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Contents

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Northern Ireland Assembly

Tuesday 22 February 2011

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

Members observed two minutes' silence.

Matters of the Day

McGurk's Bar Bombing

Mr Speaker: Mr Gerry Kelly has sought leave to make a statement on the report on the bombing of McGurk's Bar, which fulfils the criteria set out in Standing Order 24. I will call Mr Kelly to speak for up to three minutes on the subject. I will then call representatives from each of the other political parties, as agreed with the Whips. Those Members will each have up to three minutes in which to speak on the subject. As Members know, there will be no opportunity for interventions, questions or a vote on the matter. I will not take any points of order until the item of business is concluded. If that is clear, we will proceed.

Mr G Kelly: Go raibh maith agat, a Cheann Comhairle. I thank you for the opportunity to speak on this very serious matter.

Yesterday, I attended the launch of the Police Ombudsman's report on the bombing, which occurred some 40 years ago. It is important to say that, because the report yesterday was the first time in 40 years that the victims of the bombing and their families have been vindicated formally, even though they knew their own innocence. I pay tribute to the families for their dignity, commitment, dedication and unstinting belief in the innocence of their relatives.

Within 12 hours of the explosion, which killed 15 people and injured more than 16 others, the duty officers — three inspectors and a chief superintendent of the RUC — gave a report that compounded the grief of the families. It claimed that the bomb was an IRA bomb and that some of the victims may have been involved in planting it. That report was made despite it very quickly becoming known that there was a loyalist claim for that sectarian bombing, that there was forensic evidence and that there were three eyewitnesses who saw the bomb being planted. Also, the pathologist's report said that none of the victims had any fragments of the bomb on them, which meant that the bomb was planted in the entrance hall and not in the bar. It is difficult for the families who suffered such grief that this lie went from the RUC report and from the British military, which assisted in it, to politicians who repeated it, including the then Prime Minister, Brian Faulkner, John Taylor and Reginald Maudling, who was the British Home Secretary at the time. It was then briefed to the media.

The present Chief Constable, Matt Baggott, had an opportunity to apologise for the wrong that was done to the families. Instead, he chose to contradict the ombudsman. Instead of showing that we are in a new era of policing and showing leadership in that, instead of apologising, he defended the indefensible. He went back, well before his time here, to something that he may have known nothing about and defended the actions of the RUC at the time, actions that the ombudsman had criticised. In his statement, he closed down the possibility of any further investigations, even though —

Mr Speaker: I remind the Member of the time.

Mr G Kelly: Even though he knew what was ongoing. That is the essence of what I wanted to say. The families showed great dignity in their presentation yesterday but were slapped in the face by the present Chief Constable. That is an abominable and disgraceful way for him to behave.

Mr McCausland: The publication of the Police Ombudsman's report into the McGurk's bombing is an important development. Almost 40 years ago, on 4 December 1971, 15 people were murdered in north Belfast. I hope that the publication of the report will bring some closure

for those who lost family members and friends in the bombing.

Several things stand out in the report, which brings clarity about how the events of that night unfolded and about responsibility for the bombing. It also confirms that there was no evidence at all of collusion. Through the years, there have been many allegations and accusations of collusion between the police and loyalists in that bombing. However, that matter is now settled.

The report is critical of the shortcomings of the police investigation, and that must be recognised and taken into account. It also notes the context of the time and looks at the police investigation in that context. Immediately after the bombing, a major gun battle took place in the surrounding area in which two policemen were shot, five civilians wounded and an Army major murdered. Account must also be taken of the series of killings in north Belfast before the bombing. A few days before, on 1 December, an innocent young woman was murdered by the IRA, and two policemen — including the first Roman Catholic policeman — were murdered by the IRA on 17 November. Those things strike me about the report.

The grief of thousands of people in Northern Ireland is the same as that of the McGurk's families. Many of those families are still waiting for closure and for justice. There is much hurt from murders that have not been resolved and from terrorist crimes that have never been pinned to an organisation or individual. Many who carried out terrible acts still walk the streets freely.

There is a question about the second edition of the report; there was an earlier edition some seven months ago. I pose the question: what new evidence emerged that was presented to the PSNI during that period?

Mr Speaker: I remind the Member of the time.

Mr McCausland: What new evidence was produced that influenced that change? Was that new evidence presented to the PSNI?

There is a certain irony about the statement that Gerry Kelly made this morning. The IRA has a lot of information about the murders that it carried out, and there are lots of families waiting for closure. I appeal for people to be honest, to come clean about the past and to help with that process of closure.

Mr Cobain: The Ulster Unionist Party welcomes the publication of the ombudsman's report on the McGurk's Bar bombing. Like others, I hope that it brings some closure to the families and to the victims of the bombing and to those who were injured and mentally scarred by that atrocity.

Like many, Mr Speaker, you will know that north Belfast was the scene of some horrendous killings during the past 30 years. More than 2,000 people were killed in north Belfast, which gives some idea of the difficulties for the communities in that area. However, I truly believe that no one benefits by creating new antipathies over issues that happened 30 or 40 years ago.

I do not want to get into historical issues; we need to look forward and not back. However, I found it particularly galling for the representative of an organisation that, for 30 years, practised the bombing of bars and the killing of innocent men, women and children from the Protestant community and of their co-religionists to come to the House and lecture it on an issue like this. When I see some of the destruction that was caused in north Belfast by the Provisional IRA, like many others I am galled when I listen to Gerry Kelly. He promoted the bombing of bars and the killing of men, women and children. He promoted that and belonged to an organisation —

Mr Speaker: Order. I ask the Member not to stray away from the subject matter —

Mr Cobain: I am not —

Mr Speaker: Order. The Member should not stray from the subject matter that is on the Floor.

Mr Cobain: Mr Speaker, I am not straying from the subject matter.

Mr Speaker: Order. The Member really should not challenge the authority of the Chair. I ask the Member to finish. The subject matter is the bombing of McGurk's Bar.

Mr Cobain: Mr Speaker —

Mr Speaker: Order. I understand. Members know that I am pretty liberal about allowing Members to go slightly outside the subject matter. I will allow the Member to continue.

Mr Cobain: Mr Speaker, I do not want to continue unless we can talk in the context that everyone wants to talk in.

Mr Speaker: I appreciate what the Member has said.

Mr Cobain: We feel sympathy for all the innocent victims of the Troubles. However, it is particularly galling when individuals who belong to organisations that actually practised violence come to the House and talk about the outrage at McGurk's Bar. Outrages all over north Belfast were supported by individuals in the Provisional IRA, which used the armed struggle as cover for the killing of innocent individuals.

10.45 am

Mr A Maginness: I pay tribute to the families of those who were killed or injured in the bombing of McGurk's Bar. They have worked unceasingly to clear the names of those who were the victims of the bombing in 1971. For the past 40 years, they have been rightly aggrieved over the way in which those victims were treated and libelled by the press, some politicians and the police and Army.

It is a moment of vindication for those families, and I pay tribute to them because they never lost their dignity and their thirst for justice. We should also remember that, shortly after the bombing of McGurk's Bar, the late Mr Paddy McGurk asked publicly that those who carried out that atrocious act should be forgiven. He quoted scripture and said:

"forgive them; for they know not what they do."

That was testament to his Christian spirit, and it also reflected the Christian spirit of those who campaigned for so long to clear the names of their loved ones and to get a proper investigation into this grievous atrocity.

I am deeply disappointed by the reaction of the Chief Constable. He has explicitly rejected the central finding of the Police Ombudsman's investigation, which was that there was investigative bias by the RUC. He should have taken the example of the British Prime Minister, David Cameron, when the Bloody Sunday report was published and apologised immediately and without qualification to the relatives of the McGurk's Bar victims. It is with sadness that I say those things, because I have immense respect for Matt Baggott. He has been badly advised on the issue, and he should reflect carefully on what has been said. Whoever penned that statement and put his name to it did not reflect what I think are the fine qualities that that man has and the leadership that he has given to the PSNI. Unfortunately, it is damaging not just to his standing but to the standing and the reputation of the PSNI.

Mr Speaker: I remind the Member of his time.

Mr A Maginness: In conclusion, I hope that the Chief Constable will today or as soon as possible meet the relatives of the McGurk's Bar victims. I reiterate the SDLP's support for the ombudsman and his office and the authoritative and definitive way in which he has dealt with the matter.

Dr Farry: I, too, pay tribute to the determination of the families of the victims of the McGurk's Bar bombing for their pursuit of the truth over the past 40 years. I also welcome the publication of the Police Ombudsman's report. The bombing was one of the major atrocities of the Troubles, and the report provides further clarity on what happened and reinforces what has been understood for some time to be the context of the bombing and the source of responsibility.

Although there may not have been any collusion by the police, there were major failings in the assumptions that were made by the police and the quality and nature of the investigation into the bombing. That problem was compounded by political leaders and by the state thereafter. No doubt, that approach compounded the hurt and suffering of those who lost loved ones. Hopefully, the report will bring some closure. Obviously, a Police Ombudsman's report deals only with one aspect of an investigation, which is how the police interacted, and not with the wider issues. That points to the need for a much wider process for how this society deals with the past. There are many such cases that need to be addressed. We, as political parties, and the two Governments must always be mindful of our duty to ensure that we define a process soon so that we can capture all the different demands for truth and justice.

With regard to the police, although I recognise that there were major failings in the early 1970s, it is worth reminding ourselves that considerable progress has been made with regard to the nature and quality of policing, particularly in the post-Patten period. Although the report on the police is damning, I would like to think that such an episode could not happen today and that, if there were any risk of it happening, we have safeguards in place to

ensure that any shift in that direction would be addressed.

It is important that we recognise the families' determination and the importance for them of closure. We must also recognise that people seek closure for many other cases in Northern Ireland.

Ministerial Statements

North/South Ministerial Council: Transport

Mr Speaker: I have received notice that the Minister for Regional Development wishes to make a statement to the House.

The Minister for Regional Development (Mr Murphy): A Cheann Comhairle, in compliance with section 52 of the Northern Ireland Act 1998, I wish to make a statement on the tenth meeting of the North/South Ministerial Council in the transport sector, held in Armagh on Wednesday 9 February 2011. The Environment Minister, Edwin Poots, chaired the meeting. He has approved this report and agreed that I make it on his behalf. The meeting was also attended by Pat Carey, Minister for Community, Equality and Gaeltacht Affairs, Transport and Communications and Energy and Natural Resources. Minister Poots welcomed Minister Carey to his first NSMC transport sector meeting.

In relation to the City of Derry airport, it was noted that officials from my Department and the Department of Transport would soon meet on that issue. Progress on the Dublin-Belfast rail link was discussed. It was noted that, since the reconstruction of the viaduct at Malahide, passenger numbers have increased and stabilised. Ministers welcomed the additional stop of the Enterprise service at Lisburn, which is now operational, and noted that a new Newry to Dublin early morning direct service arriving at approximately 8.35 am is provisionally scheduled to commence at the end of March.

Senior officials from the two rail companies made a presentation to Ministers addressing the issues raised in the Enterprise rail seminar report. The two companies are planning measures to be taken forward over the coming 18 months that align with suggestions made in the report, including the provision of wi-fi, a new PA system and improvements in reliability.

We discussed progress on the A5 and A8 road projects. Ministers noted that draft orders and environmental statements were published for the A5 project in November 2010 and for the A8 Belfast to Larne project in January 2011. A public inquiry into the A5 project is anticipated in May or June 2011.

The Council also noted that the cross-border steering group has produced an agreed report and that, subject to final approval by the NSMC plenary, a further request for drawdown of £11 million be made.

The Council welcomed the continuing collaboration on road safety strategies and campaigns and on work undertaken on the mutual recognition of penalty points, the vehicle keeper data exchange pilot scheme and measures to tackle drink-driving, including the possible harmonisation of blood:alcohol concentration levels in both jurisdictions. Ministers discussed co-operation on vehicle standards and welcomed co-operation between the Driver and Vehicle Agency enforcement section, supported by the PSNI, and the Road Safety Authority, supported by an Garda Síochána, and the continuation of the joint intelligence-led targeted operation in border areas for 2011, which targeted buses, taxis, modified cars and goods vehicles.

