Member for Fermanagh and South Tyrone, have resulted in road surfaces deteriorating, in some instances considerably, to a worse condition than they were in a month ago.

The Minister for Regional Development: We will certainly be bidding for that. We have allocated some £3.7 million across Roads Service's divisions to deal with unplanned maintenance, and we have bid for additional money in the December monitoring round to cover it. However, we enter into those processes with every other Department making equally compelling cases. I noted that one of the Member's colleagues said that we did not have enough money in the reserves to deal with this matter. The fact is that there is no money in the reserves. We have what we have, and we try to allocate it as best we possibly can.

When Members argue for money to be spent on certain Budget areas, they should realise that that money has to come from another Budget area. Parties argue for money for social housing, but that money has to come from other Departments and from money that might otherwise be spent on roads and resurfacing. It is a challenge, because road surfaces generally are deteriorating and the volume and weight of traffic are increasing. I have long argued in the Executive and in the Assembly that the roads network is the single biggest asset that is owned by the Executive, and sufficient money needs to be invested in it to maintain it.

Mr McCarthy: The Minister is a strong advocate for fairness and equality. He knows about the deplorable condition of the roads in the Strangford constituency and, in particular, on the Ards Peninsula. Will he do his best with his £71 million to ensure that a fairer and more equitable slice of that cake comes to the Strangford constituency?

The Minister for Regional Development: I have had this discussion with the Member on many occasions, and he never misses an opportunity.

The allocation is fair; it is based on a formula that Roads Service operates across all its divisions. I have visited the Strangford constituency with Mr McCarthy and other Members from the area, and I appreciate the difficulties that they face. I have visited many constituencies, and it is no pleasure to report that most are experiencing similar issues. We have attempted to allocate money as fairly as possible, but, ultimately, our limited resources mean that only a limited amount of work can be done.

Roads: Salt and Grit

4. **Mr T Clarke** asked the Minister for Regional Development whether there are enough salt and grit reserves remaining for the winter, given the recent and prolonged cold spell. (AQO 737/11)

The Minister for Regional Development: My Department's Roads Service has advised that, as part of its preseason preparation, salt barns, which are strategically placed in depots throughout the North, were filled to capacity.

The salt reserve of around 65,000 tonnes is more than enough to treat scheduled roads during a typical winter. That said, Roads Service has advised that approximately 40,000 tonnes of that reserve has been used in the two months so far this winter. The length of time that those reserves will last is dependent on the severity of the weather during the remainder of the winter period. However, Roads Service has advised that arrangements are in place to replenish the depleted salt stocks.

Mr T Clarke: I thank the Minister for his answer. The mild spell since the bad period that we had for a couple of weeks will provide ample time to replenish those grit piles. Will the Minister give any consideration to other roads whose residents could go to Roads Service and remove some of that salt where there has been a difficulty in the past?

The Minister for Regional Development: The current spell of weather allows an opportunity to replenish salt stocks, and that is happening. It happened last winter. Although the weather was not as severe early on last winter, there was a cold spell followed by a milder spell during which stock piles were filled up again. Roads Service had enough salt to get through last winter, and the Member will remember that, in the early part of this year, we had a very prolonged cold spell.

The Member asked about the replenishment of grit piles. There are, as I said, some 39,000 grit piles around rural roads. I know from my own experience that many of them will have been used up over the past couple of weeks, and Roads Service will get around to trying to replace those. However, I advise the Member to contact his local office if grit piles in specific areas need to be replenished.

Mr F McCann: If we find ourselves in the midst of another bout of severe weather, will the Department increase the frequency of road salting?

The Minister for Regional Development: During the recent spell of cold weather, approximately 300 departmental staff were out treating the roads almost 24/7. Given the reports from other places, including Scotland, other parts of Britain and the South, most people will agree that Roads Service did a good job of keeping the main networks open and of keeping traffic flowing. Those were very difficult times. We all experienced that last Monday evening when we tried to get home from here. The severity of such weather poses a major challenge to Roads Service personnel, but the intention is to keep that service going. As I say, Roads Service will spend this period replenishing stocks and placing grit piles and filling salt boxes wherever it can. The frequency with which staff go onto the roads is determined by the weather, the weather forecast and the conditions.

Mr K Robinson: I congratulate the roads staff who have been out in all weathers and in very difficult circumstances. They will never please everybody, but they have put up a very positive show this time round. What positive lessons has the Minister learned while addressing the recent cold snap, given that another one will perhaps follow towards the end of this week?

The Minister for Regional Development: I thank the Member for his remarks about Roads Service, whose people have almost seemed to act as another emergency service during the severe weather and have gone out in dangerous driving conditions to try to keep the networks open. Sometimes, I hear critical voices only. That is understandable if people are frustrated, trapped in their homes or have difficulty accessing work or school.

The Member asked what lessons have been learned. Different issues arise year-on-year. In previous years, rural schools had difficulties

remaining open, and we amended the winter service policy to ensure that rural schools could contact Roads Service and receive prompt gritting services. That seems to have had a positive effect on schools that have a history of difficulty. Earlier this year and during the recent cold spell, the issue of who is responsible for footpaths has arisen. We have been very proactive all year, not just in the past number of weeks. The engagement with NILGA started very early in the year, and draft agreements were put in place as far back as May. Different elements are thrown up year-on-year, and Roads Service will constantly re-evaluate the service that it provides, its engagement with others and how to get the best possible service to keep people moving during the winter.

Water: Rural Areas

6. **Mrs McGill** asked the Minister for Regional Development what progress has been made in relation to water mains connections in rural areas. (AQO 739/11)

The Minister for Regional Development: I have undertaken a review of the policy on the provision of financial assistance to properties that are not served by a water main. Following the review, I issued a consultation document on 1 November for a period of 14 weeks until 4 February 2011. The aim of the review was to consider ways in which the Department for Regional Development (DRD) could provide financial assistance to enable householders in areas where no water main is near their homes to get a mains extension or access some other wholesome water supply. The review considered the risks, costs and benefits of four options: maintaining the existing level of financial assistance; substantially increasing the level of financial assistance; providing a grant to NI Water to provide a mains connection to individual households or groups of properties; and introducing a grant for the construction of a private bore well.

Mrs McGill: Go raibh maith agat, a LeasCheann Comhairle. I thank the Minister for his response, and I welcome the work that has been done thus far on the matter. There are still people in my area who do not have a mains water supply and who want it. What would it cost to provide a mains connection to residents in rural areas who want that and do not have it?

The Minister for Regional Development: I agree with the Member that it is deplorable that, in this day and age, so many properties are not connected to a mains water supply. That is why I undertook a survey to ascertain how many properties are in the position of wanting access to a mains water supply and to try to provide some costing for that. It depends on how many properties would take up any offer, on whether properties could be grouped together and on what the construction costs might be. Some estimates were in the region of £50 million, which would make it very challenging for the Executive to move forward with it. That is why we put out for consultation the option for grant-aided bore wells. We will receive feedback from the consultation in February, and that will allow the Executive to consider further the action that they can take.

Mr I McCrea: The Minister will be aware that there is now a thaw after the freeze in the country over the past number of weeks. Will he give an assurance that Northern Ireland Water will look sympathetically at the cases of people who live in rural areas, such as farmers, whose pipes may burst and who will lose water unknowingly? Will he ensure that those people do not receive large bills?

The Minister for Regional Development: Even last night, there were still hard frosts, but, when the cold period ended and the thaw started, NIW issued a press release advising people to check pipeworks to ensure that there are no burst pipes. The Member is correct that burst pipes are more than likely at this time. I will ask NIW to consider the issue of farmers, particularly in the cases of people who have rural and isolated water supplies to drinking troughs, and so on, in outlying farms. In the first instance, rather than getting into the question of who will deal with the problem, we should try to encourage people to check any water supplies to ensure that there are no bursts. In that way, if people find that there are bursts, we can stop the water supply and ensure that they are not metered for that and that they get the burst fixed as quickly as possible.

Mr Burns: Does the Minister agree that everyone has a basic right to a mains water supply? Does he believe that the current confusion over the stature and future of Northern Ireland Water is affecting the delivery of that service?

The Minister for Regional Development: I am not sure that having a mains water supply is a right. We may consider it to be a right, but whether it is enshrined in any legislation is another issue. I assure the Member that the issues in NIW have not had any impact on our carrying out our research into what is required. If the Executive were minded to cover the cost of connecting everyone to a mains water supply, I am sure that NIW could plan and deal with the provision of that.

inventive in dealing with roads, so I will seek for him to be inventive when it comes to allocating money in the December monitoring round.

Road Maintenance

7. **Rev Dr Robert Coulter** asked the Minister for Regional Development how much of the 2010-11 budget has been allocated for the structural maintenance of roads. (AQO 740/11)

The Minister for Regional Development: Roads Service has advised that the structural maintenance allocation for 2010-11 is approximately £71 million. However, that figure may change because of in-year adjustments and any end-of-year allocations that my Department receives.

Rev Dr Robert Coulter: I thank the Minister for his answer. Will he provide an update on the Department's recent capital bid for roads structural maintenance? Does he believe that the Executive are meeting his Department's needs?

The Minister for Regional Development: In response to an earlier question, I said that it is quite clear that the structural maintenance budget is not sufficient for what is required to provide proper structural maintenance for the roads, and I have advocated that for some time.

That has been the case for a long number of years. Roads Service bids for the full amount that it requires and is allocated resources. Quite often, throughout the year, that is topped up with money from monitoring rounds. However, given that Departments are spending much better than they were, the money coming back to Roads Service at the end of the year has been reduced.

Under the December monitoring round, we have made a bid for money for this year, but that will have to compete with all other bids. Given the particular problems that there have been on the roads, we will try to find adequate resources to do the best that we can. I noticed that the Finance Minister, in a statement he made locally, said that DRD needed to be more

3.30 pm

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

Private Members' Business

Hospice Services

Mr Deputy Speaker: The Business Committee has agreed to allow up to one hour and 30 minutes for the debate. The proposer of the motion 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 wish to speak will have five minutes.

The Chairperson of the Committee for Health, Social Services and Public Safety (Mr Wells): I beg to move

That this Assembly calls on the Minister of Health, Social Services and Public Safety to fund hospice services in line with the funding provided for such services by the Scottish Government.

Mr Deputy Speaker, they say that the Maze prison is a hard place to get out of, but I am finding it extremely hard to get out of this Building today. The reason for my concern is that I have a daughter getting married tomorrow, and I should not be here at all. However, I am standing here with several stone of guilt on my shoulders. As the rest of the family make preparations, I am standing here. I make those comments because it is normally expected that the proposer of a motion will remain in the Chamber throughout the debate. If I remain, there will be a wedding tomorrow, but there will also be a divorce. Therefore, on this occasion and this occasion only, I have to beg the indulgence of the House and hope that the Minister does not feel that I am slighting him. The situation is not of my making; I was expecting the debate to come up not at this time but before Question Time. I beg the indulgence of the House as I commit the mortal sin of leaving before the end of the debate. I hope that Members will understand.

This is a very important issue and one that resonates with all Members of the House. I move the motion on behalf of the entire Committee for Health, Social Services and Public Safety.

On Tuesday 30 November, the Committee met a range of stakeholders in the Long Gallery. Among

those groups were representatives from the Northern Ireland Children's Hospice. Those of us who met the group heard at first hand of the vital work that it carries out, often in the most distressing of circumstances. I am fortunate that Laura, my daughter who is getting married tomorrow, is in perfect health. However, I found it very distressing to hear from those who care for children with a shortened life expectancy or very severe conditions. We were all touched by what we heard in the Long Gallery.

We also heard directly from a parent and learned about the immense support that the Children's Hospice affords to children, their parents and carers and to its nurses. Therefore, at the outset, on behalf of the Committee, I pay tribute to the tremendous work done not only by the Children's Hospice but by all hospices in Northern Ireland. It is important that we name those: the adult hospice on the Somerton Road in Belfast; the Children's Hospice; Foyle Hospice in Londonderry; Southern Area Hospice Services, which is on my doorstep in Newry; and the Marie Curie Hospice in Belfast. The hospices do a remarkable job, and we, as public representatives, need to be seen to support what they do. Unfortunately, we all know someone whose life has been affected by cancer or other serious illness. We all also know of stories of how that burden has been eased for people through support from organisations such as the hospices.

From a personal point of view, although my late mother-in-law was not in a hospice but in Antrim Area Hospital when she died, I know that the care and attention to detail that was shown by the nurses during her passing made her death so much easier for the entire family to come to terms with. What we saw was a textbook way of dealing with a very difficult situation. It must have been difficult for the staff, too. However, it was, if I can put it this way, a good death, a death without pain that took place while she was surrounded by family and with tremendous support from clinicians and medical staff. Equally, I know from the many testimonies of those whose parents and loved ones died in hospices that excellent care is provided.

I want to provide some background information today, particularly on the work of the Northern Ireland Children's Hospice. It cares for children and young people with life-limiting and life-threatening conditions. It also supports their families and those who are close to them, and

it provides care across Northern Ireland. There are more than 750 life-limited children and young people living in Northern Ireland. Life-limiting conditions include muscular dystrophy, genetic disorders such as Batten's disease and life-threatening conditions such as cancer and heart disease. Those children have complex needs, often require 24-hour care, and many of them will die before they reach adulthood. The Northern Ireland Children's Hospice cares for 250 of those children, so one third of life-limited children here are cared for by one institution.

The Northern Ireland Children's Hospice provides respite and end-of-life care for those children, young people and their families at Horizon House and in their homes. Indeed, it is important to realise that the work of the Northern Ireland Children's Hospice does not end at the door of the building. It sends qualified nurses to care for children in their home, which often gives their family and full-time carers a well-deserved break. It is the only children's hospice in Northern Ireland, but it provides much-needed help and care. Children from birth to 18 years old are eligible for care there, and, as with all hospice services, there is no charge to the families. Last year, the Northern Ireland Children's Hospice provided help to the 250 families and cared for the extended families throughout the children's illnesses. Sadly, in many cases, it also had to provide care after the death of a child.

As many Members will know, the Children's Hospice is also known as Horizon House and is situated in Newtownabbey. The Committee for Health, Social Services and Public Safety visited Horizon House on 15 November 2007 and held its weekly meeting there. Committee members had a tour of the building and were shown all the purpose-built children's accommodation; the family rooms; art and music rooms; play areas, a multisensory room; and a hydrotherapy pool. It was a home-from-home environment, and all the Committee members were extremely impressed by the facilities.

It is important to emphasise that, despite what some have said recently, the Committee has not spent only 10 minutes on the important issue of hospices. The Committee visited the Northern Ireland Children's Hospice in 2007, and, under my chairmanship, it visited the Northern Ireland Hospice on the Somerton Road. As the Chairperson of the Committee, I met representatives of the two Belfast hospices for

one and a half hours, and the Committee met them during a Long Gallery event. Therefore, the Committee has devoted far more than 10 minutes to the issue, which is an indication of how seriously it takes it.

Hospice services are much wider than children's hospices. As I said, adults are looked after across the Province, and, around this time last year, the Committee held its meeting in the Northern Ireland Hospice on the Somerton Road. I have no doubt that other Members will have visited hospices located in their constituency and will have seen at first hand the work that goes on to support patients and their families daily. I have visited Southern Area Hospice Services in Newry, and I see that Mr Brady, a Member for Newry and Armagh who will also be aware of the services provided by that hospice, is in the Chamber today. I was extremely impressed by the level of care, the level of funding that was required to run the facility and the sheer dedication of the fund-raising team. However, I was quite shocked that that team was able to raise so much money in what are far from adequate premises.

Top-class facilities and care cost money, and, historically, the Northern Ireland Children's Hospice has had to find its own money through fund-raising and volunteering. The raising of money through donations year after year is no easy task, and it is testament to those who are involved directly with the Northern Ireland Children's Hospice and to the members of the public across the country who put their hand in their pocket that we have a children's hospice today. I read recently that hospices in Northern Ireland must raise £5.2 million between them each year to keep their doors open. That is a phenomenal amount of money that must be raised, and it equates to some £14,000 every day. It is an indication of the dedication of the staff and of the generosity of the people of Northern Ireland that they have been able to raise that money and keep the hospice movement going year on year.

Until 2008, the Northern Ireland Children's Hospice received no government funding. In August 2009, the Health Minister announced that he would provide a grant of £538,000 each year out of the children's services budget. However, that equates to only 18% of the running costs of the Children's Hospice, which leaves a massive £2.5 million to be secured from voluntary donations. I understand from

talking to the Children's Hospice team that it is getting harder and harder to raise that money, and we do not have to go far to understand why. We are in a recession and, no matter how generous the people of Northern Ireland are, it is becoming more and more difficult to raise essential funds.

A very significant amount of money has to be raised, and it is a lot more than the Children's Hospice's counterparts in the rest of the UK have to find. In other places, the statutory sector provides around 30% of the funding for children's hospice services. If the Children's Hospice in Northern Ireland was treated in the same way as other children's hospices in the rest of the UK, it would receive around £1 million from the state. Therefore, we have a shortfall of about £450,000.

The Minister is likely to say that we do not have the resources to fund hospices at a higher level. However, there are a few areas in which opportunities could be taken. Consultants' annual bonuses of up to £75,000 cost us nearly £11 million a year. We discovered recently that premiums of up to £3,000 a year are paid to skilled craftsmen. Those premiums were brought in at a time when it was difficult to find skilled craftsmen, but that is no longer a problem. Ceasing that payment would provide money.

Mr Deputy Speaker: I ask the Member draw his remarks to a close.

The Chairperson of the Committee for Health, Social Services and Public Safety: Equally, there are areas of governance in which money could be found to fund what many in this Building believe is a very deserving cause.

Ms S Ramsey: Go raibh maith agat, a LeasCheann Comhairle. Before I start, I take the opportunity to wish the Chairperson's daughter all the best for tomorrow. I hope that the Chairperson does not clear the room when he gets up to make his speech in the way that he sometimes clears the Chamber. He should not take it personally. Perhaps the key thing is that tomorrow's speech will not be prepared.

I apologise for having to leave to go to a Committee meeting in the Senate Chamber, but I will be back towards the end of the debate. I will return.

I am delighted that the motion has been proposed for debate. As the Chairperson said, the Health Committee, as a representative body, met the hospice movement a number of times. We have also met the hospice movement as individual MLAs. At the last event, I was privileged to be part of the delegation that met the Children's Hospice representatives, including the parent of a child who uses said services. It was humbling to be part of that and to listen to that parent speaking about what the hospice movement means to him, his wife, the rest of the family and, indeed, the child who uses it. That was a moving experience, because we are talking about end-of-life care for people in our communities.

When I raised the issue at the Health Committee, we had a bit of discussion about it. Everyone is well aware of the good work that the hospice movement does daily across the constituencies. We wanted to get the wording of the motion right, because we did not want it to be seen as a battle. We want to move the issue forward, and I am glad that we are discussing it just before the Christmas recess.

Last week, I had the pleasure of handing over hampers to the Children's Hospice. A family member donates hampers every year and wanted to give them to the Children's Hospice this year. That may not seem a big gesture, but the hospice was delighted because it can give the hampers to families or ballot them in its shops. It is another way for the Children's Hospice to generate money. This week, we will switch on a Christmas tree light in my office to try to raise money for the Children's Hospice. Every small bit of money that is raised makes a big difference.

Like the Chairperson, I take the opportunity to pay tribute not only to the patients and families but to the staff and volunteers of the hospice movement for the work that they do daily. They go above and beyond the call of duty and become involved in fund-raising and all sorts of activities to bring in much-needed resources for the hospice movement to make it easier for families.

3.45 pm

I was part of the delegation that went to the Children's Hospice about 18 months ago. Again, that was a very humbling experience. What struck me was that, although there are children there who are suffering from life-threatening illnesses, the Children's Hospice adopted a

holistic approach. We always talk about needing a holistic approach to various issues. I liked the fact that the Children's Hospice took on board the needs of siblings of patients and recognised that siblings who do not have life-threatening illnesses were part of the issue. Time was made for them, and it was ensured that siblings were brought along to anything that was arranged for patients. That was a step in the right direction and did not allow any other issue to come into play. If we can do anything to help the hospice movement, we need to look at doing so.

As the Chairperson said, there was no funding until 2008. The Minister, to his credit, stepped in and gave as much funding as he could at the time. In the current economic climate, it is harder to raise much-needed funds through charitable donations or sponsorship, and the Children's Hospice is crying out for help. I ask the Minister to look at the funding issue again. Let us bring some good news at this time of the year to the hospice movement. I mean no disrespect to the Minister, but let us show those who run the hospice movement that Scrooge is from a fairy story. Let us show them that Santa McGimpsey is listening to their concerns and to their Christmas wishes.

Mr Deputy Speaker: The Member should draw her remarks to a close.

Ms S Ramsey: Let us show that there is a miracle on the Stormont Mile and see what money is there for the hospice.

Mr McCallister: I concur with other Members who have spoken. I begin by paying tribute to all who are involved in the hospice movement, whether they raise funds, provide some of the care, volunteer on reception, give up their time or offer their talents in any way to help out.

Unfortunately, I, like many in the Assembly, have had direct experience of the work of the hospice movement. My father passed away in the Southern Area Hospice in Newry. The care that he received in his final few weeks was second to none and very different from that provided in a hospital setting. Hospitals are so busy, but hospices allow patients and their families to spend time together and provide care and individual attention at a very difficult time. That service meant a great deal to my family, as I am sure it has to many others in the House who have had similar experiences.

The hospice service, which provides palliative care that focuses on the individual and is so different from a hospital setting, is something that we have to strive to protect, because that is such a vulnerable time for families. As Ms Ramsey mentioned, where you have to deal with siblings, particularly in the Children's Hospice setting, keep the focus on them and provide support for the whole family, the holistic approach of the hospice has to be recognised. I, too, had the privilege of going to an event in the Long Gallery with representatives of the Children's Hospice.

I commend the Minister for doing as much as he has been able to do to provide funding for those vital services. As well as that, he has developed the Living Matters, Dying Matters strategy, which has identified palliative and end-of-life care as a continuum of care that can evolve as a person's condition progresses. The strategy provides a vision and direction for service planning and delivery for the next five years. Indeed, all 25 recommendations that emanated from the strategy have been incorporated into the Department's action plan. Importantly, the strategy also recognises that two thirds of people in Northern Ireland would benefit from palliative and end-of-life care prior to and during their last year.

Some positive things are happening in our health sector that we must cherish and build on. As people approach the end of their life, it is a difficult, stressful time for any family. We need to support them in whatever way we can, and that is why there is support for the motion.

We have to recognise Health Service resources, and that is why I am proud to have been involved in calling for health and social care to be protected in the Budget negotiations. I will continue to call for that, because that is when we can identify the issues that we want to prioritise. However, we can do that only if health and social care are properly funded.

Mr Gallagher: We are all aware of the difficulties for individuals and families who have to deal with sickness in the Christmas season. However, it is particularly difficult for families that have a member who needs end-of-life care in this season. I pay tribute to the hospice and palliative care teams that show such wonderful commitment and provide excellent care to patients not only at Christmas time but throughout the year everywhere in Northern

Ireland. The Chairperson of the Committee identified particular hospices.

That care extends beyond hospices. We do not have a hospice in Fermanagh, for example, at the western tip of Northern Ireland. However, wonderful palliative care teams are organised through the Northern Ireland Hospice. They go to people's homes and make sure that they are well cared for and as comfortable as possible. I pay tribute to them for their outstanding work.

The SDLP supports the motion and wants to see more funding made available for our hospices and for hospice care. The motion refers to the situation in Scotland. The Scottish Executive have an expectation that National Health Service boards fund 50% of the annual running costs of hospices. An audit in 2008 on palliative care services noted that there was significant variation across Scotland in the availability of specialist palliative care and how easily patients with complex needs could access that care. I hope that hospice care will be developed evenly in Northern Ireland, regardless of where people live. It is important that all patients across the North, particularly those in remote and rural areas, do not suffer a variation of provision, which seems to have been identified in that 2008 audit in Scotland.

The Minister needs to look at further funding under a structured format that will allow for better financial security for hospices here. My colleague Pat Ramsey asked earlier about hospice funding. The Minister answered that health and social service boards, acting as health commissioners, provided 50% of the funding per adult cared for in Northern Ireland. On the other hand, Northern Ireland Hospice claims that the funding that it receives equates to 40%. Therefore, that issue needs to be ironed out. The funding improvements that the Department has made are welcome, but, as the correspondence from the Department and the hospice states, there appears to be a gap, and it must be addressed.

In relation to children's care, the hospice in Belfast was mentioned. It does such good work at a difficult time for children, their parents and their wider family. In Fermanagh, a new children's hospice is due to open in 2011. There have already been very successful fund-raising initiatives there, and people have shown great commitment to it. Therefore, I hope that, when it opens, there will, as a result of today's debate, be signs of

more structured funding arrangements for all hospice care in Northern Ireland.

Dr Deeny: I am delighted to take part in this important debate. Before I forget, I want to say that I have had the privilege of visiting the Children's Hospice and the adult hospice as a member of the Health Committee. As was mentioned, palliative care is not just about providing buildings. As Tommy said, we have a wonderful palliative care team in our area, which is led by Dr Frances Robinson, who is a consultant colleague of mine, and a senior nurse, Emma King. They provide wonderful care to the patients whom we cannot cure.

The World Health Organization defines palliative care as:

"The active total care of patients whose disease is not responsive to curative treatment."

On the issue of cure and care, when I was making notes this morning, I thought that I would mention a lecture on medical ethics that I attended more than 30 years ago, just before I qualified as a doctor. The lecturer told us that, although we young doctors might be confident that we would cure everyone, unfortunately, certain diseases could not be cured. He said that, in those instances, we had to take the letter "u" out of the word "cure", replace it with an "a" and care for our patients. Those words have stuck with me to this day. I have had a lot of experience of dealing with people whom we cannot cure but for whom we can care. As a developed country in the twenty-first century, we owe it to terminally ill patients in Northern Ireland to provide them with the best health and social care that we can.

At the start of the year, the Minister was involved in the end-of-life strategy, Living Matters, Dying Matters. He rightly stated:

"I am committed to ensuring that the people of Northern Ireland have access to high quality health and social care at all stages of their lives."

The important word in that statement is "all". That means that there should, for example, be patient and family choice. It has been mentioned already that patients often prefer to be looked after at home, in a hospice or in a care home that can provide the required standard and quality of palliative end-of-life care.

Recently, I had a concern about Marie Curie nursing in my area. A single parent, who was

younger than me, was terminally ill with a brain tumour. He had two children, and he could not return home from hospital because his Marie Curie care had been cut from five nights to two. I wrote to the chief executive of the Western Trust, and she reinstated that care. I commend her for that. However, the concern remains that Marie Curie nurses are being cut in the Western Trust. That is a concern because terminally ill patients need that type of support at home.

Each patient with end-of-life care needs should have a key worker. Every child and family should have an agreed transfer plan to adult services in both hospital and community services, with no loss of necessary services.

Access to specialist palliative care, advice and support should be available 24/7. The sad reality is that there is no palliative care strategy for children in Northern Ireland. That compares unfavourably with other countries. It cannot continue.

4.00 pm

It has been mentioned that public funding for the Children's Hospice covers only 18% of its costs. The funding should be 30%, which is the target throughout the UK. I believe that it is the case in England. Figures have been mentioned. I read that £3 million is needed. However, only £500,000 is provided. That means that just one sixth of the required funding is provided by government. As a result, the Children's Hospice is under threat. The number of beds has been reduced from eight to six. As I mentioned, home support has already decreased.

Sadly, our hospices, including the Children's Hospice, and palliative care have become dependent on charities, the voluntary sector and, indeed, donations. That is a worrying development in the grave financial situation that we now live in.

Mr Deputy Speaker: The Member must draw his remarks to a close.

Dr Deeny: I am coming to a close, Mr Deputy Speaker.

A policy framework and dedicated funding are needed. To raise the Department's contribution from 18% to 30% is a small increase, given the overall health budget. I support the motion.

Mr Easton: I support the motion as an MLA and a member of the Health Committee. I pay tribute

to all those who work as nurses and volunteers for the many charities that provide hospice care. Mr McCallister referred to his father receiving care; my grandmother also received care at the Marie Curie centre on the Knock Road. The nursing that she got there was fantastic. The building was extremely peaceful and spacious. Everybody was kind and the surroundings were beautiful. My grandmother wanted to pass away at home. She was fortunate enough to get her wish. She would not have got that wish had it not been possible for her to have been cared for at home by Marie Curie nurses. I want to pay tribute to them.

In my role as a member of the Health Committee, I have recently had the pleasure of meeting different hospice groups. The Committee has made several visits to discuss the funding crisis in recent times. It has also visited the Children's Hospice on a couple of occasions during the past several years. Those charities do a tremendous job to provide care to terminally ill adults and children and to offer support to their families and friends. I cannot say enough to express my gratitude to them for providing such great service, care and support.

More funding is required for hospices in Northern Ireland. They fill a gap in services that are not provided by the NHS. The NHS has come to rely on hospices as terminally ill patients are referred to them for care, which demonstrates how well they are thought of by the Health Service. Hospices rely on charity and donations from the general public. They receive some funding from the Health Minister, for which I want to thank him. The Northern Ireland Children's Hospice receives around £500,000 from the Health Service. Its management has suggested that it needs around £5 million to keep the hospice going.

In general, as money gets tight, people cannot afford to give as much to charity. In Northern Ireland, 82% of funding for hospices has to be raised daily from the general public, which equates to around £14,000 per day for the children's and adults' hospices. On the mainland, 30% of hospice funding comes from government, compared with 18% in Northern Ireland.

Given that the NHS relies on the hospices continuing their sterling work, I ask the Minister whether there is any possible way to find them some more funding. I understand that we are in a difficult climate. That is why I supported the

Minister's colleagues in the Health Committee over the budget. Hospices can provide excellent services if they receive adequate funding. Therefore, it makes sense to give them a little more money to help them out.

As far as the health budget is concerned, £5 million pounds is a drop in the ocean, but I believe that the children's and adults' hospices are worthwhile causes. I plead with the Minister to see what he can do to help with that funding.

Hospices, given their financial state, are having to curtail their services. That is disturbing and, ultimately, will affect those who are seriously ill. We need to act, and I ask the Health Minister to do so if he can. I call on him to back the motion and to help to find funding in this difficult financial period.

Mr Brady: Go raibh maith agat, a LeasCheann Comhairle. I, too, as a member of the Health Committee, support the motion. I do not think that any Member can underestimate the role that hospices play in society. As a person who has lost someone who was close to me to cancer, I cannot praise the services provided by the hospice highly enough.

Hospices provide a service that allows people to receive the degree of care and attention that they need in their final days and to die with dignity. In my constituency, the Southern Area Hospice, based at St John of God Hospital in Newry, provides a caring role for patients and their families. That is important, and it is so much appreciated by all who have come into contact with the hospice.

Palliative care should be recognised as including the time from the diagnosis of a life-limiting condition and it may continue to the offering of bereavement support to the family of a person who has died. It should be an integral part of the support available to everyone who needs it. For the most part, palliative care has been provided to cancer patients near the end of life, but it is now recognised that it should be offered for a wider range of serious illnesses and long-term conditions, such as dementia, chronic obstructive pulmonary disease and heart failure, which account for approximately 60% of deaths, and other life-threatening illnesses, which have been alluded to in relation to children.

There is a need to recognise situations in which a patient could benefit from palliative care. Education is required in relation to training and

good practice guidelines to support awareness of palliative care. The Executive's strategy, 'Living Matters, Dying Matters', sets out a vision for palliative and end-of-life care across all conditions and care settings. There needs to be an understanding of palliative and end-of-life care and best and appropriate care, supported by responsive and competent staff recognising and talking about what matters, and timely information on choice, co-ordinated care, support and continuity. The promotion of greater public and professional understanding of palliative and end-of-life care will ensure that patients, carers and families, communities and staff will have the right knowledge and skills available at the right time and in the right place to deliver compassionate, appropriate and effective generalist and specialist palliative and end-of-life care.

End-of-life care should be promoted and encouraged through discussion in the media and through education and awareness programmes aimed at the public and the health and social care sector. There should be mechanisms in place to identify the education, development and support needs of staff, patients, families, carers and volunteers and the promotion of optimal health and well-being through information, counselling and support skills for people with palliative and end-of-life care needs. Those are ideas and systems that will improve the range of hospice services available. However, proper and effective funding needs to be in place to bring those requirements to fruition.

There is often a public perception that hospices are funded by donations that are raised by charities, because so many volunteers and events are specifically aimed at raising funds for them, particularly in my area. Those volunteers are remarkable and deserve the highest praise and recognition for what they do.

The Minister should be commended for awarding funding to the Children's Hospice in 2008, although it was £538,000, which, as has been mentioned, was approximately 18% of the hospice's running costs. Prior to that, no funding was available. As has been mentioned, the Minister should be looking at areas in hospice services to which prioritisation can be given. There is the opportunity for the Minister to show willingness to go that step further to support hospice services to the extent that they need and deserve. After all, people should be allowed

to die with dignity and in a setting that brings support and comfort to them and their families.

Mr Callaghan: Like many other Members who have spoken, I pay tribute to the many people involved in delivering care in the hospice movement across all five of our regions, but particularly to the people who are involved in the Children's Hospice, because I know people who have witnessed that care at first-hand. It is truly impressive. I also pay tribute, of course, to the people who are involved in every way in the Foyle Hospice in my constituency.

I will also take this opportunity, as Members from other parties have, to commend the proven commitment that the Minister has shown in the past to increasing support to the hospice sector. It is only appropriate that the Assembly should record that today.

I was in the Foyle Hospice less than two years ago as a result of the passing of a very dear friend of mine and of many other people in Derry. Once again, I saw the incredible capacity of people working in that hospice — as, I am sure, is reflected in many others — in providing pastoral support, medical and nursing care and treatment and, of course, emotional and physical support, not only to the people who are in the hospice at any given moment but to their families. It is important that we recognise the wider assurance that the hospice movement provides to the whole community. It is there for us when we or our loved ones need it. That is important to note.

To follow on from what the Member for West Belfast said earlier about Christmas: I do not think that it is an underestimation to say that the people who are involved in the hospice movement are truly inspiring and, in many ways, angelic. We are obliged to do whatever we can to make their tremendously burdensome role a little bit better.

The motion refers to provision in Scotland. I understand that the standards of support in Scotland are related to the agreed running costs of voluntary hospices and reflect in-house hospice provision and the outreach work that is done by the hospice. I know that the Department has taken some steps in recent years to deal with that. One matter that came up in Committee and during our party deliberations was the potential impact of any statutory uplift on contributions from the wider community. It is important to note public

comments by the Children's Hospice, which stated that it is already experiencing a downturn in the capacity of the community to support it because of the prevailing economic conditions. We should take every opportunity to explore whatever we can do to fill that gap somewhat.

I notice that one of the principles established at the start of the 'Living Matters, Dying Matters' strategy is that the planning is structured and co-ordinated in a way that will allow care to be delivered regardless of when or where it is needed in the region. It is incumbent on me to point out that there appears to be a legacy issue for the Foyle Hospice that comes from the health system prior to the reorganisation under RPA. In the 2009 figures, which were made available to the Committee, there appears, at first glance, to be quite a marked discrepancy between the funding for the Foyle Hospice and other hospices with a comparable purpose, whatever about their throughput. I am interested in hearing whether the Minister has any particular observations about that.

I am aware that, this year, the Department increased the funding provided to the Foyle Hospice by £100,000, and I know that people involved in the Foyle Hospice are tremendously appreciative to the Minister and the Department for that boost. However, it is important that consistency and transparency are absolutely key as we go forward, and that if we are looking towards a system whereby we will, hopefully, move to provide statutory funding on a par with that provided under the Scottish scheme, that funding is provided across the board here.

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

Mr Callaghan: I will, Mr Deputy Speaker.

That uplift across the board is important so that everybody involved with the hospice movement and those who use it have confidence that all hospices are being fairly treated.

Mr D Bradley: Go raibh míle maith agat, a LeasCheann Comhairle. I support the motion. I am sure that you will agree with me that we are most vulnerable in this life at our arrival and our departure.

4.15 pm

We have excellent prenatal and post-natal services, fully provided by the state and of the highest quality. Palliative and end-of-life

care services here are also of high quality and are funded partially by the state and partially through voluntary public contributions. Although the hospice movement wishes to remain independent, there is a need for the present funding regime to be rebalanced to ensure that an undue burden does not fall on it.

I recently visited the Southern Area Hospice, which has its headquarters in Newry, and discussed some of those issues with the staff. I was told that, around the year 2000, the funding of direct care costs was set at 50%, with an annual increase to cover inflation. At the time, that was adequate but, as the years passed, increases in wages and other costs have meant that the original 50% government funding has eroded, as the staff at the Southern Area Hospice told me, to 27%. The Southern Area Hospice has to make up a differential of around 70%, and that is done through constant fund-raising. As has been said, most fund-raising is community based, and the community has responded solidly down through the years to date. However, as with all fund-raising efforts, the constancy of the effort leads to a degree of donor fatigue. Although the Southern Area Hospice appreciates very much the efforts of the community that it serves, and people are still giving, in this period of recession, understandably, they are giving less. The result is that there will be a shortfall in funding for that hospice this year.

The Southern Area Hospice has 100 staff and it provides a range of services for and on behalf of the Health Service, which, if it were not there, the Department would have to provide. Those services include inpatient hospice care, hospital support, home support, day hospice care, bereavement services, social work, a patient helpline and a chaplaincy service. Those are provided for a range of patients with illnesses such as cancer, MS, motor neuron disease and other terminal conditions.

The hospice movement is not asking to be fully funded by the state. It is asking only for a level of support that will enable it to continue to provide the excellent care that it currently provides in the best possible facilities. The funding mechanism for hospices is obscure, in so far as one hospice does not know what funding another receives. As Mr Callaghan said, there is a need for greater transparency in this area, and, perhaps, with a view to achieving an acceptable balance of funding between

the Department and the hospices, it would be helpful if a common funding formula were developed around the various services that hospices provide.

Another area of resource that hospices have to deal with is capital funding. The hospices have to provide that resource themselves. It is almost impossible for them to develop their facilities without support from the state. The Southern Area Hospice wishes to develop the convent house adjacent to St John's House into a training and bereavement counselling centre, but that is almost impossible under present conditions.

I wish to express my admiration for those who work in hospices and in end-of-life care. It is an area of care that requires great dedication and sensitivity, and we are grateful that we have excellent professionals working in this area who go far beyond the call of duty on occasions to ensure that patients and family members receive high quality care that is respectful of their wishes, empathetic, sympathetic and personal to all concerned.

Mrs Foster: I support the overall hospice service, but I particularly want to mention the Horizon West scheme for the west of the Province. It was with a great deal of delight and satisfaction that I became aware that the hospice movement was going to build a facility for children with life-limiting diseases and disabilities at Killadeas near Enniskillen. I met a number of those children and could see the great difficulties that they had accessing the absolutely marvellous facilities at Glengormley, because so much equipment had to go up there, and it took such a long time to travel there.

One can imagine what it is like taking ordinary children away for the day in a car, but taking one of those children away for the weekend, to travel up from the west, was pretty traumatic for them. It is often traumatic for parents to leave their child so far away from home knowing that, if anything happened, it would take them around two hours to get to the hospice in Glengormley.

I was absolutely delighted when the hospice organisation decided to build a new facility in the west, because the west is often forgotten about when it comes to capital spend, new facilities and new services. It is tremendous that we are having the new facility, Horizon West, in Killadeas, for the whole of the west.

I want to do two things. I want to, first, pay tribute to the absolutely marvellous work that has been carried out by the volunteers who have raised the money for Horizon West in Fermanagh. I have said before that that charity has really been taken to the heart of Fermanagh people, because that is where it is based, but it has also been taken to the heart of the Tyrone and Londonderry people, who will be able to access those facilities.

I particularly want to pay tribute to Gladys and Gerry O'Callaghan, who have been leading the charge on voluntary contributions. Not a week goes by that they are not featured in the local papers receiving more money for the new children's hospice in the west. That is needed, because there are over 100 children in that area, perhaps closer to 150 children, who have life-limiting diseases and will not see adulthood. It is incumbent on us as a society to help those children to have the best quality of care possible. How we look after those who are vulnerable says a lot about the kind of society that we want to live in. I accept that the healthcare that those children receive means that they can live longer, therefore adding more pressure on resources, but we must prioritise those vulnerable people so that we can help them in the future.

Secondly, I welcome the fact that the Minister increased the amount of money allocated to hospices this year. I hope that he is able to find more resource to invest in the hospice movement, whether by prioritising or using other methods within the Department, because I can think of no better way to help those children and to tell the wider community that we care about our vulnerable young people.

Some of the families of the young people who will use Horizon West have told me stories in which their excitement is palpable. I understand that it hopes to open in April 2011, with a phased approach, whereby day care will initially be provided, followed by weekend respite, which will be critical for those families.

I welcome the necessary debate about hospice care and funding and the way in which voluntary contributions have been raised across Northern Ireland. I particularly want to record what is happening in my constituency.

The Minister of Health, Social Services and Public Safety (Mr McGimpsey): I am grateful for the opportunity to provide a summary of

the current position of the funding provided by health and social care to support hospices in Northern Ireland. We often think of hospices as places that care for the dying, but they do so much more.

They provide much-needed palliative and supportive care, such as pain relief and other therapies, to people with long-term debilitating conditions. They also offer respite for families by admitting people for short spells, allowing them to have a break from the intensive care that they provide for their very ill relatives. Hospice services are also available for people in their homes and communities, and, particularly for children, hospices provide ongoing support for them and their families when there may be a complex, life-limiting condition to cope with.

Good palliative care and end-of-life care mean putting the needs of the patient or family and carers at the heart of the service. They mean that the right care is there at the right time and ensure that everyone has more choice and control over their care. For example, although the majority of people have said that they would prefer to die at home, most die in hospital. I want to see everyone have the chance to be supported to die in their place of choice.

Services for people who need palliative or end-of-life care are provided by the statutory and voluntary sectors, often working closely together. My commitment to the voluntary sector, of which hospices are part, is well known. I did not include the voluntary sector grants budget in my Department's efficiency savings. Why? Because, we need the support and the vital services that that sector provides.

The motion calls on me to fund hospice services in line with that provided by the Scottish Government. Let me set out the current funding position across other parts of the UK. The Scottish health boards' average funding for all hospices in Scotland is 42%. The interim Palliative Care Funding Review report in England identified that, on average, adult hospices in England received 34% in government funding, while children's hospice funding is typically lower, at an average 15% of running costs. Members should note that those figures are averages

The Northern Ireland Hospice is one of a number of organisations that provide palliative care to the local population. Across Northern Ireland, the Health Service provides a total of more than £5.5 million in funding to all hospices

here. For example, more than £2 million is provided to the Northern Ireland Hospice; almost £1 million to the Southern Area Hospice; around £300,000 to Foyle Hospice; and more than £1.6 million is provided to Marie Curie Cancer Care. I have also helped to secure the future of adult hospice services by providing the Northern Ireland Hospice with a new site in Belfast at a very reasonable cost. Adult hospice services receive half their agreed running costs, including staffing, from the health and social care service.

The fact is that funding for hospices in Northern Ireland is at least comparable to, and possibly slightly higher than, the equivalent spend in England and Scotland. Moreover, in Northern Ireland, we ensure that hospice provision is equitable across all areas. Each hospice — Northern Ireland, Foyle, Southern and Marie Curie — is funded at the same level. I also provide £1.3 million in revenue in a joint venture with Macmillan, which has contributed towards the £1.9 million annual cost of a new, 12-bed specialist palliative care unit in Antrim Area Hospital that will open early next year.

I put on record the hospices' valuable contribution to providing palliative care services for people in Northern Ireland. As Minister, I have a history of showing strong financial and personal support towards hospices and their important work.

Mr D Bradley: Will the Minister give way?

The Minister of Health, Social Services and Public Safety: I will read on for a bit and then I will be happy to give way.

Indeed, I have stepped in to provide additional funding when it has been requested. However, I expect all voluntary and statutory organisations that receive public funds to show responsibility and accountability in their handling of finance. There is a clear obligation on hospices to live within their agreed, well-known budgets. It is not appropriate for them, without prior agreement, to develop new services that require financial support. Palliative care funding is not just about funding the Northern Ireland Hospice alone. There is a need to ensure an equitable distribution of available resources across the entire hospice sector. I will give way to Mr Bradley.

Mr D Bradley: I thank the Minister for giving way. He seems to be saying that the Department is funding the hospice movement in Northern

Ireland — in any case, adult hospices — to the tune of 50%.

How, then, does he account for the discrepancy that arises when we speak to people in hospices and they tell us that that is not the case? For example, I quoted the figure of 27%. The Southern Area Hospice tells me that its funding has been eroded to that because of wage increases and other costs.

4.30 pm

The Minister of Health, Social Services and Public Safety: The 50% is 50% of agreed costs, and that rises every year with inflation. Mr Gallagher said that it was 40%, and Mr Bradley said that it was 27%. As Members are aware, as a result of the reorganisation, I have one board for the whole of Northern Ireland to ensure equity across the region. It tells me that it is 50% of agreed costs. Of course, the costs have to be agreed. We cannot have 50% —

Mr Callaghan: Will the Member give way?

The Minister of Health, Social Services and Public Safety: No, I will not give way. It is not a blank cheque. We provide 50% of agreed costs. I have, however, asked the board to do certain things.