A report and recommendations related to cross-border community-based rural transport was discussed. Ministers discussed progress on the five priority areas of the all-Ireland freight forum and its proposed future activities. Ministers noted that this work will be taken forward by a steering group comprising the Irish Business and Employers' Confederation-Confederation of British Industry (IBEC-CBI) joint business council, InterTrade Ireland and senior officials of the Department for Regional Development and the Department of Transport.

We welcomed plans for an all-island bike week 2011 from 18 June to 26 June; a cross-border schools challenge event to be held during the walk-to-school week in 2011; and a pilot personalised travel plan initiative in Adamstown in Dublin and in Galliagh in Derry.

Ministers also welcomed the success of the Department for Regional Development and the Department of the Environment in securing Plugged-in Places funding of approximately £850,000 from the Office for Low Emission Vehicles to support the installation of electric vehicle charging infrastructure. We noted that the Electricity Supply Board will continue to play a role in ensuring the linking of plans throughout the island of Ireland.

As part of the NSMC we considered two papers relating to the work of the North/South Language Body and agreed to designate a person nominated by the two sponsor Departments and agreed by the board of the Ulster-Scots Agency to act as interim chief executive officer of the Ulster-Scots Agency from 21 March 2011, pending the appointment of a substantive chief executive. We also noted that the process to appoint a substantive chief executive has commenced.

We also noted the current position in regard to the core funding organisations undertaken by Foras na Gaeilge. We agreed that, if satisfactory progress is made on implementation, Foras na Gaeilge may continue to provide interim funding to existing core-funded organisations to the end of December 2011. We will seek a further progress report on that at the next NSMC meeting in language sectoral format.

The Council also considered a paper relating to Waterways Ireland, and it approved the granting of a 99-year lease to Offaly County Council for the proposed reconstruction of a cantilevered footway crossing the Grand canal at Cox's bridge in Tullamore, County Offaly. It also approved the granting of a 35-year lease to the friends of the lake community group for an area of the Shannon waterway at the Lakeside Hotel at Ballina/Killaloe in County Clare to facilitate the upgrading of the existing 50 m jetty, a new jetty extension of 38 m and the construction of a new 50 m walkway.

Miss McIlveen: I realise that Minister Carey had many responsibilities to deal with before he left office, but, given that the meeting was in transport sectoral format, will the Minister explain what the North/South Language Body has to do with transport?

The Minister for Regional Development: That is a question that the Member might want to ask of the Minister of Culture, Arts and Leisure, who is one of her colleagues. A number of papers required immediate approval. One was to do with the appointment of an interim chief executive, others involved the agreement to allow Foras na Gaeilge to continue to distribute money, and, as I said, some concerned leases on the inland waterways. Those were important matters that could not wait for the next meeting in language sectoral format, so, at the request of the Department of Culture, Arts and Leisure, they were dealt with at the transport sectoral meeting. Sufficient Ministers were available to do that, including Minister Poots and myself, who were the Ministers from the Northern Executive. The equivalent Minister in the South deals with Gaeltacht matters anyway. That

means that sufficient legal and institutional capacity was available to deal with those issues, which required immediate decisions. The Member will be aware that there is an election in the South this Friday, so I think that there was a genuine desire on the part of DCAL and the language and inland waterways bodies to have some decisions made immediately. It was appropriate to do that. I think that it occasionally arises that there is some urgency on decisions that have to be made, so they get transferred to the next available sectoral meeting under the North/South arrangements.

Mr Brady: Go raibh maith agat, a Cheann Comhairle. I thank the Minister for his statement. I raised this issue with the previous Minister of the Environment, and it is relevant to my constituency and, indeed, to that of the Minister. The display of speed limits changes from mph to kph when people cross the border. I know that Cooperation and Working Together (CAWT) carried out a study of accidents in border areas and that border areas are particularly susceptible to road traffic accidents. The Minister's statement referred to harmonising blood:alcohol concentrations in both jurisdictions. It seems to me that the Six Counties and Britain are the only two areas —

Mr Speaker: I encourage the Member to come to his question.

Mr Brady: — in Europe that do not display speed limits in kph. Does the Minister think that adopting that would be a worthwhile exercise?

The Minister for Regional Development: The Member is correct to say that the issue has been raised on a number of occasions. He is also correct to say that accidents and deaths caused by accidents are particularly prevalent in border areas. I am not sure that we have substantial evidence to suggest that there is a connection between the two and that a change in the display of speed limits from mph to kph and the slight difference in the actual speed limits as a result of those measurements is the cause of many of those accidents. Nonetheless, it is a subject that we need to continue to look at.

There has been excellent co-operation across the border on road safety, and it is starting to bear fruit. Certainly this year, people have been heartened by the reduction in the number of deaths, even though it is obviously still too high. Such accidents are a great tragedy for all the families and households involved. As I said, there has been a substantial reduction in the number of deaths, and the Department of the Environment, the Department for Regional Development and the equivalent Department in the South will continue to look at ways to improve that. If that involves looking at the display of speed limits in kph and mph, we will keep an open mind about it.

11.00 am

Mr Kinahan: I thank the Minister for his report. He will, probably, have expected me to raise the issue of the drawing down of a further £11 million for the A8 project. There has been an overall spend of millions of pounds to achieve just three minutes' less travelling time. The traffic numbers on that road are lower than the original figures, and many farms are being destroyed. Has the Minister, at the NSMC meetings, raised the possibility of reducing the specification of the road from that motorway type, so that the A8 can fit through the centre of Ballynure, where there is a very wide section already? If that was done, it would prevent the destruction of the livelihoods of many farmers and would save millions of pounds, which is important at this time.

The Minister for Regional Development: I have seen the situation in Ballynure, and I am very sympathetic to farmers who are losing their lands. Nonetheless, there is a sense that, even though the Member says that there has been an improvement of only three minutes' travelling time, at certain times in the day, particularly when ferries offload in Larne, traffic can build up substantially and then move on. It is not a morning or an evening rush hour; the times at which ferries arrive at Larne are when significant delays are created.

The road has been presented as is, and there will be an opportunity for a public inquiry. There is the obvious issue, if the route was to continue through Ballynure village, of the separation of the two sides of the village and the related dangers. There have been at least three deaths in Ballynure, and there have been about 10 deaths on the A8 over recent years. Those issues need to be considered and factored into the design of a new road, but there will be an opportunity at the public inquiry for people to present a case in that regard. The project will go ahead, as designed, until the design and the arguments around it and the chosen route have been tested in the public inquiry.

Mr McDevitt: I thank the Minister for his statement. I am sure that he shares my concern that average train speeds on parts of the Dublin to Belfast rail link are slower today than they were during the Second World War. Does he agree that, across the island, the need for urgent and significant prioritisation of capital investment in that rail line must now be top of the agenda? Some experts fear that it could become an unsustainable and, regrettably, downturning rail link.

The Minister for Regional Development: I accept that there is a need for ongoing capital investment. Indeed, we were presented with a set of investment proposals from Iarnród Éireann and Northern Ireland Railways, which, at their highest level, amounted to between £700 million and £1 billion in investment. As a member of the Committee for Regional Development, the Member will understand how challenging that would be, set against the context of a 40% cut in our capital budget. There is a very strong desire to continue to improve.

The Dublin to Belfast line is not the only rail line that we have. There is a worrying sense that, if the Belfast to Derry line is not properly invested in, it will have even worse consequences for the future of that line than just low train speeds and efficiency of journey time, which are the issues on the Belfast to Dublin line. Some difficult decisions will have to be made. My concern is to ensure that we keep lines open and then progress until we find the investment to improve the service on those lines.

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

A report has been produced, and we received a presentation form Iarnród Éireann and Northern Ireland Railways at the meeting. Improvements are to be made in the efficiency of the stock and in Wi-Fi provision and PA systems. I raised with both companies the issue of information for passengers. When delays are experienced, it is important that passengers understand why they are happening. The Department for Regional Development and the Department of Transport intend to invest as much as they possibly can to improve that service, given the challenging circumstances in which both Departments find themselves. There are challenging circumstances on the Southern side as well. It is the premier service on the island. The predictions are for very substantial growth in the population along the eastern seaboard. The Member will be aware that, as I said in the statement, we have announced a series of improvements, including a stop at Lisburn, an earlier commuter stop at Newry to take commuters into Dublin and ongoing improvements on the line.

Although we would like to make the type of investment that would bring the line up to the desired standard, it is a substantial investment. We have to operate within the finances that are available to us. There is a strong desire to continue to improve that service.

Ms Lo: Given that there will be a change of Government down South and the pending public inquiry on the A5 project, was the future of the A5 project discussed at the meeting? Was there a reconfirmation of their commitment to a financial contribution?

The Minister for Regional Development: The commitment of the current Administration in Dublin has never been in question. It would not have been appropriate to discuss with an existing Government Minister who the future Government might be, because that would almost have assumed that he will be out of office. The predictions are that there will be a change of Administration in Dublin, and we will have to see what they say. I know that the leader of Fine Gael, who, by all accounts, is expected to be the next Taoiseach, has made public commitments to the A5 project. I expect that those will be evidenced, under whatever Administration is elected in Dublin on Friday, at another meeting of the North/South Ministerial Council. Our commitment is certainly there; it is budgeted for. We have an ongoing, established and repeated commitment from the Administration in Dublin, and I expect the new Administration in Dublin to live up to that commitment.

Mr G Robinson: Will the Minister expand, preferably with some detail, on the very short paragraph relating to community-based rural transport, which is a vital service for many in Northern Ireland?

The Minister for Regional Development: A report that was discussed at the meeting made a number of recommendations, including proposals for cross-border interdepartmental policy development; interagency co-operation; the two Administrations working together to explore solutions for dealing with the legislative

and regulatory barriers that inhibit cross-border rural community transport; standardisation of the SmartPass and free travel pass; and expanding the remit of the rural transport programme.

As the Member will be aware from previous reports, there was a pilot scheme between Fermanagh and Cavan. It threw up some technical or legislative issues of standards of vehicles and licensing of operators in a cross-border context. The exercise was very useful in exploring some of the issues and difficulties that we face. The report makes a commitment to improve the work that has been done, learn lessons from it, and start harmonising arrangements in the border areas across the range of areas that I outlined.

Mr McElduff: Go raibh maith agat, a LeasCheann Comhairle. Ta trí ceisteanna agam don Aire. What is the significance of the publication of the draft Orders and environmental statements for the A5 project? Further to that, will the Minister detail the remaining timeline for the completion of the A5 project? May I also seek an assurance that the Department is listening to those who are will be inconvenienced by the road traversing their land and that they will be properly compensated?

The Minister for Regional Development: The publication of the draft Orders is very significant. Formal assessments of the preferred route, the environmental impacts, the vesting orders and all of those issues are necessary parts of road building. As I have often said in the Chamber when answering questions about roads, the longer part of road building is getting through that process and establishing a firm legal footing for a new road project.

The publication allows us to move to the public inquiry stage, which I have announced will begin in May or June. That inquiry will probably take some time, because this is the biggest road project ever undertaken on the island. I imagine that the public inquiry will have a number of locations along the route to facilitate the very high level of interest. That will allow the statutory Orders that have been published to be tested to see whether they stack up and afford people the opportunity to make their case in relation to the road project.

I am fully aware of the concern in the farming community. It is understandable, given the scale of the project and the large number of farmers and other landowners who are affected. Roads Service and the consultants Mouchel have continued to meet landowners. In addition, a series of public exhibitions were held during the first week of November to keep farmers and the wider public up to date prior to the publication of the draft Orders. Coming from a farming background, I realise the attachment that people have to the land. The project is very welcome, but the people who live along that route have rights, such as the right to adequate compensation for any land loss and the right to proper access to ensure that they continue to make their farms viable. I expect Roads Service and Mouchel to address all those matters in their discussions with landowners.

I am trying to remember the Member's third question.

Mr McElduff: It was about the remaining timeline.

The Minister for Regional Development: The remaining timeline will depend very much on whether the public inquiry, which will begin this year, agrees with the proposition from Roads Service and the National Roads Authority in the South. If all that goes according to plan, construction will begin in the next year or so and will conclude in, I think, 2015-16.

Mr Deputy Speaker: I remind Members that we are looking for one question only.

Mr Bresland: I thank the Minister for his statement. What has been done to improve the track on the Dublin to Belfast line to allow for faster train times?

The Minister for Regional Development: A number of areas, some of which are structural, need to be improved, particularly at Knockmore near Lurgan. A number of crossings along the Dublin to Belfast line cause the train to slow down, and the speeds are obviously not what we would like them to be. There is also an issue with the efficiency and reliability of the stock itself. Therefore, improvements are certainly being made to try to improve the efficiency of the engines and the rolling stock and to improve the service on the train.

As per the 2020 vision, the longer-term intention for the Enterprise service is to provide an hourly service with a 90-minute journey time. As I say, a number of track works have been identified, including an additional track

should the new transport hub in Belfast go ahead, and that would shave off some time. Given the improvements that have been made to the road between Belfast and Dublin, it is important that the railway keeps up. I always advocate that people should use the railway, where possible, because it is a much more pleasant way to travel. We want to ensure that that is a good experience for people, and that includes faster journey times, which require a very substantial investment. The Departments, North and South, are committed to doing that, but both recognise the very difficult financial circumstances in which the two Administrations find themselves. There is a commitment to try to find the resources to do that in future. In the meantime, we have a progressive, incremental policy of trying to improve the service wherever we can through the vehicles themselves and the services on the train.

Mr D Bradley: Go raibh maith agat, a LeasCheann Comhairle. Gabhaim buíochas leis an Aire as an ráiteas a chuir sé faoi bhráid an Tionóil inniu. Ba mhaith liom ceist a chur air faoin athbhreithniú atá ar bun ar na heagraíochtaí Gaeilge croí-mhaoinithe. An féidir liom a fhiafraí den Aire an bhfuil sé sásta go dtabharfar san áireamh le linn an athbhreithnithe na cúinsí ar leith a imríonn tionchar ar na heagraíochtaí Gaeilge sa chuid seo den tír i gcomparáid leis na cúinsí atá i bhfeidhm ar na heagraíochtaí sa chuid eile den tír?

I thank the Minister for his statement. The Minister mentioned the languages body, in particular the review of the core-funded Irish language organisations. Is he satisfied that the review being undertaken by Foras na Gaeilge will take into account the different circumstances in which the core-funded Irish language organisations here work compared with those in the other part of the country?

The Minister for Regional Development: The Member will be aware that that is not my area of responsibility, so I am operating on the basis of information that DCAL has given to me. I have been told that a steering committee was established comprising the chairperson and CEO of Foras na Gaeilge and representatives of the sponsor Departments to oversee and monitor progress on the implementation of the review. Two meetings of the steering committee have taken place to date. To ensure communication with key stakeholders during the process, an advisory committee was established in January 2011 comprising representatives from Foras na Gaeilge, the sponsor Departments and the core-funded organisations. One meeting of that advisory committee has taken place to date. I cannot say how satisfactory that has proved. However, I am sure that the Member will be in touch with some of those who are represented on that committee and will have an opportunity, through the Committee for Culture, Arts and Leisure, to make enquiries of the Minister of Culture, Arts and Leisure. That is the information that has been given to me to date.

11.15 am

Mr I McCrea: In his statement, the Minister referred to sustainable travel and transport and the welcoming of the successful securing of funding for Plugged-In Places. Given that that deals in part with reducing carbon emissions, has the Minister considered reducing the number of North/South Ministerial Council meetings, thereby playing his part in reducing carbon emissions through less travel? Has he considered using videoconferencing to try to reduce carbon emissions?

The Minister for Regional Development: The Member will be pleased to know that I use less carbon travelling to North/South Ministerial Council meetings than I do to come here. Perhaps the argument is that I should come here less often. As the Member knows, North/South Ministerial Council meetings are held in Armagh in my constituency. Therefore, that is a much shorter journey for me, and a much more pleasant experience to stay in my constituency.

We are continuously looking at ways to reduce carbon emissions. Plugged-In Places, albeit that it is in its very early stages, is an important initiative for the Minister of the Environment, Minister Poots, and me. There will have to be testing to try to get the correct infrastructure for electric cars, and I do not doubt that future Administrations will look at the vehicles Ministers use and whether it is possible to get a successful electric car scheme up and running. Given that part of our Programme for Government contains the ambition to reduce carbon emissions; when the infrastructure, technology and vehicles are widely available, Departments should look towards the use of electric cars.

We have not looked at videoconferencing. Quite a number of people are involved in North/South Ministerial Council meetings; it is not simply

the three Ministers. For example, we had a presentation from both railway companies and, as Members can see from the statement, a wide range of issues was discussed. Meetings can sometimes involve eight or 10 officials on each side. Therefore, I do not think that videoconferencing would work necessarily.

Nonetheless, I think that the meetings are important, and their outcomes and product are evident in the reports that are brought back to the Assembly and the Executive. Very useful initiatives come from the meetings, particularly on sustainability, which is an area in which we have picked up quite a bit of information and experience from what has been happening in the South across a range of issues. The Member will be pleased to know that people from Dublin came to talk to us and Belfast City Council about the bike hire scheme that was operated very successfully in Dublin. There has been value, through sustainability and sustainable transport initiatives, in the engagement between both Administrations. However, I am sure that we can look at ways to reduce our carbon emissions while we are doing that.

Mr Campbell: The Minister mentioned the public inquiry into the A5 and its expected start date. He also mentioned the possible new Government in the Irish Republic and their connection to that. Without pre-empting the outcome of the public inquiry, if it transpires that the full anticipated scheme originally envisaged for the A5 does not proceed, will the Minister ensure that he takes steps to maximise the amount of money coming from the Irish Republic's Government to make sure that other road schemes may benefit from travel between the Republic and Northern Ireland? We are all interested in promoting cross-border and international travel.

The Minister for Regional Development: I am very pleased to hear the Member's commitment to that, which some people sometimes doubt. However, he recognises the realities of the north-west in particular, where Derry, Donegal and Tyrone are interdependent. The area functions better as a single region and needs substantial investment in infrastructure to catch up with other parts of the island. Any analysis of infrastructure on the island shows that there is a glaring gap in the north-west, not just on this side of the border but on the Donegal side too. The Member will be pleased that the draft Budget allocation that I have put forward includes almost £0·5 billion of infrastructure investment in the north-west. I think that that is very necessary. I assure the Member that we are operating on the basis that the plans for the A5 as agreed in the North/South plenary meetings between the Executive and the Dublin Government are going ahead and that those plans will survive a new Administration in Dublin. The indications are that they will, but nonetheless we will test that.

However, of the money put forward as part of the development plan in the South, an additional €10 million was identified for cross-border roadworks. The South has also recognised that there is strong value in trying to support an all-Ireland economy and in making sure that we have the ability to connect with each other and to transport goods and services quickly. That enhances business opportunities and also enhances the attractiveness of the island as a whole for investment.

If the A5 picture changes, I will need to have a discussion with the Minister of Finance and Personnel, but I will argue strongly, as the Executive accepted in their Programme for Government, that there is a need to rebalance investment and infrastructure here. The western and border areas in particular have suffered from historical underinvestment. To enhance the economic capabilities of our region and the island as a whole, the Executive need to invest there.

Craigavon Area Hospital: Clinical Practices

Mr Deputy Speaker: I have received notice from the Minister of Health, Social Services and Public Safety that he wishes to make a statement to the House.

The Minister of Health, Social Services and Public Safety (Mr McGimpsey): I wish to make a statement following the recent allegations over unsafe clinical practices at Craigavon Area Hospital. It has specifically been alleged that X-rays are not being reported on by appropriately trained staff and that outpatient reviews are being arranged on the basis of patients' names, with appointments assigned to patients in alphabetical order.

I take all legitimate concerns very seriously. It is my priority to ensure that everyone receiving health and social care is provided with the safe, quality services that everyone deserves.

Following extensive negative media coverage last Thursday, I held an urgent meeting with Mairead McAlinden, the chief executive of the Southern Trust, and John Compton, the chief executive of the Health and Social Care Board. The purpose of the meeting was to clarify the situation and seek assurances that the allegations were unfounded. I have been assured that the claims are unsubstantiated and have only served to cause unnecessary public anxiety.

Let me confirm the current position: in the Southern Trust, as in other trusts, X-rays are examined and assessed by the appropriate clinician and are reported on in accordance with national guidance. However, I am aware of pressures in the radiology service that have resulted in some delays in reporting. All trusts are acting to ensure that they are doing whatever possible to minimise delays. I take the matter very seriously and have asked the Regulation and Quality Improvement Authority (RQIA) to conduct a review on the reporting and handling of X-rays. I will receive the RQIA's initial report before the end of March and will take action to address the priority issues identified.

The Southern Trust has advised me that it is simply not the case that people are given outpatient appointments in alphabetical order; rather, outpatient appointments are arranged according to clinical priority. That is determined by the clinician in charge of outpatients' care. It is the right of any member of clinical staff to raise concerns publicly, but it is their responsibility to exhaust all internal mechanisms for raising those concerns first.

It is both concerning and disappointing that a very small number of staff in the Health Service may choose to raise concerns through the media rather than use the systems in place in their workplace. Robust arrangements are in place to ensure that any staff who have concerns about patient safety have ways of bringing them to the attention of senior staff. Those systems have been put in place specifically to allow staff to raise issues and to be assured that action will be taken.

It is true that there are lengthy waits for some outpatient appointments, particularly for review or follow-up appointments, and that is unacceptable. That is why the board and trusts have been set a target to ensure that, by March 2012, all patients must be seen within the timescale determined by their clinician. I expect all trusts to achieve that standard. To help achieve the challenging targets that have been set, I have invested in outpatient services. I provided £7·3 million last year and will provide a further £6·3 million this year to improve waiting times for outpatient services.

No one can have failed to notice that waiting times for a vast range of services have continued to rise over the past year. There are some specialities in which we know that demand has been high and there are ongoing difficulties in meeting targets for new and review appointments. We need to act to ensure that the capacity of trusts can meet the real and justifiable level of demand. That is the board's responsibility, and I expect it to work with trusts to provide the capacity that is needed to improve waiting times for all patients. I also appeal to patients to do all that they can to attend hospital appointments. Any person who is unable to attend should let the clinic know. By not attending, people are denying others the opportunity to be seen at a hospital clinic. Increasing waiting times should not come as a surprise to anyone. I have warned time and again that cuts to the health budget could only impact on the delivery of services. The fact is that cuts to my budget can be directly linked to the continued increase in waiting times. With the prospect of further severe cuts, the situation will only get worse.

There is no doubt that the Health Service is facing significant and increasing pressure. Staff are stretched to their limits as they strive to meet rising demand and continue to provide high quality care to services. I have met with staff and realise the pressures they are facing. At the same time, they have also had to contend with a constant barrage of negative media coverage, which has left many feeling demoralised. Increased pressures and limited funding have made this a very difficult time for health and social care staff. We are all indebted to the commitment and dedication of staff across health and social care. For them to also have to deal with people calling into question their professionalism and integrity is deplorable. I again appeal to the Assembly and the public to stand by our health and social care service, instead of using it as a political football. It is something that everyone should value, respect and protect.

The founding principle of the NHS is cradle-to-grave healthcare that is free at the point of delivery. We must all decide whether that is worth fighting for.

The Chairperson of the Committee for Health, Social Services and Public Safety (Mr Wells): I welcome the Minister's decision to bring in the RQIA to carry out a full review of X-ray services in Northern Ireland. That is what is required. As he knows, the Health Committee will question the Southern Trust and the Belfast Trust about this issue this afternoon. Does he agree that the one thing that could come out of all of this is that we have a set of protocols throughout the five trusts in Northern Ireland as to how X-rays are dealt with, so that someone going into a hospital with a certain condition will know that a certain individual at a very definitive level in the Health Service will examine that X-ray and report on it in a specific time frame? What has come out of all of this is the great variation among trusts in how X-rays are dealt with. If some degree of consistency comes out of the report, it will be good for all of us.