There is one children's hospice facility, and I have visited it on a number of occasions. I know that only a fraction of the work takes place in Horizon House on the Antrim Road. Most of the care and support to families who have children with complex or life-limiting conditions happens in the child's home. That is what parents, families and children want and what the hospice helps to provide. My commitment to supporting the —

Mr Callaghan: On a point of order, Mr Deputy Speaker. The Minister referred to my colleague Mr Gallagher stating that the statutory funding proportion was 40%. It is important to put on record that he was referring to the Northern Ireland Hospice as an institution, and its funding is public, whereas Mr Bradley was referring to the Southern Area Hospice.

Mr Deputy Speaker: That is not a point of order, Mr Callaghan, but an innovative way of getting your point across.

The Minister of Health, Social Services and Public Safety: I understand that it was not a point of order; it was a point of information. The point is that Mr Gallagher talked about 40% and Mr Bradley talked about 27%, but the board that

provides the funding of agreed costs states that it is 50%.

I am committed to supporting the Children's Hospice. I am the first Minister to secure ongoing funding for the Children's Hospice, including, in 2008, a recurrent grant of £210,000 from my Department, and, earlier this year, a further £245,000 from my Department. That funding is in addition to the £152,000 from the board and trusts, and it brings the total funding for the Children's Hospice to around £600,000. It was at the request of the chief executive of the Children's Hospice last August that I made available the additional £245,000 of funding. Those extra moneys bring its funding up to around 20% of its total costs. That figure compares to 15% of total costs for children's hospices in England.

I have been asked today to ensure that funding for the Children's Hospice is at a level that is comparable to Scotland. I have been advised that the children's hospice service in Scotland is funded at a level of 25%. That, however, is only 25% of inpatient services; it does not include the cost of providing care in the child's home. That is a very significant part of the palliative care services for children in Northern Ireland. Therefore, we are not comparing like with like because, in Northern Ireland, we fund a broader range of services. In Northern Ireland, we fund 20% of all care that is delivered in a hospice as well as 20% of all care that is provided in a child's home. That range of services is not provided in Scotland.

I am also convinced that we should fund the services that we need. The extra funding that I secured helps to provide a firm position on which the hospice can depend and on which it can build. It is also proof of my commitment to strengthening and safeguarding services. The last tranche of money that I provided was earlier this year. I assure the House of my ongoing commitment to ensuring that hospice services will remain. I will continue to support them in any way that I can. I have also invested much more in services for children with complex needs. Over the past three years, I have allocated an additional £8 million to support those children. That money can support nursing services, therapy provision and other essential care and support.

I have been asked to consider developing a palliative care strategy for children. Earlier

this year, I launched the 'Living Matters, Dying Matters' palliative care strategy for adults. End-of-life and palliative care for children and young people is not included within the scope of the strategy, because they have very specific and specialised needs. It is important to note that the strategy does refer to the relevant guidance in place for children and young people's services, including the transition care pathway developed by the Association for Children's Palliative Care and my Department's integrated care pathway for children and young people with complex physical healthcare needs.

The integrated care pathway maps out the care and treatment that a child will receive, from diagnosis to end-of-life care. It also details the types and levels of service that they and their families can expect. Furthermore, in Northern Ireland, parents, family, statutory health services and the voluntary sector work together to support and care for children with life-threatening illness. Where possible, children's palliative care is provided by community children's nursing teams in each trust area that work with other healthcare professionals as part of a skilled team.

Before considering whether a strategy is needed, I want to know where services are meeting needs and where there may be gaps. I have, therefore, asked the Health and Social Care Board for a progress report on the impact of the funding allocated to support children with complex needs. When I have that report, I will be in a position to determine whether a specific strategy is required.

Dr Deeny: Can the Minister confirm whether or not there has been any decrease in the number of Marie Curie nurses across Northern Ireland?

The Minister of Health, Social Services and Public Safety: I will write to the Member about that issue.

As Minister, I have sought at all times to treat hospices fairly and will continue to provide all reasonable support to them. Members know that I have been calling, for some time, for the health and social care budget to be protected. All of this will have serious implications for the Health Service. If the health budget is not increased in real terms, we will inevitably end up with a Health Service that provides less care, less treatment and a less than happy outlook for our future health prospects. Some see the Budget as facts and figures on a spreadsheet

and think "money". As Health Minister, I see people who need care. My budget is not solely about money. Rather, it is about the needs of individuals, their families and the community.

The partnership between the statutory and voluntary sectors is important and offers real opportunities to improve services for people right across Northern Ireland. I am, and remain, committed to that partnership. However, just like my Department and other health organisations, the voluntary and community sector must also ensure that its funding is spent as effectively and efficiently as possible. For my part, I will make every effort to fund those organisations that provide vital services in the community as far as possible and within the limits of my budget. As regards the Children's Hospice, I have asked the board to carefully consider what the appropriate level of support should be for next year. I look to bodies such as the hospice movement to work with the Health Service as we move through uncertain economic times.

Mrs O'Neill: Go raibh maith agat, a LeasCheann Comhairle. I thank all the Members who contributed to the debate. Like others, I commend the work of Southern Area Hospice Services and, especially, the day hospice in South Tyrone Hospital, Dungannon. It does fantastic work and supports so many families in their hour of need.

It is clear from the debate that we are all very much aware of the great work of hospices. Many Members spoke about being personally touched by the work that hospices have done for their family or friends. Very few of us have escaped the effects of cancer or other serious illnesses. I hope that the contributions of Health Committee members and others have made it clear today how much we collectively value the impact that hospices have on individual patients and the support that they provide to families, carers and friends. Funding is an issue for all hospices, and they all devote thousands of hours each year to dedicated fund-raising, trying their best to secure the donations that allow them to function.

As many Members said, the statutory sector provides some money through the Department of Health, Social Services and Public Safety. We value that absolutely. A lot of money is also provided through the voluntary sector and by the goodness of the population.

We also acknowledge the focus that the Department has brought to this area of the Health Service. For example, the document 'Living Matters, Dying Matters' was published in March this year, and many Members referred to that end-of-life care strategy for adults. However, we do not have an equivalent strategy for children, whereas in Scotland a children and young people's palliative care executive has been established to address those specific palliative care needs. I think that we need and deserve a greater focus to be put on end-of-life care for children and young people. As the Chairperson of the Health Committee said when he was moving the motion, the hospice receives only 18% of its running costs from this Administration, whereas the figure in other parts is 30%. I know that the Minister referred to numerous figures; indeed, he mentioned figures of 20%, 30%, 40% and 18%. However, it is obvious, Minister, that you are not speaking to the hospice, because it is saying clearly that it is in need. Perhaps, therefore, it ought to be a priority for you and your Department to meet people from the hospice to get to the bottom of that situation.

The Minister of Health, Social Services and Public Safety:

I thank the Member for giving way. I want to make the same point that I made when I was on my feet: we are speaking to the hospice. The board is doing that routinely and has been for some time. Therefore, I do not pluck figures out of the air.

Mrs O'Neill: Minister, there has obviously been a breakdown in communication. The hospice is providing —

Mr Deputy Speaker: Order. I ask the Member to please refer all matters through the Chair.

Mrs O'Neill: Go raibh maith agat, a LeasCheann Comhairle. Through yourself, I ask whether the Minister has met personally with representatives of the hospice. Obviously, there has been a breakdown in communication. Just this morning, people from the hospice told Members through e-mail that the hospice's funding is still nowhere near comparable with that received in England, Scotland and Wales. They are still clearly suggesting that their funding equates to 18% of their associated running costs. Therefore, somebody has got that wrong.

Like other Members, I had the opportunity to visit the Children's Hospice with the Health Committee a number of months ago. I was

taken aback by the care, love and respect that are shown in the hospice. John McCallister and Sue Ramsey referred to the holistic approach that the hospice takes in bringing siblings along during a very difficult, emotional and challenging time. Therefore, we obviously commend again the work and support that is done and given by those who work in the service.

As I said, many Members referred to the fund-raising efforts of the staff in the Children's Hospice, as well as those of the wider community. We absolutely have to commend publicly those who get involved, especially given the difficult economic climate. Those efforts are again testimony to the idea that the Irish people represent a very giving nation.

A number of Members paid tribute to the hospice teams. We want to firmly put on record that we recognise fully the excellent work of those teams. Some Members picked up on the point that this can be an issue of choice, and even the Minister picked up on that. Patients should have choice, and quite often they choose to die at home or in a setting that is not a hospital. I think that we should do all that we can to support the hospice in providing that service, in being there for them and in giving them what they need and want.

(Mr Speaker in the Chair)

Another issue that was picked up on concerned providing a unique setting for people. Tommy Gallagher said that, in Fermanagh, palliative care teams from the hospices come to people's homes. The Minister also picked up on that point, saying that only a certain percentage of care is provided in a hospice and that hospice teams do a great deal in the community.

Many Members also picked up on the need for a specific children's strategy. That is what we need to say clearly today. In its briefing to us, the hospice said that there is an ever-increasing demand on its services. Children and young people's clinical needs are increasingly complex, and referrals to the hospice are increasing year on year. Developments in medical science and technology mean that many children are living longer than in previous decades. Children are sometimes highly dependent on technological interventions to help and support them in their care.

I turn to the Minister's comments, and I put on record that I commend and welcome the work

that his Department has done. I know that the Department funded the hospice movement for the first time in 2008, and we very much welcome that. He referred to the fact that hospices provide more than just a palliative care service, and he wants everyone to be supported in their wish to die in their place of choice. Therefore, we need to put our money where our mouth is and fund the service to the fullest extent. Let us support the people who do excellent work every day.

4.45 pm

I welcome the Minister's assurance that he has spoken to the board and the fact that we will see an analysis of the work on what can be done to support services in the future. Perhaps he will provide a time frame for that work, because we do not want it to be open-ended. We want to see a review of what has been done and a timetable to take that work forward.

I thank everybody who contributed to the debate. It was a worthy debate, and I commend the motion to the House.

Question put and agreed to.

Resolved:

That this Assembly calls on the Minister of Health, Social Services and Public Safety to fund hospice services in line with the funding provided for such services by the Scottish Government.

Private Members' Business

Cyclists (Protective Headgear) Bill: First Stage

Mr P Ramsey: I beg to introduce the Cyclists (Protective Headgear) Bill [NIA 9/10], which is a Bill to require people to wear protective headgear while riding cycles; to prescribe penalties for contraventions; and for connected purposes.

Bill passed First Stage and ordered to be printed.

Mr Speaker: The Bill will be put on the list of future business until a date for its Second Stage is determined.

Victims and Survivors (Disqualification) Bill: Second Stage

Mr Speaker: I remind Members that a valid petition of concern was presented today in relation to the Bill. Under Standing Order 28, the vote cannot be held until at least one day has passed. The vote will, therefore, be the first item of business tomorrow morning, Tuesday 14 December 2010. However, the Second Stage debate can take place today. I remind Members that tomorrow's vote on the Second Stage will be conducted on a cross-community basis.

Mr Weir: I beg to move

That the Second Stage of the Victims and Survivors (Disqualification) Bill [NIA 6/10] be agreed.

I am proud to move the Second Stage, although that pride is tinged with a degree of disappointment, given the approach taken by some parties, which I will come to later. Although I introduced the Bill, I wish to place on record my thanks to, in particular, Jeffrey Donaldson, who piloted the pre-Bill stage, and to all the officials who gave technical advice.

Given my age, I could be regarded as a child of the Troubles. I was born in the late 1960s and, therefore, witnessed at first hand some of the terrible atrocities that our society faced. As we try to deal with the past, I doubt whether anybody has a panacea that would be acceptable and regarded as fair to everyone or, indeed, that will heal all the hurts that are out there. If someone has a magic-bullet solution to dealing with the past, I have yet to hear about it. I am convinced, however, that we have to deal with the past with a sense of honesty and truth, and that is one of the main reasons why we put forward the Bill. In recent years, there has been a growing tendency to revise history, presenting us all as equally culpable for what happened and, indeed, equally victims. That is simply not true. The blurring of the line between the truth of what happened and the new revisionist history needs to be nailed.

Although it is clear that that the approach being taken by Sinn Féin and the SDLP undoubtedly means that the Bill will not progress beyond the vote tomorrow morning, this debate affords us a valuable opportunity to focus on the issue. On behalf of my party, I serve notice to those who will block the Bill that, although they may be able to kill it off, we will come back to this issue time and again until it is got right. Consequently,

although this may be the end of the Bill, it does not mark the end of the process.

On the subject of victimhood, although I grew up during the Troubles, I am not a victim of them. I did not lose anyone close to me during the Troubles, but neither was I a perpetrator, and that is true of the vast majority of people in Northern Ireland. There has been an attempt by certain people to abrogate their personal responsibilities. Those republicans or loyalists who went out deliberately to kill others must take responsibility for their actions. It is fundamentally wrong to view perpetrators also as victims.

We may well be asked about how we got to this position. Any degree of research will show that, a number of years ago, the issue of the definition of a victim was fudged. It was first fudged in the victims' strategy of the victims unit of the Office of the First Minister and deputy First Minister (OFMDFM) in 2001, which defined victims as:

"the surviving physically and psychologically injured of violent, conflict related incidents and those close relatives or partners who care for them, along with those close relatives or partners who mourn their dead."

That definition was fudged at the outset. Indeed, when OFMDFM consulted on that issue, it indicated that some who responded wished to draw a distinction between innocent victims and self-inflicted victims. Unfortunately, the strategy's authors missed the opportunity to make that distinction at that stage. Under direct rule, a similar but wider definition was included in the Victims and Survivors (Northern Ireland) Order 2006, which drew no distinction between those who were perpetrators and those who were victims.

There are people outside the Chamber who may criticise the Assembly's processes and say that the fact that the Bill will not progress shows that devolution is not working. I say to those people that it is clear that direct rule, which some of them seem to crave, adopted the legislation that got us into this mess in the first place.

We have consulted widely on the document that we put forward. We have met other parties and, in particular, on a number of occasions, the SDLP. The Bill seeks to make a relatively modest amendment to the 2006 Order. It seeks

to change two exclusions. It will exclude any individual who has been convicted of:

"an offence in connection with any conflict-related incident".

That is not sectarian. That exclusion applies to any individuals, whether they belong to the IRA, the UVF, the UDA or, indeed, anyone who is not even connected to any of those organisations. It also excludes people who have been convicted of being members of a proscribed organisation. Those exclusions are related to the 2006 Order. They specifically do not affect those who are carers; indeed, the Bill makes it clear that the position of carers remains the same. Similarly, it will not affect anyone's benefit entitlements. For example, a person in receipt of disability living allowance will not be affected. It is about establishing the truth and establishing that there is a difference in our society between victim and perpetrator.

Unfortunately, it is clear that some Members want to kill off the debate. Given its position, it comes as no great surprise or shock that Sinn Féin has supported a petition of concern. However, I reserve my greatest criticism and my greatest disappointment for the SDLP's position. Protestants and Catholics suffered alike. Catholics suffered at the hands of the IRA, and Protestants suffered at the hands of loyalist organisations. Yet the SDLP is ensuring that those who carried out paramilitary attacks, from whatever source and on whatever community, can still be defined as victims. Indeed, the victims are being treated in the same way as the perpetrators.

Mr McDevitt: Will the Member give way?

Mr Weir: Mr McDevitt will have an opportunity to confess his crimes at a later stage in the debate, and I will be happy to acknowledge that. Let us place on record the fact that the Bill will be blocked tomorrow not simply because of the position of Sinn Féin. Even though every single Sinn Féin member signed up to the petition of concern, that was not enough to carry it over the edge; it required the support of the SDLP.

Mr McDevitt: I appreciate Mr Weir giving way. I am sure that Mr Weir will agree with everyone in the House that victims must be put at the heart of this debate. In fairness to Mr Weir, he holds that position personally very dear to his heart. However, will he accept that the victims' forum, which was asked by the House and by

the Office of the First Minister and deputy First Minister to come to a definition, found that many people from both sides of our community, and not people who were particularly central to the conflict, are very unhappy with the Bill as he has presented it? For that reason and because of the interests and opinions of victims, we are not comfortable with the Bill.

Mr Weir: The Members opposite can hide behind whatever excuse they want. The reality is that there is not, when dealing with the past, any sort of uniform view. However, there is the truth, and Members on the opposite side of the House in the SDLP are trying to run away from the truth. They are trying to turn something that should be clear-cut into something grey.

Let us be honest about the petition of concern. We were told by an SDLP spokesman at the weekend that it is not really the SDLP's petition of concern and that it simply jogged in behind Sinn Féin and did it a favour by signing up to it. If that is true, it seems that the SDLP has become the tail that is simply being wagged by the Sinn Féin dog. However, that is not the truth, because the SDLP put its petition of concern in before Sinn Féin did so. It was placed with nine names on Friday, and it was only today that Sinn Féin Members added their names. Therefore, rather than being the innocent victim — if I may use that parlance — the SDLP is the perpetrator in the killing off of this Bill. Furthermore, if there are nine SDLP signatures on the petition of concern, one wonders what happened to the other seven. We will wait to see whether there is any division in the SDLP.

Even if there is some sort of Damascene conversion today and the SDLP decides that, on the balance of what has been argued, it wants to support the Bill, it will be unable to. Because of the mechanisms of a cross-community vote and because, once it is triggered, Sinn Féin alone can represent a large enough percentage of the nationalist community, the SDLP has not simply created a veto, it has handed it completely to Sinn Féin. The SDLP position is shameful.

The Bill represents an opportunity to start to establish the truth in this country between the victims and the perpetrators. Unless there is a change of heart on the part of the SDLP and Sinn Féin, that opportunity will be lost. I await the comments during the debate with interest, perhaps more in hope than expectation. The Bill

offers an opportunity to — to use a phrase from many years ago — put right a great wrong. I urge the House to grasp that and to support the Bill's Second Stage.

Mr Molloy: Go raibh maith agat. I rise to oppose the Bill on the basis that it deals with a very sensitive issue in a very crude way. It is very clear that the Bill simply tries to exclude one section of the community from being considered victims of the conflict.

I am sure that Mr Weir does not need a lecture on the history of the conflict, but it is important to sometimes remind unionism why the conflict happened. It happened because the state and the Stormont regime of one-party rule failed to deliver for the broad community and failed to represent nationalist interests as well as unionist interests. It certainly did not come close to representing republican interests. During the early days of the civil rights movement, the failure of the state to deliver the very simple demands of a house, a job and the right of everyone to vote meant that there was often no alternative to trying to force ahead with making change and the conflict. Had the state given in to those very basic demands, there would have been no need for a conflict situation. However, the forces of the state in various forms, from the B-Specials to the RUC, the UDR and the RIR, showed aggression towards and perpetrated violence on the community at large.

5.00 pm

Mr K Robinson: Since the Member is giving a history lesson, will he confirm that there was an abstentionist policy among the nationalist community at the setting-up of the state? Even when generosity was offered by setting aside places in government and in the RUC for the nationalist community, there was failure to take up those places. An abstentionist policy was also built into schoolteaching. Instead of taking the opportunity to come together, parts of the nationalist community chose to abstain from working with the state. That helped to create the situation that the Member is describing now.

Mr Molloy: As most unionists do, the Member started out from a period in history that ignores where the problem began. The partition of Ireland was what created the problem. The Member starts off in 1921, but I start off slightly before that. This artificial state was created because the British chose to partition the country rather than recognise the vote

of the majority of the people of Ireland, who wanted complete separation from Britain and independence for the island of Ireland. As usual, Britain ignored the democratic wishes of the people and imposed its solution, as it did throughout the world in the old colonial way of divide-and-conquer and partition. Similarly, Mr Weir has tried to use divide-and-conquer on Sinn Féin and the SDLP, and I hope that that ploy does not work today in the way in which it worked in the history of this country.

The issue is sensitive, and it is important that we recognise that the many victims of the conflict, from wherever they come, are equal. There can be no hierarchy of victims. The Bill seeks to exclude people who were convicted, but people who were convicted, did their time and were released often then became the victim of state violence or the victim of collusion between the state and loyalist paramilitaries. Those victims could get no support, compensation or backup, despite the fact that what they had been convicted of had happened years before and was not part of the issue.

In my area, a number of people were shot by loyalist paramilitaries. Some were shot dead, and their families received no recognition whatsoever. Others who were shot were seriously injured and paralysed because they were former prisoners. If that same regulation were to apply throughout life and what happened in the early stages of someone's life were considered, we would find so many people who would not be able to move on to the next stage of their life.

Mr T Clarke: The Member referred to people from his section who carried out some of the most heinous crimes. If someone were ever convicted of the murder of one of his party's members, Denis Donaldson, should that person potentially be treated as a victim?

Mr Molloy: I will correct the Member: I did not mention heinous crimes of any kind. The Member's interpretation of what I said is twisted in its logic in the same way as most history is twisted in its logic. It is important to deal with our point that everyone should be treated equally. It does not matter who the victim is. The main point is that there should not be a hierarchy of victims.

There has already been a hierarchy of compensation. The B-Specials were compensated and allowed to hold on to their

weapons, disposing of them to shooting clubs in various ways. The RUC received a big payout under Patten, and the UDR is on record as receiving the most compensation awards. The RUC Reserve has also been brought in from the cold. In the old times, when things got a bit quiet, the B-Specials used to kill a couple of cows in the country or shoot a couple of things moving in the grass, and that got them back on patrol again. That no longer works, and what is done now —

Mr Speaker: Order. I have been listening to the debate, and I remind Members that this is the Second Stage of the Victims and Survivors (Disqualification) Bill. Members will know that I am quite lenient, but I am trying to get all sides of the House to come back to the Bill. That is important.

When a Bill is travelling through the House, there are no time limits on Members who wish to speak. All Members will have an opportunity to speak on this Bill. I am watching Members who are inclined to shout across the Chamber at one another and saying that every Member will have an opportunity to speak on the Bill.

Mr Molloy: Thank you for your guidance, a Cheann Comhairle. I was trying to put our position and the issues concerning the conflict and victims into context.

The issue with the Bill, which would short-circuit that context, is that the DUP, under the name of Peter Weir, is trying to set up a hierarchy of victims. It is trying to exclude people who are entitled to the same services and to the same compensation as everyone else who was a victim of the conflict. This Bill gives the DUP the opportunity to do that.

In the history of the conflict, one man's victim is another man's freedom fighter, RUC man or UDR man. We need to find a way to deal with that. In the Assembly, OFMDFM has been very effective in recognising and dealing with victims from all parts of the conflict. It has also been very effective in trying to recognise the issues, not where they come from.

We must be sensitive when we look at the conflict and how we deal with the past. We must also acknowledge that many victims of the conflict have not been recognised to date and need to be recognised. Those victims need the opportunity to put their side of the story. We need to be mindful of the families — it is often

the families that we talk about — of those who were murdered, injured and imprisoned in many different ways. We need to make sure that it is the conflict and its causes that we are dealing with. Within that, we need to recognise the victims and the families of the victims, who are now suffering a long-term sentence, and give them the hope and support to come out of the conflict with some resolution.

We need to know the truth. One big issue is that we need to know the truth about state violence. Victims of state violence find that, while everyone else is compensated, rewarded or given medals for what they did, they suffer the longest, because they cannot get the truth nor any recognition, compensation or support for themselves or their community.

Mrs D Kelly: Given that the Member has expounded the need for truth, will he now call on his party president, Mr Gerry Adams, to start telling the truth about his past?

Mr Molloy: I would be the last person to judge whether I am hearing the truth about the conflict from the SDLP. However, if the Member is accusing my party leader of not telling the truth, is she also accusing him of telling lies in the Chamber? He has responded to all questions asked, and his answers are on the table. What we do not have on the table is answers from those in the SDLP who negotiated on the conflict but forwarded their own position on the strength of the conflict many times.

In current victims' legislation, there is a clear line explaining the total and inclusive role of victims. It is across the board with no qualifications. Current legislation has depoliticised the issue. Today we are seeing an attempt by Peter Weir and the DUP to repoliticise victims.

We find that the victims' families, support groups and various other organisations work with members from both sides of the community and with families from different parts and stages of the conflict. We should send a clear signal that we support the victims of the conflict, their rights and the organisations that seek to provide those rights. That will give them an exit strategy and allow them to continue their lives with the truth and support that they require.

Mr Elliott: The people who will be most let down by this are the real victims in our society and those who suffered most. I listened to Mr Molloy's attempts at justifying the terrorist

campaign in this Province, and he abysmally failed at it. I also heard him say that, through his proposals, Mr Weir is trying to exclude a section of the community. I make no apology for trying to exclude a section of the community from being a victim because that section of the community went out and bombed and murdered and killed our citizens in Northern Ireland and further afield. Those people have no right to be classified as victims and should not be. Mr Molloy and his colleagues know that well, because some of their people —

Mr Molloy: Will the Member give way?

Mr Elliott: I am quite happy to give way.

Mr Molloy: Will the Member also accept that the forces of the state, whose role was to protect all citizens, failed to do so and, in many ways, colluded with loyalist paramilitaries to murder citizens of the state?

Mr Elliott: Anyone who was guilty of terrorist activity or carried out premeditated bombings and murders is not worthy to be called a victim and should not be called a victim. I support that view. The reality is that the security forces protected this society and provided law and order. Indeed, they actually protected some of Mr Molloy's colleagues and saved the life of one former MP who was not sympathetic to the security forces. That is why — *[Interruption.]*

Mr Speaker: Order. Let the Member be heard.

Mr Elliott: That is why there is duplicity from the opposite side of the Chamber, when those Members try to put the blame on the security services of the Province and try to justify the terrorist campaign. From whatever section that violence came, it can never be justified, and those people have no right to be classified as victims. They set out deliberately to murder and maim people and to kill our colleagues and friends. They should not be classified as victims.

There was ethnic cleansing in several communities throughout this society. I know that well from my constituency, where the IRA campaign and other campaigns set out deliberately to cleanse certain sections of the community and, on many occasions, did so with what they would call success. However, they were a blight on this society, and their actions put the community in Northern Ireland back a generation. They tried to destroy Northern Ireland. Some people say that Northern Ireland

was an unworkable society, but I can tell the House that it was not. If it were not for the resilience of the good people of this society, Northern Ireland would have fallen apart. Thankfully it did not, but it was no thanks to those terrorists that that did not become a reality.

I assumed that the victims' forum would look at the definition of "victim", but obviously that did not work out. The Ulster Unionist Party put forward proposals in 2008 and wrote to the Executive asking for changes to be made to the definition of "victim", but they did not come to pass. It should have been dealt with at that time, but, unfortunately, it was not.

Mr Givan: I agree entirely with the Member's sentiments and the way in which he made his contribution. I also appreciate that he was disappointed with the victims' forum. However, does he agree with me that the reason why the DUP has had to table this Bill is that the Bloomfield report, which initially gave the definition of "victims", included perpetrators? That definition was taken forward by the then First Minister, David Trimble, and was enacted under direct rule. Were the mistakes not made then? Does the Member regret the actions of his former party leader?

5.15 pm

Mr Elliott: I regret the actions of the direct rule Administration in bringing it forward in this capacity; it was not the former First Minister. Of course, the current First Minister, or at least his party, and the deputy First Minister and his party had the opportunity to change it in 2008. Our Ministers had written to the Executive in that regard, but they failed to do it.

Mr Weir: Does the Member not acknowledge the fact that an amendment proposed by his party and the DUP was ruled technically out of order and that, therefore, it was not a question of people not accepting it? That is a matter of public record. The amendment could not be made because it was outside the scope of the Bill. It was not simply rejected.

Mr Elliott: Those who were responsible for drafting the Bill could have ensured that there was an opportunity to include it.

It is the real victims who suffer from this. I classify real victims as the people who were the subject of terrorist activity — those who were shot, bombed and seriously injured — or the

families of those who were murdered. People are still suffering and grieving. There are many who have been unable to come to terms with the fact that they are real victims. They have not been given proper recognition by society. It is time that we, as political leaders, gave those people the recognition, support and help that they deserve instead of trying to include the real perpetrators, the people who launched the attacks and deliberately went out to murder and to maim. We will not move the issue of victims forward in totality and in practical terms until it is dealt with properly and until victims are treated as victims and terrorists are treated as terrorists.

Mrs D Kelly: Members may have noted already that, contrary to Mr Weir's views, there is quite a difference between the SDLP and Sinn Féin. When this legislation was proposed, the DUP talked to us about it. A lot of concerns were raised, because there is no moral equivalence between perpetrators of violence and entirely innocent victims. However, when Mr Basil McCrea raised the issue of the definition of a victim with deputy First Minister Martin McGuinness at Question Time in May 2009, the reply was that the victims' forum, when established, would look at the definition of a victim and, under the leadership of the Victims' Commission, look to establish the victims' service.

Earlier today, I asked one of the victims' commissioners how that work was progressing. I have also taken soundings from other victims' groups, and they feel that it is a very divisive debate. It adds nothing to meeting the needs of victims. In some people's views, it is a sham fight between the DUP and Sinn Féin. I understand that the forum, which has 37 members from all sections of society who were caught up in the conflict in one way or another, could not agree on the definition of a victim. However, it did agree on a second principle about the needs of a victim, whether physical, emotional or psychological, and that those needs should be met, regardless of how the person became a victim.

The Bill would change the circumstances of meeting the needs of victims, and it is not what the victims' forum wants. The SDLP has always said that it will take its lead from victims' groups and put victims at the heart of the debate. We have, therefore, signed the petition of concern and will oppose the Bill when the vote is taken tomorrow.

Mr Molloy was at pains to point out the origins, as some would claim, of the conflict and the role that was played by the security forces, including the British Army, the RUC and others. In recent weeks, we have heard evidence on the role of some of those organisations. The families of those killed in Ballymurphy have uncovered truths about what happened. We have also heard that the Prime Minister at the time of the McGurk's Bar bombing suggested in correspondence that the loyalists responsible for the bombing would not be named and that republicans would be blamed for it. Both of those incidents had a role in how the conflict unfolded.

Mr D Bradley: Does the Member agree that one of the major weaknesses of the Bill is that many people who have been involved in murder, mayhem and maiming could claim to be victims under its provisions if they have not yet been caught or convicted? Those people could come from the ranks of paramilitary organisations or from the ranks of the security forces, many members of which have been granted Crown immunity.

Mrs D Kelly: I agree with my colleague Mr Dominic Bradley. There are some 2,000 unsolved murders as a result of the conflict in the North. It is most regrettable that the Bill will not look at the role of the terrorist godfathers. Many young men became embroiled in violence and conflict for whatever reason, but they were often sent out by the godfathers.

Mr Weir: The Member should note that the Bill excludes anyone who is a member of a proscribed organisation. So, terrorist godfathers, regardless of whether they are from the IRA, the UVF, the UDA or the INLA, will fall under that. Therefore, the Member's point does not hold true.

Mrs D Kelly: The problem is around convictions.

Mr Weir: No.

Mrs D Kelly: Today, we have heard people in very senior positions in Sinn Féin denying their membership of the IRA. It was not Dolores Kelly who said that Mr Adams was a member of the IRA; it was Brendan Hughes, in his book 'Voices From the Grave'. Mr Hughes said that he was a former colleague and comrade in arms of Mr Adams. Those were authoritative claims by a person who was admired in republican circles until the publication of that book. In a radio interview not that long ago, Gerry Adams said that people made choices. People did make choices; they made choices about whether

or not to get involved in violence and terrorist organisations.

As a victims' representative said to me today, we are where we are. Many people are looking to move the debate on through a truth commission. Mr Weir talked about getting to the truth of what happened, as did Mr Molloy. However, we will never get the truth, because there are people who wish to protect members of the security forces and those who wish to deny their own involvement and the involvement of their terrorist organisations in what happened over the past 40 years.

It is most regrettable that this debate is taking place, because victims were very optimistic about the promises made to them by the First Minister and the deputy First Minister and about the additional money that was put into meeting their needs. The victims' service was supposed to assess the individual needs of each victim or survivor. That has not yet happened. People would much rather have us debating the victims' service and its shape and make-up, rather than have us going back and debating the definition of a victim.

A number of countries that have emerged from conflict have looked at how we can best move forward, and truth and justice are usually two central cries. As we all know, the majority of people are not going to get justice, but they do want truth. Some relatives want to know the last words of their relative before they were murdered, whether they asked for a member of the family and whether they sent any message. We should concentrate our efforts on getting the victims' service right, rather than going back over such a divisive debate about the definition of a victim.

Dr Farry: Clearly, this will be a difficult debate. We are not off to the best of starts. Most Members who speak are, at least, sticking to the contemporary period and not going too far through history.

Many will have considerable sympathy with the Bill. I am almost tempted myself. However, I have to show integrity for the process and say that the Bill is a crude and unnecessary device that will be counterproductive and destabilising for this society and may well constitute a breach of equality and human rights obligations. I say that with a heavy heart, and you can take it from that that the Alliance Party will not be supporting the Bill.

The Bill is fundamentally not about victims; it is about politics. Indeed, Mr Weir almost implicitly made that point in his opening remarks when, justifying the approach taken to date, he referred to those who are not here. I assume that he meant Jim Allister and the TUV, although I thought that they were political dinosaurs that were becoming extinct and not something that we were overly worried about these days. However, it seems that they are still lingering in the background.

We already have a definition of a victim, through the Victims and Survivors Order. I happily concede that that may not be a perfect definition, but it is important that we do not fall into the trap of trying to make the perfect the enemy of the good. The current definition has allowed us to move forward in this society in how we respond to victims. Clearly, we still have a long way to go. However, it has provided us with a basis on which we can establish the Commission for Victims and Survivors and the various commissioners. It has also allowed us to take forward work on services for victims and grant-making to organisations that work with victims. Indeed, it gives us today the potential to eventually move, hopefully, to a new victims' service. Trying to change the current definition only opens up an argument that will lead to further stalemate and division in this society. That is not in the interests of the political process in general, and it is certainly not in the interests of victims. We have seen that in the nervousness shown by a large cross-section of victims and victims' organisations about the Bill.

I also regret that one of the Assembly's first tasks overloaded the victims' forum by almost asking its members at the outset to work out themselves what was meant by a victim. In that sense, we are abrogating our responsibility as an Assembly. It is almost as if we are saying, "Let us bring together a group of victims based on the existing definition in the 2006 Order, and the first task that we ask them to do is to determine which of their group should be asked to leave the room". That is not a sensible or realistic way to move this society forward on an inclusive and shared basis. It is no wonder that people are finding that challenge hugely difficult.

If the DUP and Ulster Unionists are serious about wanting to change the definition of a victim, that has to be done on the Floor of the Assembly. People will say that that is what we are here to do today through this private

Member's Bill. However, a private Member's Bill is not the effective way to do something that is so sensitive and, clearly, very divisive across the Floor of the Chamber. Although I am prepared to work on the basis of the current definition of a victim, I do not preclude there being a new, revised definition at some stage. However, if we are to achieve a new definition, it will have to be one that is negotiated between the parties in the Chamber and has broadly based cross-community support. It will also have to be consistent with our wider equality and human rights obligations as a society. Clearly, we are not at that stage today.

If parties are serious about victims — I refer in particular to the DUP and Sinn Féin — why did it take so long to appoint the victims' commissioners, leading eventually to this unsustainable fudge? Having three commissioners is now considered to be perfectly fine, whereas, in the past, to have four was deemed essential. Why are we dragging our feet on creating a victims' service, despite the consultation being some time ago? My understanding is that that service is still some way off.

Where is the collective Executive response to the Eames/Bradley Consultative Group on the Past? Where is the collective response from the Executive to the Victims' Commissioner's report on how we deal with the past? Those are the huge issues that face us as a society.

5.30 pm

Dealing with the past is a fundamental challenge that cannot be ducked. It is essential to building a shared future. We cannot go around the issue; we cannot sweep it under the carpet; we have to face up to it. The challenge is devising a sustainable solution to the needs of this society. There are many ideas and good strands, but no one is prepared to put them together and to run with them. Fundamentally, there must be a partnership between the parties in Northern Ireland, including at Executive level. The partnership must include the British Government, through the Secretary of State, and the Irish Government, and, possibly, it must extend internationally if that is what is required. However, we have to shape a constructive debate to bring matters forward.

The Alliance Party has always been utterly consistent in its support for the rule of law, democracy and human rights. It has never

wavered from that, unlike some parties in the Chamber. That comment is not directed at one side of the Chamber; it applies to both. There have been occasions when parties here have sought to justify acts of violence, whether outright terrorism or mass civil disobedience that spilled over into violence on the streets. All those actions led to victims, and we need to be very clear about that. However, my party is clear about where it has always stood. It has always understood the importance of the rule of law in moving this society forward.

It is important that we are constructive and that we look at the issue in two different respects. A distinction must be made between a hierarchy of victimhood on the one hand and a hierarchy of responsibility or circumstance on the other hand. There is a greater distinction to be made between people who were killed and injured purely through the actions of others and those who were responsible for acts of violence, whether directly through firing weapons or planting explosives. Indeed, the godfathers who directed people and those who whipped up fury on the streets also led to violence. In that sense, there is a hierarchy of responsibility, and various people have to reflect on their contribution. Some people have been much more responsible than others.

Yet again, the majority of people in Northern Ireland were not one bit responsible for what happened during the Troubles. Indeed, many played major roles in trying to bring stability to this society, in preserving a sense of democracy during difficult times, and in keeping the economy going. Quite rightly, that starts with those who served honourably in the security forces, the army and the police, etc, and those who kept society going, such as the emergency services, those who ran businesses in difficult circumstances, and those who kept their heads down or tried to persuade others to move away from violence, such as the genesis of the peace movement that eventually bore fruit, resulting in the peace process and the political process where we are today. Therefore, I make that distinction between those people —

Mr A Maskey: I have just listened to a holier-than-thou expedition of where the Alliance Party has taken us over the past 30 years. We are all pleased to hear that the Alliance Party held the place together for so many years, but does the Member not accept that, for many years, the Alliance Party was a significant tool

in the NIO's armoury to portray this society as normal? In the eyes of many of us, the Alliance Party played a significant role in prolonging the conflict because it was part of the process of the exclusion of many people in this society?

Mr Speaker: Order. I have reminded Members on several occasions, and I have given Members on all sides of the House quite a bit of latitude. However, interventions should, as far as possible, refer to the Bill. I am being as lenient as possible because I am conscious of the emotive issues around this matter, but I hope that Members will understand that, as far as possible, they need to stick to the Bill.

Dr Farry: I certainly appreciate your ruling, Mr Speaker. Given the circumstances, however, I believe that I should respond to Mr Maskey's comments about my party. Quite frankly, to say that the Alliance Party prolonged the conflict in Northern Ireland is, perhaps, the most farcical statement that has been made in the Chamber during the past 12 years. What a ridiculous thing to say. My party has stood four-square for the rule of law. That has meant opposing terrorism from whatever quarter it has come. It has also meant criticising the security forces when they have acted outside the rule of law. For example, back in the early '70s, the Alliance Party opposed internment. That was a brave step to take at the time. We did so because we felt that it was the right thing to do. Today, we are happy to recognise when the state and its servants act honourably in defence of democracy and the rule of law. Equally, we are not afraid to speak when individual officers fail to act honourably or when there is a wider problem in the state response. Therefore, I will not take any such criticism.

Mr Weir: I thank the Member for giving way. In the spirit of truth, will he not confess to the many obvious punishment beatings that took place at Alliance Party coffee mornings up and down the country during the past 30 years?

Dr Farry: I appreciate that Mr Weir is trying to be flippant. However, it is worth stressing that Alliance Party members suffered at the hands of terrorists. Indeed, party members received what Mr Weir refers to as "punishment beatings". Certainly, I would never refer to them as such because to do so implies a sense of legitimacy, as though the person on the receiving end deserved punishment. Alliance Party members have been burnt out of their homes. Some have

received death threats. Therefore, the party has suffered in the same way as a cross-section of society, yet it has acted with and provided leadership.

In defending the absence of a hierarchy of victims, for which I will provide reasons in a moment, it is worth stressing that people on both sides of the Chamber have implicitly and, quite often, explicitly tried to establish their own hierarchy of victims. Clearly, the Bill tries to create a hierarchy of victims, which we are debating. Equally, Sinn Féin has created its own hierarchy of victims. If we look back at the comments that have been made, we can see that the lion's share have been about victims of alleged so-called state collusion with regard to what must happen to secure truth and justice for the future. There is a situation in which 3,000-plus people lost their lives and countless others were injured. Often, the narrative and discussion about victims is dominated by a small number of high-profile cases, all of which —

Mr Molloy: Will the Member accept that when I asked for the truth about the conflict to be divulged, I meant the truth for all victims? I do not seek to create any hierarchy of people who need to have that truth.

Dr Farry: That may well be the case. Mr Molloy may well believe that. He may sincerely want that to happen. However, there are two fundamental challenges. First, Sinn Féin's narrative focuses on a number of high-profile cases, despite what Mr Molloy has said. Secondly, if the Assembly is genuine in wanting to find truth and justice for every victim in society, that requires not only the security forces and the British state to co-operate with any system that is established, but the IRA to be prepared to come forward and to be utterly frank and open.

Mr D Bradley: Does the Member agree with Denis Bradley's comments in the 'Belfast Telegraph' on Saturday 11 December 2010, when he said that Sinn Féin's stated desire for a truth commission will never come to fruition because:

"there is no desire within the IRA for a Truth Commission and I think they are leading victims up the garden path?"

Dr Farry: I thank the Member for his comment. There is probably something in it. In order for progress to be made, we need to get over the

fundamental barrier of the IRA's unwillingness to come forward to provide the truth.

With regard to a sense of balance, I want to focus on the issue of the selective highlighting of certain cases and cite what happened about inquiries. We are back at Weston Park. For fundamentally political reasons, six high-profile cases were selected to try to move this process along. Those cases may well have merited such attention, but a lot of people asked about their cases and those of their families. They asked why certain families were, potentially, going to get justice, when, based on what was being done, their family had no prospect of getting justice.

That highlighted one of the weaknesses in the DUP argument, which relates to the case of Billy Wright. I do not think that anyone in the Chamber would argue that Billy Wright was not a major perpetrator of violence in society. Under the definition of "victim" in the DUP legislation, I presume that he will be excluded from being treated as a victim. However, the DUP and the Ulster Unionists have championed the Billy Wright case for a public inquiry and focused on the recommendations of that inquiry. In doing so, they have treated Billy Wright as a victim. They are perfectly entitled to do that, and due to the failings of the Prison Service and the wider state, there is, probably, a strong reason for doing so. However, the fact that they have done that points to the massive hole and inconsistency in their argument.

Mr Weir: Will the Member give way?

Dr Farry: In a second.

Billy Wright was a perpetrator. Indeed, he was a mass murderer. However, at the same time, the DUP has implicitly recognised him as a victim.

Mr Weir: No one is indicating that Mr Wright is a victim in that regard. He is not a victim under whatever definition we apply in this. He is clearly a perpetrator. However, people have a right not to die in the custody of the state. Therefore, it is right that there is an inquiry and that everything is focused to ensure the safety of people who are in the control of the state — irrespective of what they have done in their past. That does not mean that Billy Wright should be included as a victim in this legislation. Indeed, on that basis, he would not be included.

Dr Farry: We now have a completely farcical situation in which the DUP is arguing that Billy

Wright would not be a victim under the terms of the Bill, but that, generally speaking, he is a victim. If he was not a victim, why on earth was there a demand for an inquiry into his death?

Mr T Clarke: Will the Member give way?

Dr Farry: In a moment.

Mr Weir went on to say, rightly, that if individuals are perpetrators, it does not mean that they do not have rights, interests and needs that have to be addressed by wider society. That is why we have the current, inclusive definition under the Victims and Survivors (Northern Ireland) Order 2006. In doing that, however, we recognise the rights and needs of everyone in society, including victims in whichever context they became victims, and we make a distinction and have a hierarchy of circumstances in which people became victims. We treat people who were shot and murdered through no fault of their own differently to those who were the perpetrators.

Mr T Clarke: I have problems with the fact that the Member cannot understand where Mr Weir is coming from. To take Dr Farry's analogy, he is saying that if someone who is a murderer is sentenced to prison — and there are many here today who were sentenced to prison — and is, in turn, murdered in that prison, that is acceptable.

Dr Farry: I am saying that that person is a victim. The point is that through its actions, the DUP has implicitly accepted that people in those circumstances are victims, but here today, you are trying to draw an artificial black and white boundary in a counterproductive and divisive manner.

I am trying to conclude, so perhaps I will finish with this point. We have to react to a person as a victim differently to how we would react to that person as a perpetrator. However, if someone who falls under the definition of "victim" happens also to be a perpetrator, we will provide that person with the services that are made available to people who are victims, and, as a perpetrator, there will be a responsibility on the state to respond to that through its actions. In the past, if the evidence was there, the state would have sought convictions. Even today, that is, technically, still the case. The issue of punishment or rehabilitation is linked to someone who is regarded as being a perpetrator, and there are mechanisms available for us to take that forward.

Mr Callaghan: Will the Member give way?

Dr Farry: Just a second.

There is a debate as to how we do that; for example, with respect to truth and justice. We need to have that debate, and I keep an open mind on where the balance lies. At the same time, we make a distinction between someone who is a perpetrator also being a victim and ensuring that there is equity and access to the proper services for those who are in such circumstances. I will give way to Mr Callaghan.

5.45 pm

Mr Callaghan: I thank the Member for giving way. He said that if the evidence existed, the state would always have pursued prosecution and conviction. Unfortunately, it was not always the case that, where there was evidence, the state did pursue prosecution and secure conviction. That is one reason why the Bill is flawed, even on its own terms, and if we accept the premise under which Mr Weir and the DUP are presenting it.

The fact is that the judicial record and the official record on many events that happened in our country over the past 40-odd years is incomplete and is, in some ways, totally wrong. I am mindful, for example, of the experience of the Bloody Sunday families — those who lost loved ones on that day at the hands of the British Army and those who were injured. For many decades, they were branded by the state as being not innocent. It was only after a long campaign that were they vindicated. People should be mindful of that when considering this type of measure.