The Minister of Health, Social Services and Public Safety: RQIA is looking at the process of reporting in each of the trusts. There is a difference between that and looking at the whole X-ray process. We have invested in a patient administration system, which is new IT. Some of that is very advanced. It has not gone in to all trusts at the same time, but it has worked its way through them. The Western Trust, for example, has its system in place. That is all virtually complete, as I understand it. There has been a differential in rates. That system of information has thrown up variations. That is something that we are already on top of. That is why I have set the target for March next year for all reviews to be seen within the time that is determined by the clinician. All trusts, as I said in my statement, will be required to follow that.

Mr O'Dowd: Go raibh maith agat, a LeasCheann Comhairle. I also met the chief executive of the trust, and we had a full and frank discussion about the matters that have been raised. I welcome the RQIA inquiry into the X-rays. We await the result of that inquiry with interest.

The Minister made an interesting comment in his speech. He said:

> *"I have met with staff and realise the pressures they are facing. At the same time, they have also had to contend with a constant barrage of negative media coverage".*

Is it not the case that the person leading that "negative media coverage" is you, Minister? However, I welcome your comment that we should stop using our Health Service as a political football. If we can all agree with that, including you, we can move forward —

11.30 am

Mr Deputy Speaker: May we have the question, please?

Mr O'Dowd: The question is this, Minister: there has been much speculation that the Minister is about to walk away from the Executive. I call on him to walk into the Executive and conduct a positive engagement with his Executive colleagues. Can he reassure the House that that is his plan?

The Minister of Health, Social Services and Public Safety: I am not sure of the relevance of that diatribe as far as my statement is concerned. However, it is an example of using the Health Service as a political football. To use a statement on X-rays to make political points and make —

Mr O'Dowd: That was in your statement.

The Minister of Health, Social Services and Public Safety: If Mr O'Dowd —

Mr Deputy Speaker: Order. Will the Minister resume his place?

The Minister of Health, Social Services and Public Safety: Is it by leave of Mr O'Dowd?

Mr Deputy Speaker: I said yesterday that I would have no hesitation in naming anyone who shouts across the Floor. That applies equally, irrespective of who it is. Minister, continue.

The Minister of Health, Social Services and Public Safety: Thank you, Mr Deputy Speaker. That was a classic example of using the Health Service as a political football, and shame on Mr O'Dowd for making clearly political points. Being part of an Executive is a two-way thing. You cannot, for example, be part of an Executive negotiating a Budget only to discover that Budget negotiations are called off for several months and a Budget that was supposed to have been agreed last autumn does not get agreed until a week before Christmas. Two weeks before Christmas, all goes quiet and then you are called to belt up to Stormont Castle one night, where this is thrown at you. That is an example of being excluded. It is not about inclusion: it is about exclusion. I have fallen into John O'Dowd's trap. I have talked politics — shame on me for doing that too — but shame on Mr O'Dowd, because that seems to be all he is interested in.

Mr McCallister: I welcome the Minister's statement. Like others, my colleague Mr Gardiner met the Southern Trust over this very issue, and, like other Members, I welcome the RQIA's involvement. Will the Minister elaborate on existing pressures on radiology? Will such pressures increase with the Budget settlement?

The Minister of Health, Social Services and Public Safety: As far as the issues are concerned, the claim that patients were arranged alphabetically is nonsense. The claim — carried and supported by politicians on various media programmes — that clerical staff were reading X-rays was, again, nonsense. There are issues regarding the review, and I have set a target that by March next year those reviews will be carried out according to the clinician who determines when that will happen.

There is a process: the X-ray is taken; the appropriate clinician reads it and determines the action; and then a radiologist reads the X-ray at the end, in what is called the gold standard, to make sure that nothing has slipped through. We will make sure that that process is ongoing. However, the fact is that the Health Service is underfunded. The fact is that, come 1 April, the Health Service will, in effect, enter chapter 11. That is because — I have explained this over and over — pressures on the Health Service will become such on 1 April that, coupled with the insufficient money allocated, if it were a business, it would be bankrupt.

I know that the Budget was described as an early Christmas present by the Finance Minister, and I heard the First Minister say that it was obscene for me not to cheer it. He wants me to cheer for the bankruptcy of the Health Service, for this early Christmas present. If that is their idea of an early Christmas present, I would not like to spend Christmas in the Robinson household.

Mr Gallagher: I thank the Minister for his statement and commend the chief executive of the Southern Trust for reacting speedily last week when the issue came into the public domain. I met the chief executive last Wednesday.

I want to ask the Minister about the new target for review appointments with all the trusts. The timescale for that is more than 12 months away, and that will be worrying for patients who are caught up in this. Given that it will take a year to get to grips with it, is that just confirming that there is a mountain of review cases across all the trusts?

The Minister of Health, Social Services and Public Safety: No. The Member is right: this is a huge issue, and there are one and a half million appointments per annum. The Southern Trust alone is looking at 300,000 a year. So, there are waits, and, although I understand that they are not huge numbers, the numbers are enough to give us concern.

Like the Member, I talked to Mairead McAlinden last week, and she was seriously offended at and concerned about the way that the avalanche of negative publicity has suddenly hit her trust. The service is the staff who run it, and the staff take those comments personally. It is as if we are calling them and their professionalism into question. I have been at pains over and over again not simply to praise the staff but to say in every report, whether in the Western Trust, Altnagelvin or Belfast, that we do not question the professionalism of the staff, which is first-class. We are lucky to have the health and care staff that we have in Northern Ireland.

We will have the review part of the X-ray process fixed by March next year. That is the target. I anticipate that it will be done faster than that, and I have invested money in the process. I wish I could have invested more. However, huge numbers are involved; that is the issue.

Ms Lo: The Minister is right to say that health and social care staff are under a lot of pressure and are going through a difficult time. However, is it not a bit hypocritical of the Minister to condemn the staff who have come out to criticise poor practices in the trusts when he has time and time again spoke out in public about the state of affairs in his Department? Has he not set the trend of a wave of negative comment about the NHS?

The Minister of Health, Social Services and Public Safety: I reject that entirely. In fact, I have been an advocate for the Health Service from the day and hour that I walked into this job. I regret to say that Anna Lo was one of those who found herself able to go through the Lobby to vote for cuts to the health budget. That is profoundly regrettable. Some of that negative publicity comes from the fact that our staff are struggling to provide a service because it is under-resourced and underfunded and because they are stretched.

The processes for complaints are well laid down. Staff have a duty in their contract to report examples of where a patient's care is unsafe or the quality is not perfect. Most of them do that. Regrettably, some of them — very few —prefer to report to radio and television and other media. That is by no means helpful because it takes everybody by surprise. The chief executive certainly had no prior warning of this at all. From looking at the records, they were not aware of anybody in the trust who was voicing those concerns either to the chief executive or to the medical director. There is an issue there.

Mr Easton: Can the Minister explain why members of staff felt the need to go to the media if their claims have not been substantiated? Can he also tell us why outpatient clinics that have been cancelled by consultants have yet to be tackled? If those clinics went ahead, surely there would not be a rise in the outpatient waiting list.

The Minister of Health, Social Services and Public Safety: I answered the first part of his question when I responded to Anna Lo, and I have answered it on a number of occasions. Maybe the Member was not listening.

We have a loyal and professional core of consultants in our hospitals who provide a very good service. This is not the first time that I have heard such attacks on consultants, and they are not helpful. There are issues with cancelled clinics, and we have targets. We have invested in and are working on all those areas, not least the issue of "Did not attends". With the best will in the world, clinics will get cancelled, not least because we are dealing with large numbers of sick people who will often take sick on the day of their appointment.

Ms S Ramsey: Go raibh maith agat, a LeasCheann Comhairle. As other Members have done, I welcome the Minister's statement; it is important that he brings such information to the Assembly. It also saves me from trying to table questions for oral answer to get more information.

I hope that the Minister will not say that I am being political. I will ask two substantive questions based on his statement. The Minister said that the X-rays are seen and assessed by the appropriate clinician. Will he give more detail on what he means by the appropriate clinician, and is the definition of the appropriate clinician the same in other trusts? He went on to say that there were pressures in radiology that resulted in some delays. What were those pressures, and do those pressures exist in the other trusts?

The Minister of Health, Social Services and Public Safety: I will answer the final question first. For example, at Altnagelvin Area Hospital, where there was an issue with reporting, 13 consultant radiologists should be in post, but the hospital had nine, as a result of retirements, natural wastage and so on. Consultant radiologists are difficult to find. It is not a case of putting an advert in the paper and recruiting one; it is a specialised profession. Keeping up the numbers is also an issue in the Southern Trust. It would be nice to have more than is needed, but, because the budget is so stretched, that is not possible.

When an X-ray is taken, the appropriate clinician is the doctor or physician who has ordered the X-ray, and they will do the diagnosis and determine the treatment that is to be carried out. After all of that is over, a consultant radiologist will read the X-ray in a review process, to filter

out any X-rays that have slipped through. Waiting times for those reviews are longer than the clinicians are prepared to accept. That is why the clinicians say to me that the service could be or is becoming unsafe, and, as the Minister, I must react to that.

Mr S Anderson: I thank the Minister for his statement. The allegations that have surfaced over the past week have caused great concern to many people in the area and, indeed, further afield. Along with my colleague Stephen Moutray and David Simpson MP, I have been given the opportunity to discuss those concerns at length with the chief executive of the trust. Can the Minister confirm that the procedures for reading X-rays in Craigavon Area Hospital were put in place for clinical reasons and not for financial reasons?

The Minister of Health, Social Services and Public Safety: I can so confirm to Mr Anderson. The process that operates is a national process. It operates in all trusts and, as I understand it, is operational throughout the UK. It is tried and tested, and, as a general rule, it works extremely well.

Mrs D Kelly: I thank the Minister for his statement. I also took the opportunity to meet Mrs McAlinden, and I commend her on how she moved quickly to reassure members of the public who were rightly concerned about last week's news. However, it is important that we do not shoot the messenger, whether that is the Minister or, indeed, the person who went on the airwaves last week. As I understand it, the consultant filled out and sent through the incident forms and there was a communication problem to which Mrs McAlinden held her hand up. No one got back to the consultant on the reviews.

It is my understanding that the review system will itself be reviewed. A consultant does not need to see all reviews, particularly if all tests results are clear. Indeed, I understand that, given the higher population in Craigavon and in all the Southern Trust area and given the growing population and the growing older population, there is a need for additional resources in the Southern Trust area —

11.45 am

Mr Deputy Speaker: Ask a question, please.

Mrs D Kelly: Is there any progress on the capitation formula in relation to the Southern Trust, which, as I understand it, has been disadvantaged thus far? Under the capitation formula, was the money going to the Belfast area?

The Minister of Health, Social Services and Public Safety: In Belfast, they could make a counter-argument as far as capitation is concerned. It is a set formula, and I will write to Mrs Kelly with more detail to set the situation straight.

As far as the reviews of X-rays are concerned, those are being carried out by the RQIA. I have asked it to report quickly to me, and I anticipate that it will do that. Most initial X-rays and reviews are seen in a timely manner. That is the situation, but I am looking to improve it.

Mr Brady: I thank the Minister for his statement. The Minister said that it is the right of any member of staff to raise concerns publicly, but it is their responsibility to go through the internal procedures first. In this case, a senior clinician apparently felt the need to go public. Mrs Kelly mentioned the internal mechanisms that are followed, and, in this case, apparently, they were followed but were not followed up. Does that not indicate that issues need to be addressed in the internal system? That would negate the need for senior clinicians to go public.

The Minister of Health, Social Services and Public Safety: As I have indicated, there are adequate, robust processes in the system to allow staff to do that, and staff normally avail themselves of that. It is regrettable that staff or individuals feel that it is better to go on a radio show, rather than to avail themselves of that process.

The Southern Trust is not aware of anybody in the trust who has voiced those concerns and brought them to the medical director or to the chief executive. That is the point.