Dr Farry: I thank Mr Callaghan for his point, which he has made eloquently. However, it is important to make the point on which I am focusing at this stage, which is the conceptual response. It is important to make a conceptual difference between how we regard someone as a victim and how we regard people — if relevant or not — as being perpetrators and responsible. I am making the point that there are mechanisms available for dealing with perpetrators.

Withdrawing the status of victim from people who find themselves in that circumstance should not be regarded as a back-door form of punishment. If people are to be punished for what they have done in the Troubles, there

should be mechanisms for that, whether it is a criminal conviction and a time of imprisonment. If we, for political and pragmatic reasons, have moved forward with early releases, we should look for some form of truth and justice in how people deal with the families who have suffered as a consequence of their actions. That is how we can address responsibility for violence. If someone is a victim, there are different ways to address that.

Perhaps the current legislation is well intentioned: perhaps it is cynical. However, I do not believe that this is a constructive or effective way of moving forward on an incredibly difficult debate. With deep regret, my party cannot support it, and I urge all parties in the Chamber to come back so that we can have a proper debate, not just on the definition of a victim but on the whole issue of victims in this society, and, indeed, the wider issue of how we deal with the past.

Mr Bell: The only time when perpetrators should come before victims is in the dictionary; that is the only time that a perpetrator should be placed in front of a victim. We expected this attitude from Sinn Féin: we did not expect it from the SDLP and the Alliance Party.

This debate is about distinction. It is about saying that there is a distinction between those who terrorise and those who are terrorised. It is about saying that there is a distinction between the guilty and the innocent. It is about saying that there is no moral equivalence between the people who, in the course of terrorist murder, torture and ethnic cleansing in Northern Ireland — and let us not use sanitised words like “conflict” — perpetrated those actions and those who were the innocent victims of them. The Bill says, posthumously, to those people who were murdered by terrorists, who had booby traps placed inside their corpses, that those responsible are morally different from the innocent victims. That is the difference.

There is a distinction, and it is shameful that the SDLP and the Alliance Party have come to the help of the people who are guilty of the most heinous crimes in Northern Ireland, because that is exactly what they have done. It is a debate on which I come to the SDLP more in sorrow than in anger.

The SDLP Members know in their hearts that they are on the wrong side in this one. They know that there is a difference between UDA

and IRA murderers and their innocent victims. They know it in their hearts.

Mr Speaker: The Member should not point across the Chamber at other Members. I am happy enough for the Member to point his finger at me, but he should not do so at Members across the Chamber.

Mr Bell: I will not point my finger, but I will point the argument, Mr Speaker.

The SDLP knows that there is a difference between the UDA and IRA murderers and their innocent victims. That is why Dolores Kelly was correct when she said that there is no moral equivalence between the murdered and the murderer. However, when a genuine attempt was made in legislation to make that distinction, the SDLP, with the support of the Alliance Party, dropped the ball. There is no moral equivalence. Today, the SDLP and the Alliance Party will stand accused not of moral equivalence, but of moral repugnance, because they have elevated the terrorists, those guilty of ethnic cleansing and the torturers to the same level as the innocent, and they will not make the distinction between them.

Two events stand out: one carried out by loyalist terrorists, the other by republican terrorists. If I may, Mr Speaker, I will refer to ‘Lost Lives’. I refer to the death on 13 January 1980 of a civilian Protestant postmaster in Blackwatertown. There, Protestants were guilty of nothing other than running a business. When ordered by republican terrorists to sell their business, they refused. In many cases, when terrorists — the people whom the SDLP and the Alliance Party think are on the same level as the innocent people — ordered people to sell their businesses, there was only one bidder. John Brown refused to sell his business.

John Brown’s family bought the business in Blackwatertown from my grandfather. My grandfather moved from the business because my aunt drowned in the Blackwater River. No longer able to live beside the river in which his daughter drowned, he sold the business to Brown. Republican terrorists ordered John Brown to sell his business, but he refused. It was nothing short of a campaign of ethnic cleansing. What happened? The INLA came in, carried out a raid and murdered John Brown. These were the words of Seamus Mallon —

Mr Speaker: Order. The Member should take his seat. I take it that, at some point, the Member

will try to refer to the Bill. I have given great latitude to Members, and they should not abuse it. I say to the Member that, as far as possible, he should try to relate what he says to the Bill that is before the House.

Mr Bell: I was trying, Mr Speaker, to make the point that the Bill must make a distinction between those guilty of the ethnic cleansing and murder of John Brown and the innocent people who are on a different level. That is the point that I am trying to get across, and it is central to the Bill.

Seamus Mallon of the SDLP said that Mr Brown was:

“one of the best-liked and most respected men in the area”.

The Republican Clubs said that the murder was the work of “narrow-minded sectarian bigots”. A Protestant businessman, who had bought my grandfather’s business, was murdered in cold blood because he had to be ethnically cleansed from the border area.

My point is that the Bill should draw a distinction between those who were murdered in my family’s former business on the border in Northern Ireland and those who carried out the murder. That is central to the Bill. For people to state that the people who carried out that ethnic cleansing should be on a par with the innocent is morally repugnant.

I have another example, of which Mrs Kelly will be aware. It is central to my contention that there is a difference between terrorist murderers and those whom they murdered. The Bill should reflect that difference. It should reflect that distinction, and it should reflect that there is no moral equivalence.

When I was mayor of Craigavon, the honourable work of Mr McGoldrick was being highlighted in a BBC programme. The BBC asked whether it could film in the council chamber and the facilities there, and I agreed that that could happen. Mr McGoldrick had dedicated his life to helping children in Romania following the cold-blooded sectarian murder of his son in Craigavon by loyalist terrorists.

As I went to speak, a little child ran into my arms. That child was called Andrew. He is a couple of years different in age to my own son, Andrew. He came into my arms and it was only then that it dawned on me that this was the

grandson of Mr McGoldrick. This was the child in his mother’s womb when his father, who was a mature student and a graduate, working as a taxi driver to earn a few pounds to support his family, was taken and murdered in a cold-blooded fashion. I held that child in my arms —

Dr Farry: Will the Member give way?

Mr Bell: I will in a second; let me finish my point.

As I held that child in my arms, I realised the gross unfairness for victims that should be central to this Bill. My son and Andrew McGoldrick should have had the same opportunities, the right to a father. They both had the right to the love and care of a father, but terrorists took that away from Andrew McGoldrick. Some people have killed a Bill that should have said that there is a difference between those who murdered and those who were murdered.

Dr Farry: I am grateful to Mr Bell for giving way, but, frankly, this point has to be made: the LVF has been quite rightly singled out as being the butchers of Mr McGoldrick, but is Mr Bell prepared to recognise the context in which that murder occurred? People were brought out on the streets, tensions were whipped up over a dispute around people walking down a piece of road, and the selfsame people who were involved in that murder were involved and present on the streets, making —

Mr Speaker: Order. Once again, I remind Members that we are almost going down the road of another argument. I am very conscious that even interventions should, as far as possible, relate to the Bill. I will allow the Member to continue if that is the direction in which he is going.

Dr Farry: I am grateful for that, Mr Speaker, and I am fully aware of the dangers of how far we open this up. However, it is important to make the point that, when we refer to perpetrators, there are those who pulled the trigger, and there are those who created the context in which those murders occurred, which was the hysteria on the streets of Northern Ireland at that time. There are also those who claim to be democratic politicians who use the presence of those people on the streets — and, indeed, at Drumcree — to get their way in a parade. That was the context in which that murder occurred. When we talk about perpetrators in Northern Ireland, it is never black and white.

Mr Bell: I was trying to draw a difference between the innocent child and those who murdered his father. I find it shameful that the Alliance Party could come forward as the apologists for murder in this House. The people responsible for the murder were not other people; do not apologise for them. Do not try to give them legitimacy. The people who were responsible for the murder of Mr McGoldrick were the people who pulled the trigger, and there was no justification for it. The Alliance Party should not try to give them justification for it.

Mr Speaker: Order. I ask the Member, once again, not to point across the Chamber. It is very discourteous to other Members. I understand that this debate is quite emotional for some Members on all sides of the House. I ask the Member to continue.

Mr Bell: I am pointing the argument at the Alliance Party, which many will find shameful, for trying to provide some sort of excuse or veneer for what was a cold-blooded sectarian murder. That party does not need to be an apologist. It does not need to do the work of the IRA's little helpers. What the UDA did was shameful, and what the IRA did was shameful, and the point of this Bill is to put in place a distinction that the Alliance Party wants to blur.

In a sense, it has been said here today that the victims are being led up a garden path, but they are being led up a garden path with one hand in that of the SDLP and the other hand in that of the Alliance Party, which today wishes to come to give excuses for murder.

There was no excuse for murder then, and there is no excuse for it now. Throughout our communities, the vast majority of people — Catholic, Protestant, unionist or nationalist; from all backgrounds — draw a distinction between terrorist and innocent victim, and they believe that that distinction should be made in a Bill. It should be there.

6.00 pm

Despite the fact that it is not there, we will come back to it. Nobody is going to walk away from this. Just because the Alliance Party and the SDLP seek to kill a Bill that would draw such a distinction, do not think for a second that this debate is over. It will not be over, because justice is on the side of making a distinction, and I believe that society demands that a

distinction be made between those guilty of heinous crimes and their innocent victims.

There have been calls here for truth inquiries. I ask those Members to stand up and say that terrorists in republican or loyalist organisations will be clear and tell the truth about the torture that they committed. Remember that in no circumstances can torture be amnestied under European human rights law. Therefore, is Sinn Féin saying that the IRA and loyalist paramilitaries who tortured people —

Mr Molloy: Will the Member give way?

Mr Bell: Hold on a second. Let me finish my point. Is Sinn Féin today saying that those in the IRA — let us be clear about it — who were guilty of torture should come forward now and tell the truth, then face the justice demanded under international human rights law? Should they be jailed for torture?

Mr Molloy: Will the Member accept that the only people who have actually been found guilty of torture and inhuman treatment are those at Castlereagh holding centre under the name of the RUC? Going back to his previous point, will the Member also accept some responsibility for being one of those at Drumcree who paraded up and down the road and blocked the —

Mr Speaker: Order. I have repeatedly said to the House that even Members' interventions must closely relate to the Bill. I would prefer that Members do not go down a road that has absolutely nothing to with the Bill.

Mr Molloy: If the Member will give way again, I will explain. I believe that it is part of the Bill. Mr Bell made the point about comparison. The comparison is that those who stood with Billy Wright, making a case for him being a victim, are the same people who, through this Bill, are trying to justify what he did.

Mr Bell: Mr Speaker, I think that the answer is that I can put my hand on the Bible and say, before God, that I have never pulled a trigger, nor have I planted a bomb, nor have I ever tortured anybody. I may be guilty of many things, but I am not guilty of murder, I am not guilty of torture, and I am not guilty of bombing. The question that I asked, which was not answered, was whether the Member will call for those in the IRA who committed torture to tell the truth and face what the law demands under European international human rights law, without any

amnesty. That is the question that will remain unanswered.

Mrs D Kelly: I support his call for truth, but will the Member also step up to the challenge of calling for the truth from the British Government about the murder of many of my constituents in Upper Bann under the alleged shoot-to-kill policy? The British Government and the British Army have been found guilty of breaching human rights in respect of shoot to kill.

Mr Bell: We have consistently said that, where there is evidence of anybody being guilty of murder, manslaughter or torture, that evidence should be brought forward, and they should face a court of law. When the history of Northern Ireland is properly scrutinised, it will show that the vast majority of the members of the security forces and the British state acted with dignity and integrity. More loyalist than republican terrorists were prosecuted, despite the fact that republican terrorists murdered more Roman Catholics than loyalist terrorists and the British Army put together. If we are being fair —

Mr D Bradley: First, I say to the Member that the SDLP has never condoned or promoted murder and never will. In fact, it has done the opposite. We have condemned murder on every occasion on which it has occurred. Indeed, members of our party were murdered during the Troubles.

One of the Bill's weaknesses is that it allows certain perpetrators to become victims. The Glenanne gang, which murdered scores of people in County Armagh, contained members of the security forces. We debated that in the House. The information about that gang came from RUC constable Weir in an affidavit. Those members of the security forces will probably never be convicted of an offence in connection with any conflict-related incident or of being a member of a proscribed organisation. Even though they were involved in the most horrific of acts, they are still, if they wish, free to claim to be victims. That is a major weakness of the Bill. That is just one of the reasons why the SDLP will not support it.

Mr Bell: I think —

Mrs Foster: Will the Member give way?

Mr Bell: Yes.

Mrs Foster: Part of the difficulty in my constituency of Fermanagh and South Tyrone in relation to the Member's point is that there was

a 3% clear-up rate for terrorist atrocities. I am the victim of violence; my family was the victim of violence. We were ethnically cleansed out of Rosslea. We were moved because my father was proud to wear the uniform of the Royal Ulster Constabulary, something of which I will be eternally proud.

I listened to Dr Farry make some sort of equivalence between those who created a political context and those who murdered people. Is that Alliance Party policy now? It is some shift from how it dealt with things in the past. It is absolutely disgraceful if that is now its policy. There is a difference between perpetrators and victims — innocent victims — and it is a disgrace that the House cannot see that difference today and put on record that we will always support the innocent victims, no matter who the perpetrators were. Those people, whether UVF, LVF or whatever alphabetical arrangement one wants to use, were terrorists. We are here for the innocent victims. It is a disgrace that parties across the way do not see that.

Mr Bell: The honourable Member makes her point very well about the need for distinction. To answer Mr Bradley, I acknowledge that the SDLP suffered as a result of terrorism. The honourable Member for North Belfast, Mr Maginness, had his offices bombed by terrorists. I cannot understand why the SDLP now wants to hold the hand of the people who planted that bomb. It wants to hold the hand of the people who murdered innocent Roman Catholics and place them on a par with innocent victims. That is what we cannot understand.

Mr McDevitt: I understand why the Member may feel a sense of frustration about how the debate is going. However, the DUP might be better served reflecting on the wider context in which the debate is taking place. The DUP failed, before it came to the House, to convince many from its community who represent victims of the merits of this debate. It is impossible for us to move forward in a sensible and mature way if we simply seek to put our partisan political opinion above the interests of a sector in which all sides of the House have invested so much. It might have been better to seek Executive support through the Office of the First Minister and deputy First Minister.

We keep hearing about the stability of the new arrangement and the integrity that the two large

parties have brought to the new partnership in the Executive. I think that Members on all sides of the House feel that there are many parts of the Bill that deserve serious and honest debate. Many of us — I think that I speak for Members on all sides of the House — feel that many aspects of this private Member's Bill deserve serious and honest debate. Rather than trying to bring the Bill over the heads of the other parties in the House, of the victims' forum and of the very many people whom we have all consulted and spoken to and who do not feel that this is the right time or way, would it not have been better if the DUP had put those same energies, which I applaud because this is a serious and important debate, into trying to convince the Executive to take a mature position on the issue?

Mr Bell: The Member for —

Mrs Foster: How many times did the DUP seek meetings with the SDLP to discuss the matter? How many times did the SDLP bring us different wording that would have satisfied the proposals put forward here today? This is hugely disappointing. We tried to engage with the SDLP. There is no point in the SDLP abdicating its responsibility. It is a political party here, just like every other party is. The SDLP is trying to abdicate its responsibility and let somebody else deal with it. We approached the SDLP, and you know that that is the case. I know that the Member might not have been in the Assembly at that time. Nevertheless, the reality is that we had discussions with the SDLP about that matter. It is, therefore, hugely disappointing that it did not come forward and say that it had concerns about the Bill.

Mr McDevitt: Will the Member give way?

Mr Bell: I will make some progress, then I will.

The SDLP has effectively dropped the ball on this one. There was an opportunity to make a distinction in the Bill.

Mr McDevitt: Will the Member give way?

Mr Bell: I will give way in a moment; just let me make some progress and listen to my point. There was an opportunity before the SDLP and the Alliance Party scuppered it. There was an opportunity to draw a distinction between those who were bombing SDLP offices and those who were bombed and between those who were terrorists and those who were terrorised. The

honourable Member is an excellent wordsmith, but he cannot spare the SDLP blushes on this one. It has shielded terrorists from facing the full force of scrutiny and from being held to account for what they did to innocent people. However, what is most shameful of all is that it has elevated terrorists to the same plane as innocent victims.

Mr McDevitt: I appreciate the Member giving way. I will briefly address a couple of Mrs Foster's points as well.

I am happy to report to Mrs Foster that the SDLP was more than happy to engage in two if not three meetings over the past six weeks to discuss the Bill, and she will be glad to hear that I was party to them all. Two things were obvious from that engagement. The first was that sufficient consensus had not been achieved in the victims' sector. I say that with the greatest respect to colleagues opposite, because I do not think that this debate should be in any way denigrated; it is deeply serious and important. However, it was obvious from the information that colleagues provided that that had not been achieved. The second thing that was obvious was that there was no opportunity for political consensus.

It is my party's policy that the debate about victims should be informed by the views and wishes of the victims themselves. It is deeply upsetting that we are practically four years into this so-called new arrangement and that, during that time, the Office of the First Minister and deputy First Minister did not invest political capital into ensuring that the proper framework existed for the victims' sector.

I have some sympathy for the Members opposite, who maybe feel frustrated and have, therefore, brought a private Member's Bill to the House. However, what they will not be able to achieve through the Bill on the Floor of the House is the same thing that they have failed to achieve through the Victims' Commission, the forum and their role in the Executive, which is to create an argument that is capable of support, not on a political level but on victims' sectoral level.

6.15 pm

Mr Bell: The Member fails to convince anybody that there is no difference between those who were murdered and those who murdered. I pointed out to the SDLP that this Bill clearly draws a distinction between those who brought

bombs to SDLP offices and those who were the victims of those bombs. That is the distinction that we need, and it is the one that is missing.

I have listened to and watched politics very carefully for the better part of 25 years, since my adolescence. As chairman of the politics society when I was 16, I used to invite Mr Maginness of the SDLP to meetings in order to sit at his feet and learn from his wisdom. I know how strong the stance he took against terrorism was, and I know that he is a victim of terrorism. I wanted the Bill to go through because I draw a distinction between Alban Maginness, the victim of terrorism, and those who carried the bomb to his office. That is the distinction that I draw, and that is the distinction that should have been made in the Bill.

That is the opportunity that the SDLP has missed, and it is an opportunity that, I think, people would have expected the Alliance Party and the SDLP to take. Let us face it: that distinction could have been made, and, indeed, it should have been made. However, it has not been made. We can go on indefinitely, so let us draw the debate to a conclusion. All those who suffered as a result of ethnic cleansing, whether it came from loyalist or republican terrorists, deserve better than for the SDLP and the Alliance Party to kill a Bill that would have drawn the distinction between the killers of their loved ones and innocent people.

Mr A Maskey: I thank the Member for giving way. He has been very patient and very indulgent of all the Members who sought to intervene.

My comment is a response to a point that the Member made. I think that it would be good if we could return to the central and real issue, which is the Bill. I know, Mr Speaker, that you have tried to do that all afternoon. I hope that not too many victims or victims' organisations are listening to the debate, because I do not think that we are doing great justice to the issue. That is notwithstanding the fact, as you pointed out, Mr Speaker, that these debates are very important and emotional for many people. They are probably emotional for everybody, but perhaps others show it more. Nevertheless, as I said, I do not think that we are shedding any additional light on victims' needs or on the fact that each and every Member and all the parties have said repeatedly that they will always make sure that victims are retained at the heart of any of our discussions. Therefore, I would prefer

it if the debate were shortened, rather than prolonged unnecessarily.

The Member invited people, certainly those in my party, to seek truth from those who had anything to say. I cannot remember exactly what he said, so I will not paraphrase the Member's words. It is very rare for me to speak as a victim, but I presume that, under the current rules and regulations, I would be classified as a victim. I want to discuss my case, because I want to establish the complexity of the matter for all in our society.

I stand as a victim, because I was injured. I am lucky to be alive, and I am grateful for that and that I am here to speak on this matter. However, the fact is that, in my case, we had a Brian Nelson, who was a proclaimed British agent, as a representative in the UDA. We had a trial in which Mr Nelson was convicted of conspiracy to murder me and other individuals, who were all named at the trial. We also had Brigadier Gordon Kerr, who was a very senior British military operative. He gave evidence to the court in a very truncated statement, to the effect that this man did tremendous work and saved many lives and it was unfortunate that he had to stand trial at all. Of course, Mr Nelson went on to be sentenced to, I think, 10 years. This is an important point that I am trying to make: Mr Nelson went on to be sentenced to, I think, 10 years, very little of which he served in prison. The then Attorney General, Sir Patrick Mayhew, did the deal with Mr Nelson. This is all a matter of public record, but it is important to recall that Brigadier Gordon Kerr was able, along with Brian Nelson, to strike a deal with the then Attorney General to have basically no trial. We had an admission of guilt, and a short prison sentence was handed down, of which, as I said, Mr Nelson served hardly a year or two. I would want to know what Brigadier Gordon Kerr knew about the rest of the murders, who was involved, where the chain of command was and where the command and control went. People like me and many others would present evidence that would say that that trail of murder, because it was state murder and state conspiracy to murder, went to the heart of the British Cabinet. That was because the Attorney General was a member of the British Cabinet, which agreed and approved the deal that gave Mr Nelson a short sentence for those murders and for conspiracy to murder others, including me.

The point that I am making is that truth, which is what many victims want, is to be found in many corners. My party and I want a truth commission or process that affords all those who have something to say and the courage to say it an opportunity and avenue through which to say it.

If the DUP has its legislative way today, a lot of people will no longer be accepted as victims. The Member and the party opposite have to address that point. How will the concerns of people who are currently designated as victims — I know that members of the party opposite referred to innocent victims, whatever that might mean — be addressed? If the legislation proposed by the DUP were to be passed, many people who are currently acknowledged as victims will no longer be publicly, officially, formally and rightly acknowledged as such. Surely that is not what the Democratic Unionist Party wants as a result of legislation. I am simply offering one example out of many that highlight the complexity of the problem. I am suggesting that we have a rational discussion about the issue rather than going down the road of citing case after case. We could be here for a week, and, as I said, we are no longer doing any great service to the victims' community.

Mr Bell: Let me try to do justice to the Member's comments by rationally going through each of his points. Anybody who has been the victim of terrorism is a victim. I do not think that anybody outside the Chamber, looking on at the moral confusion here tonight, would find any difficulty in understanding the meaning of the term "innocent victim". It means that a person was innocent. It means that what happened to him or her cannot be justified. Whether an action was done under the initials of the IRA, the UVF or the UDA, an innocent victim is an innocent victim. It means exactly what it says on the tin: they are innocent victims. That is the central distinction in the Bill.