Mr Buchanan: I am disappointed that the Minister sought to politicise the issue by attacking the Finance Minister and the First Minister. However, I hope to rise above that and stick to the Minister's statement.

I do not think that the Minister has been overly clear in the answers that he has given. He expressed disappointment in his statement regarding staff going to the media when they should have used systems that were already in place, but I suggest to the Minister that it is clear that the systems that were in place

were not working. What does he intend to do to ensure that there is a robust system in place that is fit for purpose, so that consultants and staff are confident that it is working and will work for them if they use it?

On increased waiting times, is it not partly the case that that has been brought about by cancelled clinics at hospitals to allow the Minister's targets for first-time appointments to be met?

The Minister of Health, Social Services and Public Safety: As I said, we have a robust system in place. Staff avail themselves of it, and, overwhelmingly, that is the normal way to go forward.

Waiting times are slipping because of the money that is available in the system to operate it. The shortage of five consultant radiologists at Altnagelvin Area Hospital alone is an example. If staff are not available, those who are available have to work harder and are stretched more. That is the situation up and down the Health Service.

Mr Deputy Speaker: I remind Members that we are looking for one question, not two for the price of one.

Mrs O'Neill: Go raibh maith agat, a LeasCheann Comhairle. Obviously, I welcome the RQIA investigation as the eventual recognition of the problem. Minister, you referred to short-term solutions to address backlogs in various trusts. What is the long-term solution? There is a workforce planning issue and a problem with recruitment of radiologists. What is the long-term strategy to tackle that?

The Minister of Health, Social Services and Public Safety: Mrs O'Neill, the long-term solution, which is in your hands and the hands of the House, is to properly fund the Health Service. If you are not prepared to properly fund the Health Service, you will get — *[Interruption.]*

Mr Deputy Speaker: Order.

The Minister of Health, Social Services and Public Safety: I am being shouted at from both sides —

Mr Elliott: The partnership.

The Minister of Health, Social Services and Public Safety: It is the DUP/Sinn Féin partnership: Mrs O'Neill and Mr Frew, Lisburn and Magherafelt or wherever. Absolutely. Beauty and the beast. *[Laughter.]*

Mr Elliott: Which is which?

The Minister of Health, Social Services and Public Safety: Oh, I am quite clear which is which.

Of course, the issue, which I keep repeating, is the one that the First Minister got awfully excited about yesterday. It will not go away. Everybody must face up to that. If you want a Health Service that is fit for purpose, it has to be funded. If you want change and have to make changes, you have to make investment in order to get there.

Mr Deputy Speaker: That brings to an end friendly questions to the Minister of Health.

Executive Committee Business

Budget Bill: Consideration Stage

Mr Deputy Speaker: I call on the Minister of Finance and Personnel to move the Consideration Stage of the Budget Bill.

Moved. — [The Minister of Finance and Personnel (Mr S Wilson).]

Mr Deputy Speaker: No amendments have been tabled to the Bill. I propose, therefore, by leave of the Assembly, to group the 7 clauses of the Bill for the Question on stand part, followed by four schedules and the long title.

Clauses 1 to 7 ordered to stand part of the Bill.

Schedules 1 to 4 agreed to.

Long title agreed to.

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

Licensing and Registration of Clubs (Amendment) Bill: Final Stage

The Minister for Social Development (Mr Attwood): I beg to move

> *That the Licensing and Registration of Clubs (Amendment) Bill [NIA 19/09] do now pass.*

I want to make some preliminary comments before I deal with the body of my contribution. The first is that access to alcohol, conditions that relate to that and penalties that would arise from a failure to apply the law diligently are issues that will occupy the minds of the Assembly, the Minister for Social Development and the Committee for Social Development in the future. Although the Bill will make some useful contributions to all of that business, access to alcohol and conditions that relate to it will require further substantial consideration by the next Assembly mandate. I look forward to that happening.

As is well established, the financial costs alone of alcohol consumption are substantial. One estimate suggests that the cost to the health budget, the police budget and other budget lines, particularly in the context of family breakdown and such issues, and to the overall Northern Ireland exchequer is around £700 million. Therefore, over and above the impact of alcohol on the lives of individuals, families and communities, there is a substantial financial cost, which is measured in hundreds of millions of pounds. That is a further imperative for the matter to occupy the minds of the Assembly in the future.

Last week, I met doctors and people from psychiatric backgrounds to talk about the proposal for the minimum pricing of alcohol. They made the point that alcohol and the use and abuse of alcohol is a contributory factor to the levels of self-harm and suicide in Northern Ireland. Given recent events and without prejudice to what happened in respect of any of those matters, that fact alone is a reason why the issue of alcohol should be more fully addressed.

To conclude my opening comments, I want to make it clear that my mind and, I think, the minds of any Social Development Minister and the Executive should be to get the balance right between, on the one hand, proper enforcement and regulation of the alcohol business in Northern Ireland in all its expressions and, on the other hand, trying to adjust the law, where

appropriate, to enable trade to continue, jobs to be sustained and opportunities to open up. I acknowledge that that is a fine balancing act, but it has been my job to achieve a balance between proper regulation and appropriate enforcement when making proposals in respect of licensing in Northern Ireland, not only for alcohol but for Sunday opening hours and gambling proposals, while trying to ensure that shops, bookmakers and licensed premises are able to trade in a fair and balanced way and in a way that sustains jobs and creates opportunities for economic and tourist development.

I turn now to the Final Stage of the Bill. As Members know, the Bill was first brought to the House by Margaret Ritchie. I acknowledge that all the licensing initiatives that I have been able to take forward have had their birth in the intentions and ambitions of Margaret Ritchie as Minister. In many ways, I have been the sweeper of the initiatives that she led during her three years as Minister. When she introduced the Bill, she had at the heart of her intentions two principles, namely that the law should be upgraded and, where appropriate, toughened to make it more flexible.

At Second Stage, I assured Members that I would take a fresh look at the Bill to ensure that we achieved the proper balance that Margaret Ritchie talked about. Since then, I have had meetings with a number of representative bodies, discussed matters with a variety of Members and followed with interest the Committee Stage of the Bill. With the support of my Executive colleagues, we have a Bill that looks somewhat different to that first introduced in the House, but it is no less fit for purpose.

I take this opportunity to express my thanks to the Executive, to the Chairperson and members of the Social Development Committee for their comprehensive scrutiny of the Bill and to the representatives of all the bodies who spoke to me and presented evidence to the Committee. As I said, I acknowledge the officials, especially those in the Department for Social Development but also those in other Departments, who helped draft the amendments that are now in the Bill.

One of the provisions that attracted media and wider comment was the issue raised at Second Stage when Members asked questions, again, about cheap alcohol and whether the Bill could be amended to tackle that problem. Even at a late stage, with the understanding of the Assembly that I have acknowledged, I was able to have provisions on irresponsible promotions and pricing included in the Bill. The introduction of those provisions and the forthcoming regulations will be a positive step in curbing bad practice. Although it is not possible for the details of those regulations to be determined during the current mandate, I urge my successor to ensure that the process is completed at the earliest opportunity. Although it is not contained in the Bill, the issue of minimum pricing for alcohol is still firmly on my agenda and on that of Minister McGimpsey. We will shortly launch a public consultation on the introduction of minimum pricing in Northern Ireland.

Given the immense, dramatic and tragic impact of alcohol abuse on individual, family and community lives, I hope that the consultation will be the catalyst for the endorsement of minimum pricing by a future Assembly. I hope that that will be done at the earliest opportunity in the next mandate.

12.00 noon

Last week, I met the doctors to whom I previously referred. They represent the spread of the doctors' professions in Northern Ireland: the psychiatric; the clinical; and the GPs. They stressed that, in their view, minimum pricing, set at an appropriate level, was one of the critical interventions needed to address not just alcohol abuse but all issues impacting on many categories of vulnerable people, including young people, in Northern Ireland. I hope that the Assembly will be the first part of these islands to put in place a minimum alcohol pricing regime.

As I said at Further Consideration Stage, the minimum alcohol pricing regime will be set at a level that actually makes an impact. There was comment, even in the past 24 hours, from good authority in Britain, that what the London Government are proposing on minimum pricing in England is not going to be adequate enough to curb access to cheap alcohol and the abuse that can arise therefrom. I therefore hope that the Assembly will not only take the lead on these islands but will have a minimum pricing regime that sets minimum pricing levels in a way that has the desired impact.

The Bill's broad aim is to help tackle some of the problems associated with the misuse of alcohol and the resulting impact on ill health and crime. Licensing law alone cannot solve those problems, but I strongly believe that the

Bill can make a positive contribution. At Further Consideration Stage, I mentioned that I was to meet the Chief Constable on the Wednesday of that week. I actually met him on the Tuesday of that week. Owing to a family bereavement, Minister Ford was not able to join me.

I raised with the Chief Constable the specific cases, naming the bars, clubs, nightclubs and other premises that, it was alleged, were on the wrong side of the law in various ways. I think that 14 or 15 different premises were named. On the basis of the information provided to us, which we believed to be reasonable and reliable, I brought each and every one of those matters to the Chief Constable's attention.

He put up some defence on a number of the matters, but I made the point to him that, whatever the enforcement difficulties might be, and whatever might be the mind of a resident magistrate when it comes to matters referred to the court arising from an alleged breach of licensing law, the new licensing regime, and the imposition of penalty points in particular, can create a further opportunity to ensure that those licensed premises that heretofore might have been on the wrong side of the law but did not suffer the full impact of the law for breaches get their act together. If they do not get their act together, the police, through the penalty points regime and with the assistance of the courts, can put manners on those few pubs, clubs and other premises that are alleged to be in breach.

The new closure powers are perhaps not as all-encompassing as some Members would have liked. People know the history of that issue. Nevertheless, the powers are a significant improvement on those currently available to the Minister of Justice. The Department of Justice will issue guidance for the PSNI on its closure powers. The guidance will assist senior police in interpreting and implementing their new powers in the interests of public safety and the prevention of disorder.

The penalty points system aims to deal with persistent offenders, and any licensed premises or registered club that accumulates 10 or more penalty points within two or three years will have its licence or certificate of registration suspended by a Magistrate's Court for up to three months.

The proof of age provisions will, for the first time in licensing legislation, specify acceptable proof of age documents, and I hope that that will prove an effective tool in combating underage drinking. Its other main value is in helping licensed premises and registered clubs charged with an underage offence to prove to a court that all due diligence was used to avoid the commission of the offence. Promotions and pricing provisions in the Bill will allow the Department to prohibit or restrict irresponsible promotions and specified pricing activities in all licensed premises and registered clubs.

Those new powers will be steps in addressing the availability of cheap alcohol and provide a positive contribution to the whole-population strategic approach to tackling alcohol related harm.

The Bill will also, however, create more flexibility for registered clubs, getting the appropriate balance between regulation and flexibility. The flexibility will provide for easements in how clubs' accounts are kept and audited and pave the way for new regulations and guidance that will make accounting requirements for clubs more flexible. It will reduce the maximum fine for many accounts-related offences, permit — in sporting clubs only — young people to remain in the bar for an additional hour after 9pm and provide for an increase in the number of occasions when a club may apply to the PSNI for a late bar. Those easements will help clubs, especially sporting clubs, to maintain profitability and continue the valuable contributions they make to their communities.

The Licensing and Registration of Clubs (Amendment) Bill is a good piece of legislation. I commend it to the House and very much hope that the development of licensing and club legislation will be a key feature of the new mandate.

The Chairperson of the Committee for Social Development (Mr Hamilton): It is a pleasure to be able to speak at what is the Final Stage of this Bill and, as the Minister outlined in his opening remarks, the end of a very lengthy, detailed and sometimes frustrating process, which has led to the culmination of the Bill today.

Just as he inherited the Bill as Minister, I sort of inherited it as Chairperson. I am sure it is no coincidence that we now have a Bill at a time when it looked as though there was not going to be a licensing Bill passed at all. Modesty is obviously pouring forth liberally. There was, at times, a very strident debate in the Committee about the Bill, and in the Chamber. Sometimes

there were elements of comedy verging on farce, but eventually we are here, and we have got what we set out to achieve. The Bill is before us and, hopefully, will be ratified today.

I thank everyone involved in making the Bill a reality. I particularly offer my thanks to those who came forward to the Committee during our very important, lengthy and detailed Committee Stage to give evidence orally and in writing. Without that evidence, many of the improvements that are in the Bill would not have been possible.

I thank Department staff for always being on hand and able to answer our queries. I also thank the Committee staff, who, like a lot of Committee staff in this Building, were burdened with lots of legislation at the one time and had a balancing act in juggling lots of different pieces of legislation at one stage. I do not think that members knew what we were doing from one week to another, whether licensing, housing or caravans. We were kept very busy at that time and would not have been able to achieve what we did without the help of our Committee staff.

I also pay tribute to colleagues who, similarly, endured all that legislation at that one time but always stayed and remained focused on the job in hand, trying to critically scrutinise the legislation and improve the Bill. You see the final product that is before us today.

We had difficulty balancing lots of different interests in the Bill because, at the end of the day, we are talking about licensing. There are businesses, clubs and sporting interests involved in that, and sometimes those interests clashed and competed in a way that made it difficult for the Committee to find the best balance. I think that we have achieved a fair balance. It may not be to everyone's liking, but that is often the way with legislation when you are trying to balance those very real and competing interests.

We had very strong, often differing, views in the Committee on different aspects of the Bill, but the debate was always conducted in a mature and adult way. Ultimately, the Committee found positions on most issues that it could agree on, if not individual members' optimum position then at least one that they could be happy with.

There is much to welcome in the Bill. Clauses 1 and 7 deal with closure powers. Those are powers that I hope are never used. Evidence from other jurisdictions suggests that there has been little need for similar powers to be used, and I hope that that is the case here as well. I hope that the very existence of the powers on the statute book will encourage those few establishments that are, perhaps, badly behaved, or allow bad behaviour to get out of control on their premises, to look at their actions, look at their management, look at their structures and try to deal with the problem in a way that means that we do not have to exercise closure powers and deal with all the various difficulties that come with that.

One aspect that is important in achieving that is good guidance for the Police Service, so that it knows when and how to act and does so in an appropriate and proportionate manner in exercising the power. In some ways, we are gifting quite considerable powers to the police through the passage of those two clauses in particular. We know why we are doing that, but one does not want to see them abused in any way by the police. We want to see them used in a proportionate manner and for the purposes for which they were intended.

Clauses 2 and 8, which deal with penalty points, are useful tools to have at our disposal. However, something important needs to be said, which the Minister touched on. Two things need to happen. First, we need clear guidance for the pub and hotel sector on one hand and the clubs sector on the other about their rights and responsibilities. At different stages, we have teased out the confusion out there about different aspects of the licensing law. Clarity on the responsibilities and requirements of the licensed sector is vitally important. Secondly, there is no point in having a penalty points regime on the books if we are not enforcing it. We either have a strong licensing regime or we do not; there is no point in legislating to increase powers and controls if they are not enforced.

I welcome the Minister's report of his meeting with the Chief Constable, and I hope that it bears fruit. We are talking about a minority of licensed establishments, a handful or maybe one or two in some areas, but the powers that are enhanced through the Bill need to be enforced properly or else there is little point in legislating in the way that we are.

The clauses that will get the most attention in future will be those on irresponsible drinks promotions. The Committee probably devoted

most time to trying to come up with a number for how many late night licences should be available to registered clubs, but the most significant parts of the Bill, beyond a shadow of a doubt, are the clauses on irresponsible drinks promotions.

The Minister was very kind in his comments yesterday about the strength and influence of the Committee on the Housing (Amendment) (No. 2) Bill. I hope that he agrees that the clauses on irresponsible drinks promotions are a clear demonstration of the strength and influence not just of the Committee but of the House. I would not say that the Minister was embarrassed into including those clauses — he can answer that for himself — but the pressure that was exerted by Members from all sides of the House during Second Stage certainly had an effect. During that debate, we welcomed the Bill, in as far as it went, but felt that it did not go far enough. We felt that we could not do some of the things that we were proposing to do, including extending the number of late night licences, without addressing the most inherent social and health related problems in our society, which are caused by the availability of cheap alcohol.

The Minister outlined some of those social and health related problems — indeed, antisocial behaviour problems are also related to the availability of cheap alcohol — so I do not want to go back over them. However, we all know from our own localities the devastating impact that alcohol can have on individuals, families and communities. The clauses on irresponsible drinks promotions and the ability to outlaw such promotions are a major step in the right direction. However, it is not the end of the journey, and there are a lot of other issues that we need to look at.

The issue of minimum pricing has been raised, which is a difficult subject to deal with, but it must be grasped. There is also a need for us to re-evaluate as a society and educate people better about the proper use and consumption of alcohol.

I hope that we never have to exercise that power or to bring forward regulations that outlaw certain promotions. I hope that the industry will see what is being done today and will take it upon itself to excise its worst excesses. We can all point to bad examples in different localities of alcohol being sold in an irresponsible way. I hope that the industry catches itself on and voluntarily outlaws irresponsible promotions, without the need for the Assembly to introduce regulations.

12.15 pm

However, I repeat my earlier words of caution. We should not be overzealous. We must specifically target irresponsible drinks promotions, not promotions that are not targeted at those who would be consuming alcohol in an irresponsible way. I was buying petrol this morning, and the till had a TV screen that flashes up promotions. I will not name the shop for fear of giving it free advertising, but the screen showed the type of promotion that I referred to during the Bill's Consideration Stage. It offered two bottles of a certain brand of wine for £9, which I do not think that anybody would consider to be particularly irresponsible. However, the next advert was for two bottles of strong cider, which were so big that I do not think that I could hold them in one hand, for £5. That shows the difficulty that exists, and we cannot say that a bundle at a certain price should be outlawed. Most people would say that one of those promotions was responsible and the other was clearly irresponsible. We need to be cautious when exercising this power, if indeed we have to, that we do not throw the baby out with the bath water and that we do not punish those who do not deserve to be punished.

As I said, this is not the end of the Assembly's journey in dealing with alcohol matters. In fact, I think that it is probably only the start. This Bill is a good start. It provides a fair balance. It is much more effective and has been significantly improved by the processes of this Assembly. Those include the debate at Second Stage, the Bill's Committee Stage and the evidence that was taken by the Committee, the debates at Consideration Stage and the amendments that were tabled, debated, discussed and passed. With that in mind, it is a pleasure for me to be able to speak during the Bill's Final Stage and to support its passage.

Mr Brady: Go raibh maith agat, a LeasCheann Comhairle. The Minister and the Chairperson of the Committee have already addressed many, if not all, of the major issues. In the case of the Chairperson, modesty does become him.

The Bill led to a fair amount of discussion in the Committee, and there was some disagreement

and agreement. Committee members who felt strongly about alcohol and its use did not allow that to colour their decisions. They approached the Bill and the discussions in a measured way, which is to their credit. I thank the Committee staff, the people who gave evidence and presentations — those were very useful — to the Committee, and the departmental officials who provided good guidance on the Bill.

The whole purpose of the Bill is to control access to alcohol. The Minister pointed out the adverse effects that alcohol has in our society, including its impact on our health and policing budgets and, unfortunately, its role in self-harm and suicide. The greatest issue was in getting the balance right. Enforcement and regulation require a balance to be struck, because jobs and businesses will be affected, and that was borne in mind by everyone when looking at the issues that are addressed in the Bill.

The provisions that deal with irresponsible drinks promotions are to be welcomed. That is obviously an issue, and there was a lot of adverse publicity around irresponsible drinks promotions and the knock-on effect that they have inside and outside premises.

The minimum pricing policy and regime will be welcomed. The Minister alluded to a joint consultation with the Health Minister, which will also be welcomed. Minimum pricing will impact on the amount that people drink. Approximately 78% of alcohol is now consumed in the home, with only 20% to 25% consumed in licensed premises. That needs to be borne in mind.

The aim of the Bill is to reduce the impact of alcohol. The Minister referred to a meeting with the Chief Constable about naming and shaming bars and nightclubs. Part of the difficulty with the Bill is that there is no definition of nightclubs; most are in hotels with residents' bars. The penalty points regime will go some way towards ensuring compliance, with a three-month suspension when the maximum penalty points have been accrued, and the proof of age provisions will go some way towards preventing underage drinking. Again, the prohibition of irresponsible drinks promotions is welcome.

I also welcome the flexible approach taken to striking a balance on how accounts are kept in clubs because most of the people involved do it voluntarily, with changes of committee every so often. There was discussion, some of which may have been considered contentious, about sporting clubs allowing children on their premises until 10.00 pm. However, the sporting clubs that gave evidence put their case forward firmly and gave good reasons why the extra time should be allocated.

The number of extended licences was increased from 52 to 85 and, although some clubs do not use them, it will give clubs more flexibility in organising functions. A lot of clubs, like many pubs, are under severe pressure and, in some cases, are in the process of going under unless they can improve offerings like their social nights.

Although the Bill led to a lot of discussion, there was also a lot of consensus, and that is welcome. I have no problem in supporting the Bill.

Mr McCallister: It is rather upsetting, almost, that this is the second day in a row that I am getting up to heap praise on the Minister for Social Development for yet another success. This is serious legislation, and I concur with the Chairperson of the Committee that it has been added to significantly by the Committee, the Minister and the Department working together and being willing to engage with the industry and the various stakeholders. I thank them for their evidence to the Committee, which was vital in shaping good legislation that will be enforceable and workable.

The key element will be the minimum pricing structure and how we deliver on that. I concur and associate myself with comments made by the Minister, the Chairperson and Mr Brady about the dangers that the impact of alcohol has on our society, family life and the individual. The Minister said that the cost involved is around £750 million a year, which is a significant sum of money, setting aside the personal cost that it can have on individual lives. We must use and build on the Bill with whoever the Ministers may be for social development, health and, perhaps, justice. We must look at the impact that alcohol has and drive to improve public policy to meet that challenge. We must also bear in mind the figures that Mr Brady gave for the amount of alcohol consumed in the home, and the challenge that that presents to all of us.

I agree with Mr Hamilton about irresponsible drinks promotions. We all hope that the industry has received a very strong message from the Assembly during the passage of the Bill, not least today at its Final Stage. The message is

that the Assembly will not tolerate irresponsible drinks promotions. I note the example that Mr Hamilton used. He did not tell us whether he bought the two bottles of wine, or whether he felt that they were not of good enough quality for his table.

As other Members have said, there has been a good debate, even with those Members who are very opposed to alcohol consumption. I note that Mr Craig is in the Chamber; he is probably drawing up plans for a private Member's Bill for prohibition as we speak. However, it has been a good debate on all sides. Some Members have very strong views on alcohol, but there has been a good debate as to how we manage it and what the realistic alternatives and options are. Like all legislation, it is about finding a balance between what will work on the ground and what is practical to manage. When it comes to enforcement, the police response should be appropriate and proportionate, and that will encourage people to run establishments well and properly. I hope that the small minority that do not adhere to the law will, through this legislation, become an even smaller one, and that the legislation will be robust and work well to deal with the problems that alcohol and licensing contribute to our society.

This has been a fine example of our Assembly at its best, working on an issue that concerns everyone, on all sides of this House, with all their different views and experiences of clubs and pubs. There is huge concern about the public health issue, access to alcohol and, particularly, the effect that it can have on very young people. They may become addicted to alcohol before they reach the age at which they are legally allowed to drink. Mr Brady mentioned the impact that that can have on mental health and the huge rates of suicide and self-harm that have tragic consequences for families across Northern Ireland.

This is a good piece of legislation, and the Ulster Unionist Party is happy to be associated with it and keen to see it passed, either in the next few minutes or the next few hours. We support the Bill.

Mrs M Bradley: I am clock-watching, so I will not say much. I welcome the Bill; it is a good Bill for everyone, and there will benefits from it for all of the clubs. When the police came to see the Committee, they told us that they had no great concerns about clubs because they were normally well run. This will add to all of that, and it will benefit a lot of people.