The Member referred to the actions of Brian Nelson and to his short sentence. However, it is difficult to think of anything that happened in Belfast without thinking of Jean McConville. Nobody served time for taking that single mother from her 10 children, stripping, torturing and murdering her in cold blood and for years denying her a funeral. When Members say that such and such a person was guilty of doing something to them but did not serve a long enough sentence, they would do well to think on the fact that, when they point at that person, three fingers point

back at them. Those three fingers scream for justice for the likes of Jean McConville, for whose murder nobody served time. That is the difference. I will conclude on that point, because I will not pick people out at random.

Let us be honest and straight: people in the Chamber are guilty of making victims of innocent people. The Bill draws the distinction between innocent victims of terrorism and those who were members of terrorist organisations or convicted of terrorism. The Jean McConvilles of this world cry out for justice, because those who take a mother, strip, torture and murder her and orphan her 10 children are different from the single mother who was murdered. The Bill should be taking that delineation forward.

Members referred to 'Lost Lives', which begins with the murder of John Patrick Scullion, a 28-year-old single Catholic man, and finishes, some 3,000 lives later, with the murder of Charles Bennett, a 22-year-old Catholic and part-time taxi driver, who was found in Belfast with his hands bound behind his back and a cloth tied around his head. That book does not include the murder of the innocent policeman in Craigavon and nor does it take account of the deaths of the two soldiers in Antrim, who were also innocent victims. I suggest that the people who took a person and blindfolded him, took his hands and tied them and then murdered him in cold blood are different from the innocent person who was murdered. There is no equivalence.

We started by saying that the Bill is attempting to make a distinction between a widow and a widow maker. There is a difference between those who were guilty of torture and those who were tortured. There is a difference between those who were guilty of ethnically cleansing my grandfather's business from the border and John Brown, an innocent victim, who was shot dead in cold blood. The Andrew McGoldricks of this world, who have been denied the right to the love and care of a father, are on a different moral plane from those who took an unarmed man up a laneway and murdered him in cold blood while his wife was pregnant with his child. There is a difference between those who committed murder and booby-trapped the corpse and the person who was murdered. There is no moral equivalence: that is certain, and it is out there, right across the community, from all sides.

The Bill has been set back temporarily because the SDLP and the Alliance Party have refused to step up to the plate, make the distinction and declare the moral position. I fear that many SDLP and Alliance Party voters will regard that not only as a failure to declare on the moral equivalence but as morally repugnant.

Mr Speaker: I am conscious of the fact that Mr Sheehan is the next Member to speak and that he is about to make his maiden speech. The convention is clear that maiden speeches should not be interrupted.

Mr Sheehan: Tá mé iontach sásta a bheith ag labhairt anseo inniu ar an Bhille thábhachtach seo. Leis an fhírinne a rá, tá sé tábhachtach don chomhphobal iomlán.

I am very happy to speak on the Bill. It is important to us all and, indeed, to the whole community. If we are to speak about victims and survivors and discuss a Bill that deals with victims and survivors, we need to place the debate in some sort of context. I do not want to go too far back in history, but, if we take 1969 as our starting point, it was not that someone put something in the water. The conflict erupted because of the political conditions here.

The most recent research by Ruth Jamieson of Queen's University estimates that, between 1970 and 1998, 40,000 people spent time in prison as a result of the conflict. If we add to that the people who served in the UDR, the RUC, the British Army and the Prison Service and the people who provided ancillary services to all those bodies, we can see that it was not a small group of people that was involved in the conflict. In fact, the people involved formed quite a sizeable proportion of the population. If we take the people in prison who were involved and translate that figure to the present-day male population between the ages of 50 and 65, we see that it represents more than 20%. Let us dismiss the myth that a small minority of people was involved in the conflict. A large number of people were directly involved.

I listened to some Members talk about perpetrators and about torture and about how members of their community, particularly those who wore the crown on their hat, provided protection. I do not want to indulge in "whataboutery", but, in 1969, in what was supposed to be a major city in a western European democracy, the police force, which people on the opposite Benches would say was there to protect the people, drove along

Divis Street firing indiscriminately from heavy machine guns into high-rise flats. That resulted in a number of deaths, among them that of a nine-year-old child, Patrick Rooney. We know who the victim was in that instance, but who was the perpetrator?

Was he questioned about his crime? Were those with him questioned? Did they serve time in prison? Were they charged? No; not at all.

6.30 pm

If we are going to talk about victims, let us talk about all victims. Let us talk about 1981, when a RUC Land Rover stopped at the bottom of Linden Street on the Falls Road. A young mother was passing on her way to the corner shop to get milk when one of the RUC officers opened the hatch, put a plastic-bullet gun out of it and shot her at point-blank range in the head and killed her. How long did he do in prison? Not a day. Not only did they kill that woman, they then lied through their teeth about it. If an international camera crew had not been in the vicinity to prove that the RUC was telling lies about that killing, it would have continued to deny it.

We could talk all day about different victims, but let us concentrate on the Bill. It makes no improvement to the current legislation. The current definition of victims and survivors is fair because it enshrines in legislation the equality of victims and is totally inclusive of all victims. The Members on the other side of the House should, at some stage, remove the scales from their eyes and recognise that there was a conflict here, which was a political conflict, and that, as a result, terrible things happened and people became victims.

I make no secret of my past. I listened to the Member on the other side describe how she was proud of the fact that her father was a member of the RUC. I accept that. I am also proud of my involvement in the conflict, and I make no secret of that. I am not ashamed of the IRA. However, it did things that were wrong; there is no doubt about that. However, Members on the other side of the House seem to think that those who served with the crown on their hats could do no wrong.

A reference was made earlier to a recent newspaper article in which a commentator said that he does not believe that the IRA is interested in any truth recovery process. As someone who has had close connections with

the IRA and who knows many republicans, I know that republicans have no fear of outlining their role in the conflict in an international independent truth recovery process. Our party president has said the same thing. I look forward to the day when members of the RUC, the UDR, the RIR, the British Army, MI5, the force reconnaissance unit and all the other shadowy organisations that were involved in killing people, providing weapons to kill people, and so on come forward and tell of their role in the conflict. I do not see anybody breaking the doors down to do that.

The 2006 legislation, as it stands, recognises the grief and pain and the sense of loss of all victims equally. This Bill makes a political football out of victims. If we are in a post-conflict situation, Members should not try to open old wounds. If we are talking honestly and sincerely about dealing with the past and moving forward, victims should not be a political football. The Bill is clearly an attempt to create a hierarchy of victims. I say to those, particularly on the opposite side of the House — I say it sincerely in an offer of reaching out — that there is absolutely nothing to be gained from trying to create a hierarchy of victims.

Natural justice dictates that that should not happen. The British or unionist victims of the conflict should not be given a position over and above victims from the republican or nationalist community, and, likewise, republican and nationalist victims should not be given a place over and above victims from the British or unionist community. All victims should be equal.

The Bill is divisive and is not in line with the views of many of the victims' groups and organisations or, indeed, with the views of the families of victims. There was an armed conflict for 30 years here, and, as a result, there were and are many victims and survivors. All deserve equal treatment. All victims need to be included in legislation, and the Bill does not provide for that.

Mr Givan: I rise with my mind baffled but not surprised at the warped and perverted thinking that some people have about the history of what has taken place during our Province's conflict. I do not have the intimate experience that some other Members have had of having lived through the Troubles. They refer to 1969, and, having been born in 1981, I cannot speak of my experience of that. However, from speaking to my parents and other family

members, I know that, in 1969, there was a struggle for equality. Social exclusion was taking place, and I accept that big house unionism was not operating the state in a way that it should have been operating. People from my community — a working-class community — felt that disadvantage, but when that issue was lifted up, sectarianised and taken forward as a campaign on the rights of the Catholic, nationalist, republican community, it was lost on the working-class, unionist, loyalist community. When we talk about the history —

Mr A Maginness: Will the Member give way on that point?

Mr Givan: I will give way, yes.

Mr A Maginness: The civil rights movement was not about Catholics, republicans or nationalism. It was about civil rights for everybody, and the whole intent was to create in Northern Ireland a just and open society in which everybody would be equal. It was a peaceful movement that wanted to achieve its aims through peaceful protest and agitation. That was its genesis and its nature, and that is what it attempted to do.

Mr Givan: There is no doubt that that movement morphed into a movement that was taken forward by violent, physical republican action forces. There is no doubt that the excuses that were being given at that time, and, quite rightfully, there were reasons —

Mr A Maginness: Will the Member give way?

Mr Givan: I am not going to give way again. I have only got into my speech. I am not giving way.

There is no doubt that the issues that other Members gave as a reason for the terrorist campaign and on which the civil rights movement campaigned acted as a catalyst — obviously not for some of the people involved in the civil rights movement — for physical force republicans to take forward their campaign of terrorism. That is how members of the community that I come from perceive it.

We need to get back to the starting point of the Bill and what it seeks to identify, which is: what is a real victim? The Bill, which is sponsored by Peter Weir, has sought to identify what a real victim is. There cannot be any equivalence between a perpetrator and someone who has suffered, and I am sure that Members across the Chamber, except for those from one political party, will agree with me on that.

If this debate has brought the focus back to the issue of the definition of a victim, I hope that we can work together, and that Members from the SDLP will refer to that in their contributions. We have made efforts to try to create a definition. The Alliance Party needs to be brought on board on the back of what it has said so that we can get a definition that we can all agree and work together on, because there is absolutely no doubt that we will not be able to get agreement with Sinn Féin on what a real victim is.

I am quite content with the position that I am taking. However, I find it unbelievable that Members of the SDLP and the Alliance Party are content to oppose the Bill. Having listened to what the Sinn Féin Member for Mid Ulster and the Sinn Féin Member for West Belfast said, I cannot comprehend how the SDLP and the Alliance Party can comfortably sit there in agreement with those Members' definition of a victim, rather than joining with us. Let us take this matter forward and try to get a definition that we can agree on, because we will not get agreement from the Sinn Féin Benches.

It is wrong and regrettable that the SDLP Member for South Belfast has, in my view, sought to play politics with the issue of a definition of a victim. He said that it should be a matter for the Office of the First Minister and deputy First Minister to bring forward legislation and take it through the Executive, but he knows full well that the deputy First Minister would never agree to the definition that we want to put forward. However, that does not prevent the Assembly from making a decision, through this private Member's Bill, on the creation of a definition. Sinn Féin cannot block that; it does not have the numbers to do so. Sinn Féin has been able to block this only because the SDLP came on board in lodging a petition of concern.

Mr McDevitt: Never mind dancing on the head of the pin with that argument, does the Member concede that he and his party do not have the support of the majority of the credible victims' representatives? I do not want to put those people's names on record because that would be unfair, but I am talking about people from both communities who we all hold in the deepest and highest regard, and who do not come to the victims debate with a political agenda, as others in this House may do, but with a genuine determination to do what is right by those who were caught up in our Troubles.

The problem with the piece of legislation before us is that it does not enjoy their support.

If Mr Givan is saying that it is time to start a much more mature and serious debate about not just the question of victims — I am going to stray slightly from the principles of the Bill, Mr Speaker — but the question of the past generally, I am sure that I speak for my colleagues when I say that he will find us open and willing to engage. However, that debate must extend well beyond the confines of the Chamber, be pervasive throughout our communities, not be tainted by partisan politics and, in so far as we can possibly make it, be victim led.

Mr Givan: I thank the Member for his intervention. If he is indicating that the SDLP is willing to look at creating a definition, we would welcome that. We regret that we have had to bring matters to this point because the SDLP, for whatever reason, was not able to come forward, working with us, to find a definition that we could mutually agree to.

Mr Weir: Mention was made of the views of victims. The reality is that there is a wide range of victims, and no single group or individual can claim, as some probably have in the past, to speak on behalf of all victims. I suspect that, on this issue, as with others, there is a very mixed view as to what that definition should be.

During the consultation on the Bill, the vast majority of responses were positive. Therefore, painting the Bill as running against the consensus of views is an erroneous assumption on behalf of some Members opposite.

If there were an attempt to improve the Bill, we would welcome it. However, I would have thought that the way to improve a Bill was to table amendments at Consideration Stage; not to kill it at this point, as some Members opposite seem to want. In all the discussions that I and my predecessor have had about the Bill, we have yet to get an amendment from anyone, in particular from the SDLP. There does not appear to be a wealth of ideas coming from that side of the House.

6.45 pm

Mr Givan: I thank the Member for his intervention. He is right; the SDLP in particular needs to step up to the plate on the issue, rather than operating the pan-nationalist front that we saw today. We regret that SDLP

Members have not been able to find it in themselves to step forward and give leadership to the nationalist community on the issue, and, although I recognise that the electoral landscape may make it difficult for them to do that, they should step forward. However, perhaps I detected some division in the SDLP on the issue, or a difference of thinking among some of its Members. Conall McDevitt, a Member for South Belfast, shook his head just now, as his colleague Declan O'Loan, a Member for North Antrim, did earlier when my colleague Jonathan Bell said that in their heart of hearts, SDLP Members know that they are on the wrong side of the issue. Mr O'Loan shook his head vociferously, but we all know his position.

It does not surprise me that Mr O'Loan wants to come into line with Sinn Féin thinking; he wants his party to disband and join forces with Sinn Féin. However, I expect other SDLP Members to take control of their own affairs and work with us in a constructive manner to deal with the issue. I give credit to Mr McDevitt where credit is due. He has done good work on the issue of sexual abuse by members of religious organisations. I have no doubt that he sees no moral equivalence in the sufferers of that abuse and the perpetrators, and he must apply that equally to what happened during the terrorist campaign. A terrorist and a victim of terrorism cannot have the same moral equivalence, and the SDLP must be consistent on the issue across the spectrum of what is a victim, because that is what we need to define.

I regret that we must have this debate in the first place, because it never should have got to this point. I alluded earlier to the genesis of the definition of a victim, the Bloomfield report. The then First Minister, David Trimble, took forward that report and issued the consultation paper on it, which included the definition. The Assembly was then suspended and direct rule Ministers put in place what was consulted on.

Tom Elliott gave a good speech, and I had no problem in agreeing with his position. However, when I look back at the past actions of his party I must ask myself, if we are to be consistent on the issue of victims, why it allowed the release of terrorist prisoners from the Maze prison. I was only 16 years old when those releases occurred. However, I remember going to the car park of the Maze prison and watching prisoners being released. Some of those prisoners had committed the most heinous crimes, and even

at that age, I found it difficult to stomach that happening. Mr Elliott should reflect on how we got to this point, as we never should have been here. Nevertheless, I welcome the position that he has now taken on the definition of a victim.

It did not surprise or shock me when I heard some of the comments from the Members on the opposite Benches about members of the RUC and the security forces. However, I know that their families will view the language that was used by those Members as repugnant. If individual members of an organisation act outside the law they should be pursued by the full rigours of the law, whether they are members of the security forces or not. They should be pursued by the law, and justice should be allowed to be done.

Mr Molloy: Will the Member clarify his position on those who worked for the forces of the state and were guided by MI5 or central government to carry out murders in collusion with loyalist murder gangs?

Mr Givan: The Member has made that point continually in every contribution. It is notable that on not one occasion has he referred to the actions of republican paramilitaries during the Troubles. That speaks volumes for the individual, more so than any other comment he has made.

Mr Molloy: Answer the question.

Mr Speaker: Order.

Mr Givan: It is what he has not said that is important. I repeat that, if someone was in the security forces and broke the law, that person should be pursued by the full rigours of the law. The perpetrators of what took place, whether loyalist or republican, are perpetrators and not victims. The Bill seeks to provide clarity and to define a victim. Members need to reflect on their contributions in the Chamber.

Dr Farry: I am grateful to the Member for giving way. I caught him just before the end of his speech. I appreciate, as he will appreciate, that there is a difference of opinion in the House. Perhaps his speech reflects a potential willingness of parties to engage on this issue. In recognition that moving the Bill today is not the right way to go about that, is the DUP prepared to consider withdrawing it and opening a further round of discussions with parties to see whether a compromise solution can be found

that is capable of receiving broad-based support in this society and enabling us to move forward on a shared basis?

Mr Givan: I thank the Member for his intervention. However, the answer is no: we will not withdraw the Bill.

Mr Weir: I am sure that Mr Farry has some very imaginative solutions, even though he has not shared any of those with us. He had the opportunity to speak earlier, and I did not hear him suggesting any changes in that regard. If there is a feeling that better wording or a better route can be found, surely the way to progress is to pass the Bill at Second Stage and then to put forward amendments, through either discussions or parties, at Consideration Stage. That is the whole point of amendments. Indeed, by voting against it, the Member helps to prevent that discussion taking place.

Mr Givan: I thank the Member for his contribution. I am sure that the Alliance Party will reflect on what has been suggested. Hopefully, it will vote with us on the Bill tomorrow morning and then table amendments. Let us work up a definition that we can all agree on.

The DUP has made strenuous efforts with the SDLP to try to create a definition with which that party is comfortable. Is the SDLP really comfortable with what the Member for West Belfast said about being proud of his association with the IRA and about the current legislation providing equality for all victims as it ensures that everybody is included? Is the SDLP really comfortable being in line with that school of thought on the definition of a victim? As my colleague said earlier, when the SDLP searches in its heart of hearts, it will realise that that is not where it wants to be.

We will continue to pursue this until we get the end result, and I appeal to the SDLP to join us. Let us get a definition that we can agree on. Let us not play politics with the issue. Let us not say that it is the responsibility of OFMDFM and that it is that bigger political game that the SDLP wants to highlight. Let us get to the real issue, put the victim first and get a definition that we can all sign up to.

Mr Kinahan: I am pleased to speak on this subject, but I do not feel that much of today's debate has got us anywhere. There is an element of both sides taking their positions with the upcoming election in mind. Debates that

end up in a DUP/Sinn Féin slanging match are particularly unhelpful. That does not show the Assembly at its best. It sends out the wrong signal, not just to Northern Ireland but to the rest of Europe and the world. We have to find a way forward from that.

We have a problem with the definition; however, we need a definition so that we can move forward. We need a definition because there are legitimate victims, whether they are members of the armed forces, police officers or civilians. We all have a view on what constitutes a legitimate victim, but we must find a way forward. That is the test for all of us; it is something that we must try to solve. The answer will not necessarily be found in the Chamber; it may be something that is better worked out outside.

As many Members know, I served in west Belfast in 1983. It was a great insult when all of us who served here in the army were branded earlier. I was trained to come here to look after everybody; in this case, everybody in west Belfast. My job was to keep the soldiers interested when they went outside the gate of the barracks, because the ones who were not interested found themselves being shot or bombed. It was necessary to explain to them that the people outside the gate were normal people; they were people whom we had originally come here to protect before the political ball ran in many different directions and made our job almost impossible. My job in those days was to make sure that soldiers did not overstep the mark, knew what was happening outside, remained alert and stopped any terrorist activity that they might see.

I have many statistics before me: 3,500 people killed or 40,000 to 50,000 physically or psychologically injured. We heard that there were 40,000 prisoners, which is a figure that I struggle with, but I have not looked at the statistics. We know that many people suffered in Northern Ireland. I go back to my point: we need a definition for victims. The definition that we have does not work.

Today has not helped, because, as I said before, it has been a DUP/Sinn Féin sham. However, the people in the army who came here with genuine intentions need a definition. They do not want to be made equivalent to a terrorist; they are very different, whichever side one looks at it.

Mr A Maskey: I am curious why, on at least three occasions, the Member referred to the debate being a squabble or a sham between the DUP and Sinn Féin. The Bill was tabled by the DUP. There has been an exchange between the DUP and all the other parties in the Chamber. The exchanges got a little bit heated, although most of the time they were all right. Therefore why does the Member call the debate a fight between the DUP and Sinn Féin, when the tenor of the debate has shown that not to be the case? The Member should be serious about the issue instead of playing politics with it.

Mr Kinahan: The last thing that I want to do is play politics with the issue. The debate has improved in the past half hour. *[Interruption.]*

Mr Speaker: Order.

Mr Kinahan: Would the Member like me to give way so that I can understand what he just said?

Mr A Maskey: The Member is playing politics with the issue, because he keeps arguing that this is a dispute between Sinn Féin and the DUP when it clearly is not; if anything, the debate is between the DUP and all the other parties, including his own. Therefore if he is not playing politics with the issue, why does he characterise the Bill as a battle between Sinn Féin and the DUP when, as the debate has shown, it is not?

Mr Kinahan: Even if the Member is silent, it is still a battle that remains and is one that is being fought. I did not want to get into drama, war stories and battles about what happened in the past; like most Members, I want to see the debate move forward. It has been interesting to watch this debate, because there seems to be a will to resolve the issue.

7.00 pm

There may have been a very small number of servicepeople here who did things that were wrong. A huge number who came here did so to do their jobs, and to do them as best as they could. They were not murderers, thieves or whatever the rest of them are being depicted as having been. We must try to get that out of this debate when we move on.

I look forward to all of us finding a way to clarify what a victim is. However, today has done no justice to everything that went on. I look forward to seeing us all working in the future, and to the definition of "victim" being resolved. It is better to back the Bill and to find a definition, and then

to look for other ways to deal with the other issues.

Some of the things that are happening in the Office of the First Minister and deputy First Minister — and I have just been there — include the Armed Forces and Veterans Bill. It would be more helpful if Sinn Féin let that Bill go forward instead of blocking it, because it is a perfectly innocent Bill. We should then find other ways for other things. I support the Bill.

Mr A Maginness: I do not believe that we will ever agree on the history of the past 40 years, and repeating our own potted versions of history does not serve much purpose, because we will not agree on them. It is important to understand that, because there is an attempt here to establish a narrative or history that is purely one-sided. It does not matter where it is coming from — whether from that side or this side of the House — there is an attempt to corral everybody's history into the one, and that is wrong.

Mr T Clarke: I accept what the Member said: it is not about one side or the other. Surely if we could separate that issue, and look straight forward at what the Bill is really about — the definition of victim — it is the difference between right and wrong. Whether you are a Protestant or a Roman Catholic, if you have murdered somebody, you are not a victim, you are a perpetrator. It is the difference between right and wrong. We have to take the two labels out of the argument and focus just on the definition.

Mr A Maginness: I will come to that in due course. However, I am not certain of the purpose of the Bill as far as the DUP is concerned. Members on the DUP side have tried to explain, and so forth. The reality, however, is that the more that they explain, the less that I understand what they are attempting to do.

The Bill is quite deficient. If it is an attempt to make a sharp, black-and-white separation between perpetrator and victim, it does not succeed in doing that. It states:

"provided that individual has not been convicted of —

(i) an offence in connection with any conflict-related incident; or

(ii) being a member of a proscribed organisation."

I could well be a perpetrator. I could well have been a member of an IRA or UDA murder gang and not have been convicted. I could be a perpetrator and be a Member of this House. I could be outside this House and I could be conducting an ordinary business in the community. However, I am still that perpetrator. I still carried out the criminal offences, but I still have not been convicted of them.

In that sense, this Bill cannot cover the person who carried out those offences — those criminal acts. Indeed, they are still criminal acts, whether or not they were motivated by politics. Although the Nazis committed criminal acts, they were motivated by politics. Therefore, it is no excuse for Members on either side of the House to say that because somebody was politically motivated and felt that it was just and right to carry out a criminal act, that act, therefore, was not criminal.