I welcome the Bill and thank the officials from DSD for the work they did with us for the Committee and on the Bill.

Ms Lo: I very much welcome the Final Stage of the Bill and add my thanks to the Committee staff, the Department and the many stakeholders who gave up their time to come and brief the Committee on many aspects of the Bill.

It is a very good Bill. It better regulates the licensed sector but is not so restrictive as to stifle its economic growth. What is best about the Bill are the many worthwhile measures to address the misuse of alcohol, which has such huge economic, health and social costs to society. The sad thing is that we are finding more and more young people who develop alcohol problems at a very early age. That is something that we must put all our efforts into trying to stop.

One thing that I am disappointed about is the closure of licensed premises. The House did not support the Alliance Party's amendments to give more powers or grounds to the police to close premises on the grounds of imminent closure and noise nuisance, in line with other parts of the UK as well as the Republic of Ireland.

Therefore, that obviously rules out giving the police the power to take action to prevent trouble. If they had to wait for trouble to break out, more harm could be caused to individuals and properties.

12.30 pm

Mr Craig: I support the Bill. I notice that other Members are trying hard to rile me into starting another debate. That debate took place a long time ago and was proved to be a failure, so I am not going to repeat the mistake.

I particularly welcome clause 1, which will provide the police with the power to close licensed premises that are obviously causing a breach of the peace. Although I welcome that power, I think that all Committee members, including me, had concerns about how it would work in practice with the police. Indeed, my colleague Mr Hamilton pointed that out. Overzealous use of that power could be counterproductive in a community, and I think that we are all aware of cases in which that happened in the past. I say to the Minister,

therefore, that it is important that we keep a close eye on how the provision works in practice.

I also welcome the penalty scheme that the Bill will introduce. It will be important to see how the points system will work in practice with licensed premises. We had a long debate about the number of late-night openings that there should be in a year. We ultimately came to a sensible conclusion, arriving at a compromise that will create a balance between clubs, pubs and other parts of the industry. I also welcome the fact that clause 3 identifies methods of ID that will be required for proof of age and the fact that there will be a £1,000 fine for those who are found to be ignoring the age issue.

I mostly welcome the fact that the irresponsible advertising of some drinks promotions will be tackled. For example, in some parts of the Province, alcohol is sold more cheaply than water. That said, when we think about what happened at Christmas, it would have been easier to get alcohol than water in a lot of places. However, that had nothing to do with irresponsible drinks promotions.

Many on the Committee know my views on alcohol. I do not wish to impose them on anyone, but I have deeply held views on alcohol, and I have good reason for holding them. Like many other Members, I have seen what alcohol and alcohol abuse can do to people. Unfortunately, I witnessed it personally with a very close friend. The abuse of alcohol — I will give it its proper name, because it is abuse — destroyed a family. I sat with the individual many times, and I prayed with him and spoke to him on many occasions to try to get him over his addiction. I sent him in the direction of people who could help him, which was the right direction. Unfortunately, however, all that failed. I had to bail out his family myself many times, because I felt that it was the right thing to do and I did not want them to starve. None of that helped that individual, and, unfortunately, at the age of 32, he passed away because of his alcohol abuse.

We must do more than reduce the adverts and inducements that, unfortunately, draw young people into alcohol but not into a responsible attitude towards it. I have spoken about that issue before. The rest of Europe has a more reasoned and responsible attitude to alcohol. If we do anything to stop and change that attitude towards the abuse of alcohol, the House will have done something commendable. I commend the Bill to the House.

Mr Gallagher: Earlier contributors have referred to the excellent co-operation between the Minister, the Department, the Committee for Social Development and all those who gave evidence in bringing the Bill forward. The Bill ties in very well with the Committee for Health, Social Services and Public Safety's report of its inquiry into suicide and self-harm, which was published two years ago. The report's recommendations referred to the close link between suicide, self-harm and alcohol. Many of those who gave evidence to the Health Committee at the time spoke about those matters.

It is encouraging that, as the previous contributor said, there will be some penalties and restrictions around the all-too-free availability of alcohol for many of our young people. The Minister for Social Development referred to jobs in the industry and the need for balance. We all realise that, for many generations in this country, access to alcohol was controlled under licence. That system has worked well, although there have been exceptions, on occasion, when a small number of individuals have abused that system and have acted irresponsibly.

It is important to achieve that balance. Many of the pubs of Ireland are used by local communities and offer an environment that is very attractive for social occasions. When people are in that environment, under licence, they are free from drinks promotions and the abuse of the after-hours regulations. As the Minister said, the pub industry makes an important contribution to the protection of jobs and can be very important in rural areas. As someone who supports the campaign to save the pubs of Ireland for the reasons that I have outlined, I believe that the Bill does a good job in getting the balance right between enforcement and protecting the asset that is there and, particularly, the jobs in the licensed industry.

The Minister for Social Development: I acknowledge and thank all the Members who contributed today and throughout the passage of the Bill. The Bill has a number of chapters, and I want to confirm what four or five of those have been and the insight that has been provided to me as the Minister into the passage of the legislation.

First, I previously advised the Committee for Social Development or the House or individual Members of a conversation that I had in the Department after Second Stage. I said that, arising from that debate, I was anxious to ensure that we took forward proposals on irresponsible drinks promotions. An official in the Lighthouse Building on the day in question — not one who is within earshot — said to me that it could not be done. I said that it had to be done and asked how we would get it done. Ten minutes later, the official said that maybe we could get it done, and I said that we should get it done by piggybacking on Minister Ford's Justice Bill. It transpired a month later that that was not possible. I went back to the official and said that we should put it in the Bill, by which stage the official said that we could do that.

There are a lot of lessons in that tale for any Members — all Members, I presume — who aspire to ministerial office. The lessons are that, when officials say no, tell them that they mean yes, and they will find ways and means of getting something done that adds to the quality of a Bill and the welfare of our citizens. That is a completely accurate story. I remember the official. I can see him in my mind's eye. I could name him, but I will not. He said that it could not be done, but, a short number of months later, the Assembly has proved that things of significance can be done.

Ms Lo: What was that official's rationale for changing his mind?

The Minister for Social Development: The rationale was that we had not consulted on the irresponsible drinks promotions proposal and that we did not have enough time or opportunity to consult on it. The point is that, within 10 minutes, officials can come round to a Minister's way of thinking. That is a genuine story — I say that as I look anxiously at my officials. The official said no, and, 10 minutes later, he said yes. We worked out how to do it and, even then, we changed our mind a month later and decided to do it differently. I am looking at Minister Gildernew, who I am sure has had similar experiences as a Minister.

The second story of the Bill — I thank Peter Weir for his note — is what one Member referred to as the farce at a previous stage. I do not refer to it as a farce; I will be a little more generous and say that it was a little confusing. Regardless of whether there was a little confusion around amendments being moved or not moved, the point is that a lot of amendments were moved one way or the other. The Bill has a lot more depth and quality than previously as a consequence of those amendments being moved. I want to acknowledge all the Members who, through the conversation at Committee Stage, through tabling amendments, through moving amendments, through not moving amendments and through voting for various amendments, have upgraded the Bill in a significant way.

In respect of one amendment related to advertising, which was not moved, I intend to find out from the Civil Service club what its legal advice is that states that it may advertise. If there is legal advice that holds water, I will advise other clubs of their legal advice and say that it is up to them to proceed at risk. Nonetheless, if, under the current law, there are ways in which clubs can advertise legitimately, as per the Civil Service legal advice, I will explore that and advise clubs.

The third story of the Bill is something that Mr McCallister referred to, namely some Members' instinct towards prohibition. The conversation on the Bill confirmed that there are Members who come from a temperance background. At Further Consideration Stage, Jonathan Craig, for example, spoke about the impact of alcohol on the lives of people whom he knows. However, Members who come from a temperance background also recognised the need to legislate on alcohol wisely and responsibly and even to take a more liberal and flexible approach to alcohol licensing to get the right balance between protecting people from the excess of alcohol and allowing licensed premises, particularly clubs, to continue to operate their businesses and assist the community in the ways that they do. It was an important moment when people who come from a certain background recognised that the responsibility of legislators is to get laws that are fit for purpose, wise, informed and meet the needs of all aspects of the community.

12.45 pm

The fourth story of the Bill is the one that has yet to be written. It is about how this Bill, like much other legislation, demonstrates the need for more intently joined-up government. That is the significance of the consultation on minimum pricing that the Minister of Health, Social Services and Public Safety, Michael McGimpsey, and I will launch in the near future

but on which he will subsequently lead. Issues around minimum pricing are best addressed in the context of their health consequences as opposed to their legal, licensing or disorder consequences. The point is that there needs to be joined-up government on that and a lot of other issues.

Michelle Gildernew and I met before Christmas to look at how we might provide better joined-up funding for urban and rural organisations, which provide a great service to the community across Northern Ireland, so that they can do their work somewhat differently to improve their impact while possibly saving money. That theme of joined-up government, especially in areas of need and disadvantage, between the Department of Agriculture and Rural Development and the Department for Social Development, or the Department for Social Development and the Department of Health, Social Services and Public Safety or other Departments is the kind of learning that has come out of this Bill's consideration.

The final story of the Bill is linked to the work of the Assembly over the past number of weeks. The volume and quality of the legislation being passed, be it on hedges, wildlife, the private rented sector, licensing or caravans — note that I do not mention the Budget Bill — prove what this business is all about. It is about legislating to deal with issues such as hedges, wildlife, alcohol, the private rented sector and all the rest. All of us should judge ourselves and be judged on the amount of legislation that we get over the line, the quality of that legislation and the positive impact that it has on our citizens.

I will tell those who want to know what Peter Weir's note was about. It reads, "Stop tapping your lectern" — "tapping" has been spelt wrongly — "It sounds very irritating on the audio". That is probably wise advice for anybody who stands at this or any other lectern in the Assembly in the future. Actually, maybe he has spelt it correctly. I might have been maligning the Member's intelligence, so I apologise for that.

I commend the Bill to the House.

Mr Deputy Speaker: I am sure that we are all pleased that it was not on special offer.

Question put and agreed to.

Resolved:

> *That the Licensing and Registration of Clubs (Amendment) Bill [NIA 19/09] do now pass.*

Welfare of Animals Bill: Final Stage

The Minister of Agriculture and Rural Development (Ms Gildernew): I beg to move

> *That the Welfare of Animals Bill [NIA 28/09] do now pass.*

Go raibh míle maith agat, a LeasCheann Comhairle. I am absolutely delighted that the Welfare of Animals Bill has reached its Final Stage. This is the fourth Bill that I have introduced and taken through the legislative process since coming into office in 2007, and it is a significant achievement for everybody concerned. Before I turn to the detail of the Bill, I thank all those who responded to the consultation exercise that my Department carried out and all those who attended the meetings with me or my officials or the stakeholder workshop last year. I appreciate the input of all those stakeholders, whose contributions have contributed significantly to the Bill.

I thank the Chairperson and the members of the Committee for Agriculture and Rural Development for their consideration of the Bill and acknowledge the volume of work and time that the Committee spent on it. Its comments and recommendations have helped to shape the Bill before us today. I also thank officials in the Office of the First Minister and deputy First Minister, the Office of the Attorney General, the Office of the Legislative Counsel, the Departmental Solicitor's Office and the Bill Office, as they have also given us much support and advice along the way. I thank the Committee Clerk and his staff for their diligence and determination to ensure that Committee Stage was completed before Christmas. Last but not least, I thank my departmental officials who have worked very hard on this Bill, particularly given the time constraints involved. I am grateful to all of them.

This is an appropriate moment for me to remind the House of the Welfare of Animals Bill's main aims and purpose. The Bill updates and strengthens the powers that exist in the Welfare of Animals Act 1972 and will replace that Act. The Bill will reduce the likelihood of unnecessary suffering being caused to any vertebrate animal, because it introduces a duty of care and places obligations on everyone to promote the welfare of the animals, including domestic pets, for which they are responsible. The new powers will allow action to be taken to prevent animals

from suffering, rather than having to wait until after suffering has occurred, which is the current position for non-farmed animals. That will address the gap between the high legislative protection currently afforded to farmed animals and the somewhat limited protection for non-farmed animals.