Many people were involved in proscribed organisations but were never convicted of being members of such organisations. Indeed, for many years, a person could legally be a member of the Ulster Defence Association. I do not know when that organisation was declared illegal, but, for many years, someone could be a member of the UDA quite openly and still not be convicted of belonging to a paramilitary organisation. That was not the case for someone who was a member of the UVF or the IRA. Therefore, many members of society who were involved in paramilitary activity will be completely outside the provisions of the Bill, which is deficient in the way that it has been drafted. However, that is not my point. My point is that the intent is to separate perpetrators from victims in a legalistic sense. I think that it is probably impossible to do that.

If one looks at the history of the issue — Sir Ken Bloomfield's report, the victims unit, Bertha McDougall's work as the Interim Commissioner, the work of the Victims' Commission, and the work of the victims' forum — one will see that they have all failed to reach consensus on the definition of a victim. Their failure to reach a successful conclusion has not been because they have been politically motivated, nor has it been because they have been in some way maligned or have regarded perpetrators being more important than victims. Far from it; they were victims themselves. They failed because the issue was beyond reaching consensus. They could not find consensus, and they could not get

a definition of victim. That is the problem with this type of legislation, and that is the problem with the Bill. It does not define victim in the sense that even those in the DUP want to cover it. All they are attempting to do is to narrow the definition of victim, and they do so in the provisions unsuccessfully.

The SDLP feels, and I think that the Alliance Party will agree, that there is no moral equivalence between a victim and a perpetrator. That particular phrase came from Monsignor Denis Faul who hated injustice and fought for justice and for the rights of ordinary people.

Mr T Clarke: Following on from the point that you made about moral equivalence, would it not have been easier for your party to propose an amendment to the Bill to make it more suitable and to try to get consensus in the Chamber, rather than blocking it and killing it off? By killing it off, you are agreeing that the people who perpetrated murder are victims.

Mr A Maginness: I do not understand how you can come to that conclusion. My point is that it has eluded the collective minds of all those people whom I have quoted — people who have suffered, people who are experts in examining social issues and issues relating to victims — to come to a conclusion that is acceptable to all. It has defied them, yet they have tried strenuously to achieve a definition.

There is a definition in law under the 2006 Order. People have related the history of how we got there, and so forth. That is the law as it stands. People may well say that it is imperfect: nonetheless, if we move away from it, that creates all sorts of difficulties and opens up a lot of scenarios, which have been ventilated in the Chamber, that create anomalies and contradictions. For example, Mr Maskey told the House that he was a victim of a terrorist act. That is a fact. Others in the House have referred to Billy Wright and said that he was a victim. That is a fact. He was murdered in prison. It is difficult, therefore, to try to unify all those positions in order to reach something that is acceptable. Certainly, there are all sorts of examples of people who are perpetrators and victims. That is a fact. It is important that we realise that.

Sir Reg Empey: I thank the Member for giving way. In his maiden speech, the new Member for West Belfast, who has left the Chamber, gave an example in which he alleged that, in 1969,

shots were fired at Divis flats. He would say that the person who fired those shots had carried out an inappropriate or illegal action. I could point out that, under present arrangements, the relative, say, of the person who is responsible for the demise of the late Jean McConville — in that same block of flats — could, theoretically, be deemed to be a victim. That distils down the contradictions that exist in our community. I do not care who someone is: I have huge difficulty in reconciling the equality of those two positions.

Perhaps the Member could also reflect on the fact that many people, certainly on this side of the Chamber, feel that there is a continuous tidal wave of demands for inquiries. Inquiries have a place, but the truth is that in dealing with irregular terrorist forces and a democratic state, one keeps records and one does not. There is never really equivalence. Therefore, there is continuous pressure for what many people deem fundamentally to be the achievement of a political objective, which is to try to rewrite history in the narrative of what I deem to be terrorist organisations. However imperfect the Bill might be, there is, nevertheless, justification for saying that although what has come forward is not perfect, the truth is that if there is a vote in the morning, this is kaput as far as the Assembly is concerned.

Mr A Maginness: The Member is actually saying — I agree with him — that people in the Chamber and outside it want to write their own versions of history. That is constantly repeated. If the Assembly wants to try to tackle the past, there must be a mechanism by which to do so. The Eames/Bradley report outlined a mechanism, albeit that people had different views on. The more that one considers history, the more that one comes to the conclusion that some sort of mechanism or independent method to assess it is needed.

The fact is that people will propagandise all sorts of incidents, and they will continue to do so until such time as we have an independent mechanism that may bring about some sort of balance in dealing with and understanding our history.

7.15 pm

Sir Reg Empey referred to Mr Sheehan. Mr Sheehan gave a view of history that I cannot accept as accurate or correct. It certainly does not reflect my experience. During the course of the early Troubles, there was very little support for the Provisional IRA. In contemporary terms,

one could describe the IRA as being a micro-organisation. It did not have a political strategy at that time, nor did it have any mandate or electoral support. It is important to remind some Members of those facts.

I come back to the point about the provisions of the Bill.

Mr A Maskey: I regret that Mr Sheehan is absent from the Chamber. Will Alban Maginness inform the House of which part of Mr Sheehan's contribution he does not share and with which particular version of history, as he described it, that Mr Sheehan outlined this afternoon he does not agree? Is it the killing of Patrick Rooney in Divis or the killing of Nora McCabe on the Falls Road? I am curious to know which part of Mr Sheehan's version, as he described it, Alban Maginness disagrees with.

Mr A Maginness: In particular, I contest very strongly the claim that there was strong support for the Provisional IRA. It was clear that it did not have support and did not receive support. I do not want to go through the whole history, but the republican movement did not receive support until it started on the path to peace. That is one of the ironies of the situation. Mr Sheehan made his point very strongly that this was part of some popular movement in which the IRA took the leading role.

I will go back to the point about the provisions of the Bill. What about those who were unjustly or wrongly convicted of offences relating to the Troubles? We know of instances in which people were wrongly convicted. Some had their verdicts overturned, but others did not, and they still have the injustice of being convicted unjustly. What about those people?

Mr T Clarke: If the Member is looking for an answer, it will come by way of an amendment. If he believes that people who have had their convictions quashed should be included, that can be done by way of an amendment.

Mr A Maginness: I am not talking about those who had their convictions quashed. I am talking about those who cannot have their sentences or convictions overturned but who were innocent victims of injustice within the judicial system by reason of the fact that the police or the security forces gave evidence against them, and that evidence led, unjustly, to their conviction. That happened to people in the community.

The plight of those people has to be taken into consideration.

Some people in the security forces carried out all sorts of illegal activities, but they have never been brought to justice. Should they be left outside, as with the paramilitaries who have never been convicted? Should we leave those perpetrators outside the net and say that they could not be convicted because we could not get enough evidence to convict them? Again, I point to the deficiencies of the Bill.

I will conclude on this point. In trying to deal with the situation regarding victims, we should leave the task of defining victims up to those who suffered and who are in the best position to bring about a definition — that is, those who are involved in the victims' forum, those who have —

Mr Spratt: Will the Member give way?

Mr A Maginness: Yes.

Mr Spratt: Does the Member accept that there are many victims, in fact, thousands of victims, throughout the Province who are not involved in any groups and who have no voice in any forums or organisations? They are going to be left out. They have to be thought of as well in all this. It is an issue that I have raised regularly. Does the Member accept that there are thousands outside the net of the forum who have not even been spoken to by the Victims' Commission?

Mr A Maginness: I understand the point that the Member is making, and it is a reasonable point to make. However, we in the House, and, indeed, those in the Office of the First Minister and deputy First Minister, have brought about a situation in which there is a victims' forum and a Victims' Commission. We have relied on them to look at certain issues, in particular — OFMDFM has said this quite openly — at the definition of a victim. Indeed, OFMDFM relied on the expectation that the victims' forum would look at that and come to a successful conclusion by reaching a consensus on the definition. We cannot now simply go back on that and say, "By the way, there are people out there whom we really have to look at again".

It is important that we rely on an authoritative body of opinion within the victims' community, for want of a better term. I believe that that is the best way forward. Thus far, they have not reached that successful conclusion, and,

with respect to the proposers of the Bill, the Bill would be better left until such time as the victims' forum comes to such a conclusion.

Ms M Anderson: Go raibh míle maith agat. I, too, oppose the Bill, as other members of my party have done. One of the objectives of the Assembly should be healing, both for direct victims and for society in general. If we look back and reflect on the 2006 Order that established the Commission for Victims and Survivors with the purpose of promoting the general interests of victims and survivors, we can see that that was established to assist in the healing process. The processes that we should be involved in within the Chamber should contribute to peace-building and reconciliation. That should be the ultimate aim, but the Bill does not bring us near to that aim at all.

In responding to the Bill, it is important to state that republicans are very conscious of the hurt and pain that has been caused by the conflict here. The universal nature of that is self-evident, regardless of the political allegiance, if any, of those hurt and killed and their families. Republicans are aware that we caused hurt and pain to people in this society. However, I wonder whether anyone from the Benches opposite who was a member of the UDR, the RUC, the British Army or any of those organisations that caused hurt and pain has ever acknowledged, in this Chamber or elsewhere, the hurt and pain that those organisations caused to people and families in this society. I have never heard that acknowledgement, and it would be welcome if we could hear it.

We have consistently rejected the attempts to create and to sustain a hierarchy of victims, yet the Bill attempts to do just that. As far as republicans are concerned, all victims and survivors must be treated on the basis of equality. Clause 1, however, attempts to treat some victims differently. I am greatly saddened that we are debating this Bill and the changes that it proposes. I am saddened that any party would seek to exploit the suffering of victims for selfish, party political reasons.

Clause 1 aims to amend the existing Order by narrowing the interpretation of victims and survivors to exclude anyone with a conflict-related conviction. The Bill should be seen for what it is: a blatant attempt to rewrite the narrative of the conflict. Without doubt, there is huge denial, particularly within political

unionism, about what transpired in the North. At times, some political unionists have been ambivalent or in denial about their relationship with, support for or tolerance of violent unionists. Before he died, David Ervine told us in an interview that he could describe the very colour of the wallpaper in the homes of some Members on the Benches opposite. In the past, some political unionists were quietly satisfied to have had loyalists doing what some of them would describe as their dirty work.

Clause 1 is further evidence of that. By introducing the Bill and advocating that the definition of a victim should exclude anyone with a conflict-related conviction, the DUP is attempting to create a hierarchy of victims. It is important that we say clearly that it will not succeed. The days of using the Chamber as it was used in the past, for one community to assert its rights and needs over those of another, are gone.

Mr Weir: The Member portrays clause 1 as the attempt of one community to get one over on the other. However, clause 1, and indeed both clauses, applies whether the offence was perpetrated by a loyalist or a republican, on a loyalist or a republican, or on a Protestant or a Catholic. It does not single out republicanism, but those who committed criminal acts from whatever source.

Ms M Anderson: I thank the Member for that contribution, but he will not be surprised to learn that I do not agree with how he defined "victim". Through clause 1, the DUP wants to assist in sustaining the prevalent British institutional culture, which has not only been one of impunity, but of actively suppressing the truth about the British involvement, and that of their agents, in the conflict. We have had the Stalker-Sampson inquiry, and there is much more to which we could refer in relation to that.

We will not allow the DUP to whitewash the pain and grief of thousands of bereaved relatives and injured people simply because they do not fit into its blinkered view and definition of what constitutes a victim, as outlined in clause 1. I have to question whether the DUP really thought that we would allow it to tell people who are victims, as currently defined, that, should the Bill pass, they will not be viewed as such in the future. I do not believe that the DUP thought that that was going to happen, or that the proposer believed that it would happen.

The DUP is aware that its Bill needs cross-community support, and the proposer of the motion has already stated that. Both my party and the SDLP are on record as stating that they will not support that narrow and exclusive definition, which would discriminate against thousands of people here in the North and across this island.

The current definition of a victim is broad and inclusive, and that is what clause 1 is trying to amend. The current definition is an acknowledgement that victims and survivors have all suffered due to the conflict.

7.30 pm

The grief, pain and sense of loss experienced by victims and survivors are the same regardless of circumstances. The pain of an IRA widow, mother and father, whose loved one was killed during the conflict is exactly the same as that felt by the widow, mother and father of an RUC man killed during the same conflict. The definition in the 2006 Order is accepted and used by all public bodies meeting the needs of victims.

The DUP knows that this Bill will be defeated. I believe that the only reason why it is being pursued is because the DUP wants to engage in some kind of cruel theatrics, which exploit, in many ways, the emotions of thousands of people who were bereaved or injured during the conflict. That is exactly what DUP Members are doing, and I think they should be absolutely ashamed of themselves.

As demonstrated in clause 1, the DUP fails to recognise that all sides engaged in the conflict, including the state, and carried out actions that created suffering and victims. Even in the wake of the Saville report, Gregory Campbell, a member of the DUP, could not acknowledge the huge wrong that had been inflicted on the people of his own city. Clause 1 would, effectively, ignore thousands of victims and survivors from the nationalist community in the same way as Gregory Campbell ignored the innocent victims of Bloody Sunday, as outlined in his press statement, entitled 'Gregory Campbell responds to Saville Report', which, I am sorry to say, is still on the DUP website. He does not mention the victims of Bloody Sunday once. They are not even acknowledged. Instead, he goes on to brand the Saville Inquiry a "sorry saga" and praises the British Army for the fine job that it did in the North.

Let us stop and reflect on that. Try telling it to the family of Emma Groves, a mother of 11 children, who lost her eyes after being struck in the face by a rubber bullet fired by the British Army while she was standing in her living room.

I suppose that the proposed Bill would not apply to the UDR, of which some Members on the Benches opposite were members. Yet some of that regime were involved in incidents and were not convicted, perhaps despite clear evidence of involvement. Of course, the UDR is not a proscribed organisation. Again, those people would escape the adverse ramifications of this Bill. However, UDR members supplied weapons used in 1989 in the killing of Pat Finucane; and let us not forget those members who were implicated in murders carried out by the Shankill butchers.

Clause 1 gives some indication of the DUP's attitude towards nationalist victims and their families. Even when those people have been vindicated in the eyes of the world, some members of the DUP would rather whitewash their existence completely. That is what I believe they are trying to do with this negative and divisive Bill. The fact is that the terrible conflict that we came through created victims on all sides; and the DUP should recognise that and join with those of us who are engaged seriously in genuine peace-building and conflict resolution.

It is not easy. It is difficult, and Members may laugh, but it is very — *[Interruption.]*

Mr Speaker: Order.

Ms M Anderson: It is what we are all charged with doing, and it is something that we should all take seriously, as opposed to being flippant about it. Cynical stunts such as this Bill are aimed at pandering to the base instinct of some of their backwoodsmen and backwoodswomen, rather than at reflecting any genuine concern for victims.

The Bill is a cynical exercise in exploiting the grief and suffering of victims. It is an absolute insult. It is a shame to many of the victims of state violence and collusion, and it will not succeed. If its sponsor had any real thought, care and concern for victims and survivors, he would withdraw the Bill. He has already said that he is not prepared to do that, but he is absolutely causing distress to many people out there. Perhaps he does not care about that either.

By necessity, reconciliation is a long-term project. The building of a united, equal and harmonious society demands that we deal with difficult issues in an inclusive way. That is a necessary, significant and important part of dealing with the past and of looking after victims and their families — all the victims and all their families — as well as the survivors. Therefore, I oppose the Bill. Go raibh míle maith agat.

Mr McDevitt: I have been somewhat encouraged by the tone of the majority of the debate. I get a sense that, although we strongly disagree about how to deal with the issue, and we particularly disagree about the way in which the DUP proposes to deal with it, there is a strong sense and an acknowledgement that this is an issue with which we must come to terms.

It is in that spirit that I will make some remarks. Much of what I intended to say has been said, and I will save you, Mr Speaker, and colleagues the benefit of my repeating that for the record. I will let it stand there.

Some Members: Hear, hear. *[Laughter.]*

Mr McDevitt: However, something that has not been mentioned is, I suppose, the Bill's wider context. The Bill has come to the House because there has been a failure at the heart of our Government. The Bill reflects the collective failure of the Office of the First Minister and deputy First Minister under the stewardship of Sinn Féin and the DUP. It is illustrative of the fundamental problem with the partnership at the heart of our Executive. That problem makes it practically impossible for us to have an informed debate on any aspect of the past.

Mr O'Dowd: The Member started his contribution by talking about the failure at the heart of Government to agree on the definition of a victim. However, other Members of his party have already stated that, for instance, the victims' forum, which represents victims from across our society, has not agreed on the definition of a victim and that the current legislation is the best attempt at defining a victim. Why does he bother spending his time bringing up the old SDLP argument that everything is Sinn Féin's fault? He adds on comments about the DUP to sound more liberal, but he really wants to get in a dig at Sinn Féin. That just does not make sense.

Mr McDevitt: I am grateful to Mr O'Dowd for taking the opportunity to make that point, which

I am sure that he was going to make anyway. I did not say that the failure to agree a definition was the problem. I said that that was the question and that the problem was an inability to deal with the past.

Of course, the past is the wider context in which the issue sits. If we do not deal with it at some stage during the political lifetime of many of us in the House, I fear that the issue will come back to haunt the next generation of legislators, the generation after that or the generation after that again. It is an issue that we know does not go away, because it has come back to haunt the country where I had the great pleasure of spending much of my childhood — Spain — 70 years after the civil war there. It is not the victims who are looking for some truth; it is the grandchildren of the victims.

As colleagues have said, there is no moral equivalence in any victim/perpetrator conflict narrative. The truth is that it is not the same for someone to have been entirely accidentally caught up in events that led to their injury or death as to have been an actor and then become a victim. However, that dichotomy will not be squared on the Floor of the House in a six-page Bill because — and to this extent, Mr O'Dowd has a fair point — very many people who are entirely divested of political baggage and are interested only in trying to work for the best interests of victims have been unable to square it. That was Mr Maginness's point.

Many of those people have raised issues that we should reflect on here tonight. One of the most profound issues, which was raised by the Commission for Victims and Survivors, is the intergenerational impact of conflict. As is the case in Spain, there are small children today who may not realise the hurt, sorrow, sadness or impact that an episode in a previous generation has had, or will have, on them until they are much older. In having this conversation, it is incumbent on all of us to understand that we must, at every step of the way, stay right by the needs and desires of the living generation of victims; the many — I agree with Mr Spratt — and not necessarily just the few who find themselves in organisations and are able to advocate their position.

We must also bear in mind the impact on future generations. We must bear in mind the fact that this House exists to build statutes that are equal, to make laws that are fair and also to bring a

new era, spirit and culture of good relations to our region. The victims issue or the definition of “victim” cannot be divested from the challenge to build a new and reconciled North.

Is there a debate to be had? There sure is. Does that debate require high-level political input? It sure does. Is it incumbent on all of us to find in ourselves the space to begin to have that conversation? It is. However, it must be at a certain standard and in a certain context, which is the past and its legacy. We do not want our children to grow up being taught an imperfect or half-hearted history and learning on street corners or through prejudiced older people a very wrong history. None of us wants the living generation of survivors of the conflict — the victims whom the DUP seeks to define in the Bill — to go to their graves angry that peace meant something to everyone but them; that it meant something to all of the other people who they could see benefiting from a peace process, a new Government and all that was going on, but they felt left behind.

The only way in which we will do that is by transcending our political debate from narrow definitions so that we are able to have a conversation about broad principles — of independent, acknowledged history; of good relations not just for today but for future generations; of truth and justice; of reconciliation for all; of fair and honest support for those who found themselves victims of our conflict in whatever context — and an understanding that, in doing that, we are not trying to engage in any exercise of moral equivalence. We are simply trying to make the North in 20 years better than the one that we enjoy today.

7.45 pm

If parties in the House are interested in that type of debate — the same type that we should have had about the cohesion, sharing and integration strategy, which could not even mention victims; another product of the Office of the First Minister and deputy First Minister — we will welcome that. I just regret that we have tried to bring this debate to the House through a simple definition on the head of a Bill. That is putting the cart before the horse and starting at the wrong place. I hope that we can leave here tonight upbeat about the positives that have come from this debate. There is a determination to move this debate on, while acknowledging that this is probably not the best place to start.

Mr O'Loan: I apologise for missing part of the debate earlier and hope that I do not simply replicate what has already been said. The fundamental word that comes to my mind when I confront the Bill is "reconciliation". That is the foundational priority of the Assembly, ahead of any priority around the economy, the Health Service or the education system. If we are not contributing to reconciliation in society, we are not contributing to those other objectives either. I query whether the proposed legislation contributes to reconciliation.

At times, I can be optimistic about the Assembly's contribution, such as when it faced the murders of the soldiers at Massereene Barracks in a very united way. At other times, I despair of where the Assembly is. When I see this Bill, I am closer to despair than to hope. When I see the Bill's sponsor, Peter Weir, who is an educated and intelligent man and a lawyer, and think of the hours that he, in conjunction with his party, has spent researching and, supposedly at any rate, consulting on the Bill, working with the Bill Office and deciding where an intervention might be useful across the legislative framework, it does not give me much hope for the Assembly's future when we then end up with this Bill. On the other hand, I hope that there will be better days.

There are various reasons why we should be concerned about the content of the Bill and its proposal to exclude those who have convictions. The definition of a conviction is very wide-ranging:

"an offence in connection with any conflict-related incident".

That seems to be very wide-ranging indeed. I presume that it could include something as simple as rioting. If, for example, a young person was convicted over throwing a stone and subsequently knee-capped by the IRA, would the DUP exclude that individual from being represented by the Victims' Commission and from using any of the services that it provides? I would not choose to do that.

Then there are those who have been wrongly convicted, and we know that there have been quite a number of those instances. We know that, under former law, it was relatively easy to get convictions, often with just the evidence of two police officers. That could not happen now. We know that some people who have been convicted cannot get their convictions

overturned. We also know that the Criminal Cases Review Commission prioritises and takes only cases of a high level of seriousness. Many others who have been wrongfully convicted simply have to live with that situation; under the Bill, they would be deprived.

There are particular issues for young people. I referred to the example of rioting, but there are others. There are young people whom others sent to war. There are young people who were vulnerable and, as a result, were particularly targeted. There are young people who were impressionable. I recall one incident in the Troubles when a child of one of the most notorious loyalist paramilitaries was charged over an incident involving a pipe bomb. I remember thinking, what chance in life did that young person have? The DUP would exclude that young person and any other such young person from the services that the Victims' Commission would provide. I have to say that I most certainly would not choose to do that.

There are young people who got involved in paramilitary activity after they saw their homes being ripped apart and other things that happened improperly. Those acts were initially denied but were later found, by public examination, to be the case. Some young people saw other improper behaviour on the part of security forces but saw no apparent redress for it. Unwisely, but to some degree understandably, they got involved with paramilitarism. We need to have some understanding of and sympathy for those in that situation.

There are also those who have changed their ways and regret what they did.

Mr Weir: I thank the Member for giving way. I have to say that I am very concerned with the line down which he is going. It seems to verge very closely to being a degree of justification for people having been involved in criminality and violence. Will the Member not accept that, whatever has happened on either side, there is no excuse whatsoever for anyone to have been involved in criminal or terrorist behaviour during the Troubles? There is no justification and no excuse for it.

Mr O'Loan: The Member is right to say that there is absolutely no moral justification. This party was confronted with the same circumstances as others, and it took a very different decision to others. It decided that, despite what we might call the provocations

that were put in front of it, it would set its face against a violent route. That does not mean that we cannot have some understanding of those perhaps vulnerable and impressionable people who did choose that route. It also does not mean that we cannot have some recognition for those who have now recognised the wrongness of what they did and, in some cases, are attempting to provide some redress. Recently, a number of graves of the disappeared have been discovered. They were discovered because some people are giving information that they were not prepared to give previously. Is it not possible to believe that there are some people who now, decades later, are living with their very troubled conscience and are prepared to attempt to give something back for the wrong that they did in the past? It is right to recognise that some of that is going on, and we should not attempt to trample on it by enacting legislation of this type.

Mr Elliott: I thank the Member for giving way. Does the Member accept that, although some people may be tackling their conscience and coming forward with some information, many, many more are not? If they were, we would have a great deal more openness and a society that is closer than it is to having a truth-recovery operation. However, that cannot take place while most of those who carried out the dastardly deeds do not accept their responsibility or have the conscience to tell people what actually happened.

Mr O'Loan: I agree to a large extent and will talk more broadly about dealing with the past. It is right that there is a great responsibility on many more people than have exercised that responsibility.

I have raised some difficult cases by discussing those who were wrongly convicted or who have changed their ways. That is the case, even if there were not one person in those categories, which there is. Even if not a single person were in those categories, I would still say that this is a bad Bill. It is not a Bill that will contribute to reconciliation or to bringing our society together. It is a Bill that is about exclusion, when what we need is to find ways in which to include each other. The Bill does not do that.

I find the DUP's stance, in introducing the Bill, to be self-righteous in tone. As others have pointed out, the DUP fails to recognise its history of political intransigence. Its members

do not appear to be asking themselves to what extent they contributed to the climate that in some way contributed to the scenes of recent years. The point has already been made, and I have answered it: despite facing provocation, this party rightly took a non-violent stance. However, we have not all forgotten the days of firearm certificates being waved in the moonlight on mountainsides. We have not forgotten the Third Force or the red berets. All those things happened and were part of the reality, and the DUP needs to face that.

The Bill makes no contribution to dealing with the past, which is a broader task than providing properly for victims of the Troubles, although that is one essential ingredient. Stephen Farry brought up the murder of Billy Wright, which is a useful and important example that illustrates a particular weakness of the DUP in this debate. The Victims and Survivors (Northern Ireland) Order 2006 confers a duty on a Commissioner for Victims and Survivors to:

"keep under review the adequacy and effectiveness of law and practice affecting the interests of victims and survivors."

According to this Bill, the DUP would take that duty and responsibility away from a commissioner. Yet, it regards it as appropriate and right to question law and practice around the killing of Billy Wright. Even without the Billy Wright case, which is apposite in illustrating the point, the same principle would apply, and that is why the Bill is not a good Bill.

Although dealing with the past is a major challenge for us all, it is a particular challenge for the DUP and Sinn Féin, because acknowledging the truth is a fundamental and vital ingredient of doing so. Truth be told, neither of those parties is comfortable with seeking the truth. I have illustrated a number of areas of the past in which members of the DUP are not comfortable with examining their consciences. I could add the blanket support that the party gave to actions of the security forces, even when those forces were very much in the wrong. Speaking for Sinn Féin, Pat Sheehan told us that the republican movement is very comfortable with addressing the past: just set up an international commission and it will be there to tell the truth. I imagine the first day, when the Sinn Féin president appears before the international commission and tells it that he was not a member of the IRA. We are expected

to believe that the republican movement is ready to deal objectively with its contribution over the past 30 or 40 years. The truth is that both those parties are highly selective in addressing the truth.

We have a big job to establish the truth of the past and make a contribution to reconciliation. I go back to the first words that I used: this debate is about the contribution that the Assembly can make to reconciliation. Mr Speaker, the Bill does not make that contribution.

Mr Attwood: I also apologise because, save towards the end of the debate, I did not hear the contributions because I had other duties. Because of that, my response will be somewhat limited.

A number of Members referred to the issue of a hierarchy of victims, and I want to deal with that point. However, a more critical issue is the hierarchy of responsibility. Although I agree with Martina Anderson that there is equality in the pain endured by victims and survivors, whatever the circumstances in which that state arose, in my view, when accounting for the past, there is no equality of responsibility across our community. Unless a way can be found to address the issues associated with the hierarchy of responsibility and the accountability of those who know most about the past, the pain of victims will never be dealt with fully.

8.00 pm

This debate and this Bill, whatever its emotion and content, may give some people in the community and some in certain parties a sense of reassurance that there is a hierarchy of victims and that there is not equality among victims, but it does not, in any other way, add to dealing with victimhood, survivors and the past. The critical issue is that those who did the worst, who know the most and who tell the least have the biggest responsibility to answer for what happened in this part of Ireland over the past forty years.

The heads of Special Branch, the commanders of the British Army, the directors general of MI5 and the leaderships of the IRA, the UDA, the UVF and the other terror organisations have the highest level of responsibility to account for the past. They are the people who, time after time, suppressed accountability for the past. If we are to break through this issue, the leaderships of all those organisations have to personally and organisationally account for what they did and

what they allowed to happen over the past 30 and 40 years. Unless that is the premise on which we deal with the past, the past will end up being dealt with in a selective, partial and exclusive way. That is the watershed moment. That will be the breakthrough, if it ever comes. Unless the commanders of the IRA and the UVF — we all know who they are — and the heads of Special Branch, the British Army and directors of MI5 in Northern Ireland — we know who they are — account in full for what happened, victims will never have the opportunity for the healing, truth and justice that they seek.

I do not travel in hope that that standard will be fulfilled. Look how long it took for Nuala O'Loan to eventually expose the fact that elements in Special Branch were running agents who were involved in a large number of murders and that the paymaster of those agents was MI5. Look how long it took for Nuala O'Loan to get at the truth of what MI5 knew was happening in Northern Ireland because it was paying agents through Special Branch and the RUC. Look at the time it has taken to locate those whose bodies were stolen from their families and buried in secret graves in unknown places. Look at how many years of struggling and campaigning it took for the minimum of the return of the body of a deceased family member to be fulfilled. Even still, there are bodies that remain unlocated. A hierarchy of responsibility self-evidently exists among those who were in command and control of state and illegal organisations and were responsible for the excesses and the terror of the past. I do not travel in hope that they will live up to their responsibility, given those real circumstances.

I find it somewhat ironic that Sinn Féin complains today about legislation that begins to put some definition around who does and does not qualify for opportunities or entitlements arising from the past. That problem did not arise when the IRA, not Sinn Féin, entered into the negotiations with the British Government at Hillsborough that led to the production of the on-the-runs legislation. That legislation would have resulted in anyone who, at any time, was convicted of a scheduled offence, whether that person was a member of a state or an illegal terrorist organisation, having to serve only two years in prison, if that. When it came to those people accounting for their offences, victims and survivors would not even have been entitled to be in the courtroom to hear what was transpiring. Therefore, given the IRA's past form

and hearing Sinn Féin today and how it worked with the British Government to bring about the obscenity that was the on-the-run legislation, I feel that its position seems to be utterly confused and contradictory.

At the end of the day, whatever model the Secretary of State and others are thinking of imposing on the people of Northern Ireland to deal with the past, we are at a very risky and critical moment. We are at a very vulnerable moment, at which the British Government and the other forces that I referred to in the state and in illegal organisations will again conspire to suppress the truth of the past and, despite all their fine words, deny the justice that people are entitled to. Unless people mobilise and make it very clear to the British Government and to the other conspirators who, in my view, want to suppress the truth of the past, we may, in the next short while, have a mechanism to deal with the past that, at its heart, does not oblige those who know the most to account for and to take responsibility for what they did.

I agree with some comments made by some of my colleagues. I worked with a small number of lifers. Those people served many long years in prison yet were totally innocent. Because of the quirks of our legal system, their cases have not yet been referred to the Criminal Cases Review Commission, and, as a consequence, under the law of the land, they remain convicted of involvement in murder. However, they were innocent. I know them to be innocent, the Prison Service knows them to be innocent, and anybody who is asked knows them to be innocent. Under this legislation, people who were utterly innocent yet were convicted of crime will not benefit.

Similarly, as Mr O'Loan indicated — the point was misunderstood by the DUP Benches — I differentiate between those who were detained at the Secretary of State's pleasure because of their involvement in terror organisations. I differentiate the young children who were preyed on by the commanders of terror organisations. I differentiate them when it comes to the issue of whether or not they are a victim. We need to understand that, across our society, people who were preyed on by godfathers of terror because they were under the age of criminal responsibility did things that resulted in them spending long terms in prison. Certainly, I, for one, want that to be clear.

The danger is that this legislation will rip the moral and wider authority of the victims' forum and victims generally from under their feet. We struggled in the Chamber over the past two, three and four years to bring about a victims' forum. Whatever the engineering around that, it, nonetheless, put victims at the heart of the debate on dealing with the past. Although it has been uncomfortable and uneasy, they have been able to sustain their relationships with one another from across the range of grief and pain. However, as Declan O'Loan properly pointed out, we, in the Chamber, are again attempting to usurp the authority of those people at a time when, in my view, they are demonstrating that they are more fit for purpose than the political community in trying to advance the needs of victims and survivors.

I understand that there are people in the DUP who will never rest easily until the point of differentiation between victims is acknowledged. I do not deny that, and I have some sympathy with it. I do not view all those who may have been involved in conflict in the same way. I see the point and the principle of trying to differentiate between those who were convicted of scheduled or conflict-related offences, whatever that might mean, and other victims. I can understand the thinking, but I do not appreciate or accept the outworking. To do that at this time is the political world potentially — for partial, exclusive or narrow reasons — taking the issue of victims and warping it in a way that runs contrary to the good work that victims are trying to advance.

I shall conclude by making a couple of observations on what Martina Anderson said. First, there is clearly some confusion in what she took the legislation to mean. She rightly said that the pain of the widow of a police officer was no different from the pain of a widow of a paramilitary. As I said, I can appreciate that, but that is not the Bill's purpose. Neither the widow of a paramilitary nor the widow of a police officer would fall subject to the Bill. It is not a relevant consideration. It may be part of the wider narrative, but it is not relevant to the intention of the Bill in any shape or form.

The second observation is deeply revealing of a mindset. Ms Anderson rightly outlined the grievance and grief that many people in our society feel because of the use of plastic bullets, of elements of the UDR, of collusion and of the British Army. She rightly outlined

that narrative, but not once in her contribution did she utter the word "IRA". Not once did that come from her mouth. In naming all those that offended —

Mr O'Dowd: Will the Member give way?

Mr Attwood: I will in a second. In naming many of the organisations that offended against the people of Ireland, Ms Anderson did not seem to see the obligation or the need to articulate, except in passing and in general, the fact that the IRA, an organisation to which I presume she claims some loyalty, and other organisations on the terrorist side had also been responsible for pain.

Mr O'Dowd: No matter how hard the Member hits his finger on the Bench, it does not make him right. It may look good on television and sound good on the airwaves, but it does not make him right.

If he had been listening to Martina Anderson, he would have heard her say clearly that republicans caused hurt in this society and that we have responsibilities around that. He may be technically right that she did not emphasise the IRA, but everyone who wants to be reasonable knew exactly whom Martina Anderson was talking about when she acknowledged that. Other republicans have said that, and indeed Pat Sheehan, in his first speech in the Chamber, stated that the IRA had done things wrong. I emphasise again: republicans caused hurt. We are also part of the peace-building process on this island, and whether the Member likes that or not is irrelevant. Let us deal with the facts: republicans have acknowledged their role in the past, and we also have to ensure that we have a role in the future.

Mr Attwood: I thank the Member for his contribution, the first bit of which was plain silly. I shall respond to his second point: if there is to be a full, proportionate, balanced and proper debate on the issue, the obligation has to be to name the scale of the issue. Martina Anderson's speech, except for one passing reference, did not name the IRA or, for that matter, any other terror organisation. The scale of the responsibility and the content of the narrative were all about state violence and state terror. The Hansard report will demonstrate that the entire balance of her speech was about the obligations of those in state organisations that have been responsible for grief, pain and illegal activities.

8.15 pm

We have to have a full debate. I hear what the Member said, and I will read the Hansard report to get a sense of whether Mr Sheehan and other Sinn Féin Members outlined the scale not just of the state's obligation for the past but the responsibility of republican and loyalist terror organisations and, in particular, the fact that 1,500 people lost their life at the hands of one organisation alone; namely the IRA. Unless that is acknowledged and talked about, Sinn Féin Members are open to the charge that they, like some in the DUP, are being narrow, partial and exclusive. As Mr O'Loan said, any narrative that is narrow, partial and exclusive ill serves the true interests of our society and the process of national reconciliation.

Mr Weir: I had the opportunity to be here for the bulk of the debate, missing only a little of Alban Maginness's speech. I will, I am sure, derive much excitement and pleasure from reading —

Mr A Maginness: Mr Bell will tell you all about it.

Mr Weir: I can either receive it from Mr Bell or read it tomorrow in Hansard with a certain level of intensity. I am sure that it will be up to the Member's usual standards.

At the outset, I thank all who contributed to the debate. It is probably a fair comment that, at times, more heat than light was generated, which is perhaps not surprising given the sensitivities of the issue. Nevertheless, I thank everyone who contributed, even the Members with whom I would vehemently but not violently disagree, which comes to the heart of the issue. I thank the Members who even managed, at times, to touch on the contents of the Bill. We did occasionally stray in that direction, but, generally speaking, there was always somebody to divert whichever Member was speaking away from the Bill relatively quickly. Nevertheless, some Members did, at least, get into the substance of the Bill, while others were perhaps a little more tangential in their contribution.

As time is marching on, I will keep my remarks relatively brief and try to deal with just some of the issues that came up.

Not surprisingly, we got the usual diatribe against the security forces from the Sinn Féin Benches opposite. I agree with at least one point that Mr Molloy made, although perhaps not in the way that he meant it. He said that this

is a sensitive issue and accused me and the DUP of trying to exclude people. I hold my hands up to being guilty of that. The purpose of the Bill is to exclude criminals and paramilitaries from the definition of a victim. I make no excuse for that whatsoever and suspect that some Members opposite may have been able to smoke that out from some of the contributions made during the debate.

We also got a diatribe about putting things in context. Along with Paul Givan, I do not remember the 1960s; there may be others in the Chamber who do. However, regardless of what happened on whatever side, there was no excuse at any stage for violence, terrorism or criminality. That is the fundamental point.

Leaving aside the many attacks —

Mr O'Dowd: Are the DUP Members now standing in front of us professing to be pacifists? At no stage during the conflict did I ever hear the DUP say that state violence or the use of violence was wrong. The DUP is not opposed to the use of violence; it is opposed to republican violence, and there is a distinct difference in that. That is where the problem with the Bill is. This evening, the DUP has presented its Members as the moral authority on who is or is not an innocent victim. However, the complexity of the scenario surely suggests that we, as political participants in the conflict, have no right to stand in a debating chamber and decide who is innocent and who is not. There is no way that the DUP can stand in front of Members of this Chamber and say that its Members were or are pacifists. They were not.

Mr Weir: There is no excuse for violence, and I reiterate that. It is, perhaps, appropriate that we are talking about a Bill that deals with victims, because Sinn Féin Members always desire to wrap themselves in the blanket of victimhood. They are always the oppressed, and the sense of almost paranoia percolates down so that they think that the Bill focuses solely on republicanism, when it clearly does not. That was the tenor of the remarks that were made, but the Bill distinguishes between victims and those who were convicted of conflict-related offences or those who were members of proscribed organisations.

Mr Molloy: Will the Member give way?

Mr Weir: I am getting to the stage when I have heard enough from your party, and I want to plough

on. The reality is that the Bill does not discriminate between Catholics and Protestants, loyalists and republicans and unionists and nationalists. It draws a clear distinction between victims and perpetrators, which is how it should be.

I do not claim that the Bill will deal with all the issues of the past. As I said at the outset, anyone who can give me a blueprint that satisfactorily deals with every issue of the past is a wise person, but I suspect that he or she does not exist. I also do not claim that the Bill is perfect. By definition, perpetrators cannot be victims, and the only route that we can take is on the basis of convictions. That will mean that there will be those who have committed heinous criminal acts who will fall outside this, because the law was not there to convict them. That applies to individuals in the security forces, loyalists and republicans. Indeed, my colleague Arlene Foster referred to the conviction and clear-up rate in Fermanagh of around 3%. It is difficult to draw up any definition that will ensure that all those people will be considered.

I took some personal exception to Martina Anderson saying that I should be ashamed of myself for bringing the Bill to the House. I am not someone who generally dwells on pride, but, quite frankly, I am not ashamed of myself. I am not someone who went out and killed, murdered or inflicted violence on people, nor was any member of my family. Throughout my life, I have always condemned violence and never condoned it; therefore, I am not ashamed of myself. There are others who were involved in violence who should look into their conscience before they start to throw allegations of that nature around.

I expressed my disappointment at the position adopted by the SDLP. However, Members from that party did occasionally sprinkle some valid points into the debate. Señor de Valera or Conall McDevitt, the honourable Member for Madrid south, made a valid point —

Mr McDevitt: It was Malaga actually.

Mr Weir: OK, Malaga south then. Mr McDevitt made a valid point when he said that we must come to terms with our past, and, if we fail to do so, it is likely to haunt future generations. That is correct, and it is one of the reasons why we brought the Bill to the House. If we simply perpetuate a myth that, in essence, suggests that, in some shape or form, we were all responsible for what happened and that we are all victims in some shape or form, we will fudge

the past. Unless we face up to what happened in this country during the Troubles, we will not lance that boil, and the wide-ranging definition of victim will be a festering sore until it is properly dealt with.

I and most of my colleagues do not claim to be the font of all knowledge, although I cannot speak for all of them; perhaps some do. However, there may be better wording that could be brought forward, and the indication that the Bill should be the start of a debate should be welcomed. As the Bill is at Second Stage, I find it strange to think that people may have better ideas. I have yet to hear better ideas on definitions from the SDLP or the Alliance Party, but I will be generous to those parties and accept that they may have in mind some remarkable wording. Surely, to put that to the test, we should allow the Bill to progress at least beyond Second Stage. Evidence could then be teased out at Consideration Stage, and we will see whether the SDLP or the Alliance Party have ideas on a better form of wording. Let them come forward with suggestions, and let us deal with those in a proper debate. I have a feeling that the reason why they are trying to stop the Bill at this stage is that neither party has come up with a better form of wording.

As a number of Members said, the problem with the current definition is that it creates moral equivalence between perpetrators and victims. It fudges the issue. We have to face up to the reality of our past. The SDLP asked, "Why not simply leave this to the victims' forum?". With the best will in the world, any victims' forum, however well constructed, will by necessity contain only a relatively small number of people. It will not contain the totality of victims. Indeed, many victims see themselves purely as individuals and not linked to any organisation or representative group.

If no changes are made, the status quo will remain. Is there a single person who believes that consensus can be reached as regards the definition of a victim any more than there will be a consensus view in the House? Ultimately, we have to bring truth to the process. I do not think that the status quo is a particularly good approach.

The Bill is a single issue Bill, and OFMDFM has been mentioned. I have to say that a lot of work has been done and resources put in — much greater than had existed previously — to deal

with the real needs of victims. I suspect some on the opposite side of the House may even agree with that. The victims' forum may be able to do work on the practical side, but there will not be consensus on the definition.

I was disappointed by the Alliance Party's approach. It at least had the good grace to express reluctance in voting against the Bill. Nevertheless, I suspect that that party will go into the wrong Lobby tomorrow morning, thereby trying to curtail the debate before we get properly started. I took exception to one of Mr Farry's points. The gist of what he said was that we should not:

"make the perfect the enemy of the good".

I find great difficulty in regarding the current definition as good in any way. It falls a long way short of good. We may provide a good definition that is not perfect, but I am disappointed by the Alliance Party's attitude on the issue.

I welcome the contributions of the Ulster Unionist Party, particularly that of its leader. I was a little bit confused as to where Danny Kinahan was going for a while, but he eventually got to the point that he does not see a great deal of moral equivalence. Mr Elliott spoke about the need to focus on the real victims and his own role in the security forces, and he said that none of the violence could be justified. The issue needs to be dealt with properly. I do not say this in an accusatory way, but, as has been mentioned, the origins go back to around 2000. An opportunity was missed at that stage, and the situation was reinforced by direct rule.

It is telling that, on a couple of occasions, Sinn Féin representatives said how satisfied they were with the current definition. They felt that the definition was right and did not need to be changed. I simply ask some of the Members who are considering voting against the Bill whether having a definition that Sinn Féin regards as the perfect solution is a balanced situation. Is that something that the other parties are happy to buy into? Unfortunately, some of the other parties are shielding the position of Sinn Féin to a certain degree. The Bill will not solve every problem from the past, but its contents go a certain way to doing so.

8.30 pm

The Alliance Party, in particular, and, to some extent, the SDLP made reference to Billy Wright

and others. If a distinction is drawn between a victim and a perpetrator, once someone has been defined as not being a victim, it does not mean that all of their rights evaporate. For example, the Bill has no impact on people who are carers, irrespective of whether they are victims. It has no impact on security benefits and in no way does it denigrate the right of anyone to proper protection when in the custody of the state.

There were clearly failings that led to the murder of Billy Wright. It was right that those failings were investigated, and it was right that they were part of a public inquiry, because even someone who does not fall into a particular definition of a victim has a right to be protected by the state. The current definition of a victim — Members have given a range of examples — means that the Shankill bomber, Sean Kelly, for example, is on a par with the victims he created. What applies to Sean Kelly can apply to any number of people who committed paramilitary acts, whether they were members of the IRA, the UVF, the UDA, the INLA or whatever descriptor they used.

The Bill is an attempt to bring a little truth and honesty into the process of getting a definition of a victim. The Bill is trying to eliminate the moral equivalence that exists at present. Although Damascus is quite a distance away for some Members, if a Damascus conversion does not happen tomorrow, we will bring back this issue.

I urge Members to have the openness of mind to at least continue the debate on the legislation and to offer us the much better way forward that they seem to be able to talk about but not to put into action. I commend the Bill to the House.

Mr Speaker: I remind Members that a valid petition of concern has been presented in relation to the Bill. Therefore, the vote on the Bill will be the first item of business in the House tomorrow morning.

Adjourned at 8.33 pm.



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