Stronger powers in the Bill will allow early action to be taken when the horrific practice of animal fighting is suspected, including dog fighting. No longer will an animal fight have to take place before action can be taken. If there is evidence that animals are being bred or trained to participate in animal fights, action can be taken to seize them.

The Bill contains enabling powers to regulate by subordinate legislation any activity involving animals, such as activity at dog breeding establishments. The Bill also contains powers to prohibit the keeping of certain animals should that prove necessary in the future; for example, animals in travelling circuses. Powers are also included to ban the cosmetic tail docking of dogs. Following an amendment agreed at Consideration Stage, an exemption from that ban is now provided for certified working dogs.

Cruelty to animals and animal abuse has no place in a civilised society. We need to send out a clear message that that will not be tolerated. Therefore, penalties for those who commit the most serious animal welfare abuses have been increased to two years' imprisonment and an unlimited fine.

The Bill has 60 clauses, something that was often forgotten during Committee Stage and when the House debated the Bill at Consideration Stage and Further Consideration Stage. I am amazed that over 90% of the time spent talking about the Bill during those stages concentrated on the powers in clause 6 on tail docking. Although I appreciate that tail docking is an emotive subject, I urge Members not to lose sight of the bigger picture. The Bill is the most important animal welfare legislation ever to be developed in the North of Ireland, and it includes substantial powers to stop all animals under the control of people from suffering unnecessarily. The Bill also ensures that those animals will be afforded a duty of care, often referred to as the five freedoms.

There has been widespread support from the majority of stakeholders for the new Bill. The Bill will ensure that we are at the forefront of the protection of farmed and non-farmed animals and will, I know, be supported by all right-thinking people. Therefore, I urge Members not to get sidetracked into a debate on one or two clauses but to appreciate the significant benefits that the Bill will bring to all animals under our control.

The Chairperson of the Committee for Agriculture and Rural Development (Mr Moutray): I declare an interest as a member of Craigavon Borough Council.

With your permission, Mr Deputy Speaker, I wish to thank all the witnesses who contributed to the Committee Stage of the Bill, departmental officials for their advice, the Northern Ireland Assembly Bill Office for the excellent guidance that it provided to the Committee and, finally, the Committee team, for its support during the passage of the Bill.

The Welfare of Animals Bill has attracted a great deal of attention over past weeks and months, not all of which has been positive. That is unfortunate, because there is much in the Bill to be positive about. As the Minister said, the legislation will align the welfare of farmed and non-farmed animals. It will enshrine the five animal freedoms in statute. It will dispel the need to wait until an animal is suffering before an intervention can be effected, as it will now allow for such an intervention where an animal is likely to suffer. It will allow for stricter regulation of breeding establishments through subordinate legislation. It will bring about additional controls to prevent the heinous crime of animal fighting, and it will ban tail docking, with exemptions for specific breeds of working dog. Those are all positive outcomes and ones that the Committee for Agriculture and Rural Development has debated, supported and agreed. There have been and continue to be problematic areas, which I will come to in due course. However, let us not lose sight of the fact that domesticated animals — non-farmed animals — will be afforded additional protection and enhanced welfare as a result of this legislation.

During Committee Stage, three issues were identified: the licensing of breeding establishments; tail docking; and enforcement and resourcing responsibilities for local government. Owners of breeding establishments made themselves available to the Committee to argue for stricter regulation of their industry

by the Department. The Bill will allow for new regulations to be brought forward as subordinate legislation. Those will be consulted on, brought to the Committee for scrutiny and brought before the House for approval using the affirmative resolution process. That will allow for detailed regulations that could, for example, limit the number of breeding bitches and the number of litters they have, while also potentially controlling things such as the advertising of pups for sale on the Internet and in newspapers and journals. It would not have been appropriate to include that detail in the Bill. However, it is entirely appropriate that additional time is taken to consider this serious issue and to make sure that we get it right. I am glad that the Department is of a similar mind, and I repeat its assurances that the subordinate legislation will be a priority for the Department. I am also glad that any administration or enforcement of the registration and licensing of breeding establishments will be undertaken at full cost recovery, thus ensuring that ratepayers do not have to take on that additional financial burden.

The second issue identified by the Committee was tail docking. That issue has attracted a great deal of attention over the past few weeks. Mr Deputy Speaker, you will be pleased to learn that I do not intend to rehearse those arguments. However, I again emphasise the Committee's position on the matter, as detailed throughout Committee Stage, in the Committee's report and during Consideration Stage and Further Consideration Stage and confirmed by Committee members on a number of occasions during debates: the Committee is opposed to the cosmetic docking of dogs' tails and, consequently, of the promotion and support of such practices. The exemptions that the Committee has made to clause 6 of the Bill are practicable and, combined with the proposed legislative principles brought by the Department to the Committee, will ensure that the welfare of working dogs is enhanced. Again, the amendments made in respect of showing dogs will close a loophole that exhibitors have been using in England and Wales, and it will help to ensure that the practice of promoting cosmetic docking will be reduced and eventually disappear.

The final key issue that the Committee identified was enforcement. Again, it is unfortunate that some organisations have recently gone to press decrying the Bill as ill considered and ineffective. It is unfortunate that a representative of one organisation, an organisation that claims to be to the fore of animal welfare, wishes to use the press to grab headlines yet failed to make representations of any type to the Committee during pre-legislative scrutiny of the Bill or when the Bill was introduced to the House or, indeed, at any of the stages that the Bill has been through, particularly Committee Stage.

The fact that the Bill seeks to pass enforcement of its powers to local government has been known for a long time now. The fact that there are problems with that is also well known, and the Committee has rehearsed those problems with the Department extensively. The Minister has agreed to ring-fence some £760,000 a year over the next four years; that is not a one-off dowry, as reported by ill-informed welfare organisations.

The Committee has the agreement of the Department that additional consultation with local councils is required, and I am pleased that the Minister has accepted the Committee's invitation to a meeting with elected representatives in Parliament Buildings next week. We still have concerns about future resourcing, and the Committee sees this as a very important first step in the consultation process but stresses that it is only the first step. The issue should have been resolved before the legislation was brought to the House, but the Committee believes that it can be resolved.

As I indicated, the issue of enforcement is unresolved, but positive steps are being taken to resolve the matter. We have a good piece of legislation here, one that has been needed for almost 40 years. I fully accept that there will be a small number of people who do not agree with some of the clauses. That is true of most, but not all, legislation. However, the Committee has been consistent in its position and its objective that the welfare of animals is and should remain the priority. The Bill does that by placing the animal's welfare to the fore and aligning non-farmed animals with those that are farmed. That is the policy principle that the Committee has supported and will continue to support. I commend the Bill to the House.

1.00 pm

Mr Deputy Speaker: The Business Committee has arranged to meet immediately on the

lunchtime suspension. I propose, therefore, by leave of the Assembly, to suspend the sitting until 2.00 pm. The first item of business when we return will be Question Time.

The debate stood suspended.

The sitting was suspended at 1.00 pm.

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

2.00 pm

Oral Answers to Questions

Agriculture and Rural Development

Mr Deputy Speaker: Questions 2 and 3 have been withdrawn and require written answers.

Young Farmers' Clubs

1. **Mr P J Bradley** asked the Minister of Agriculture and Rural Development for her assessment of the range of activities carried out and the benefits brought to rural communities by young farmers' clubs. (AQO 1106/11)

6. **Rev Dr Robert Coulter** asked the Minister of Agriculture and Rural Development for her assessment of the performance of the Young Farmers' Clubs of Ulster against its targets for the current funding period. (AQO 1111/11)

7. **Mr S Anderson** asked the Minister of Agriculture and Rural Development what prior assessment she made of the potential social impact on rural areas of her decision to cut funding to the Young Farmers' Clubs of Ulster. (AQO 1112/11)

10. **Mr K Robinson** asked the Minister of Agriculture and Rural Development for her assessment of the role played by young farmers' clubs such as Kilwaughter and Gleno Valley in the training of future young farmers and the prevention of rural isolation. (AQO 1115/11)

The Minister of Agriculture and Rural Development (Ms Gildernew): Go raibh maith agat. With your permission, a LeasCheann Comhairle, I will answer questions 1, 6, 7 and 10 together.

Following the Executive's agreement on a draft Budget, I announced my draft budget proposals for the Department of Agriculture and Regional Development (DARD) for the financial years 2011-15 on 13 January 2011. The current expenditure saving required from DARD is £43 million over the next four years. At the time, you may recall, I had identified that I would not have

the resources to do everything that I would want to and live within the available budget. To live within the available budget, I proposed savings in a number of areas.

When I considered the support that DARD provides to the Young Farmers' Clubs of Ulster (YFCU), I did not regard it as a priority, when set against front line activity. I am aware that concern about that draft budget proposal has been raised and that many submissions have been received on the issue. Therefore, I met YFCU representatives last Thursday to listen to their perspective. That was a positive engagement during which I had a useful discussion and indicated to them the areas that I believe are a priority and where the YFCU may contribute to rural communities. I explained the sort of measurable outputs that the clubs would have to deliver to justify continued grant aid.

Future areas of work discussed included rural road safety, in conjunction with the GAA; succession planning; encouraging the uptake of online applications by farm businesses; a schools outreach programme of a cross-community nature; and a programme to integrate the work of the Young Farmers' Clubs of Ulster into local rural community initiatives, including a focus on rural women's issues, particularly domestic violence.

Having carefully considered the views of the YFCU, the budget pressures on my Department and the potential value of a programme of work targeted at those specific areas, I am content, in principle, to continue to fund the YFCU for a further three years, subject to it providing a suitable business proposal covering the specific areas that we discussed. I phoned the YFCU president, Thoburn McCaughey, today to advise him of my decision.

Mr P J Bradley: I thank the Minister for her answer. I will not be rushing to the press with it; the young farmers' union has already advised the media. Some Members have just come from a meeting of the Agriculture Committee at which there was quite a lot of controversy over the budget. Was the proposal to take money from the young farmers' clubs the Minister's own idea or was she acting on advice?

The Minister of Agriculture and Rural Development: I assure the Member that I had very hard decisions to make. The House will recognise that £43 million is a significant amount to find from the agriculture budget, considering that a lot of what we do is statutory or in compliance with a European directive.

There have been difficulties in trying to get through a budget proposal that protects front line services while doing all that we are obliged to. Given that young farmers' clubs have considerable funding from other sources, I felt that I needed to look at that. The decision to do so was very difficult, and I have had a positive engagement with young farmers' clubs throughout my time as Minister. However, with measurable outcomes and with a programme of work agreed by my Department and young farmers' clubs, I believe that they can continue to make an even more positive contribution to community and youth work in rural areas to the benefit of all young people in such areas.

Rev Dr Robert Coulter: I hope that I take the Minister's answer in the right way. I am delighted that you are going to continue to fund young farmers' clubs. Is any recognition given to the great work that young farmers have been doing to reduce rural isolation and to increase the number of young people with an interest in agriculture and the likelihood of their choosing a farming career?

The Minister of Agriculture and Rural Development: There is no question that that is the case and that the clubs have made a positive contribution to the life of young people in rural areas. They do get funding from other sources. This funding could not be seen on the same basis as some of the other front line services that I have to protect. However, we now have agreement on a programme of work, and I hope that the young farmers' clubs will deliver on a much more varied programme. That will make an important contribution and add to what they are already doing to obtain greater benefit for taxpayers' money. We cannot ignore the fact that taxpayers are funding the young farmers' clubs. We want taxpayers to get something back from that, and I believe that the issues and outcomes that we discussed last week can help to deliver that.

Mr S Anderson: I thank the Minister for her responses so far; a lot of the issues have been discussed. I, too, welcome the decision to give the young farmers back what I would say is rightfully theirs.

The Minister claims to be a champion for the rural people. What other organisation out there provides the service for young people in

Northern Ireland that the young farmers' clubs do? Can the Minister guarantee that any money that goes back will come from mainstream funding?

The Minister of Agriculture and Rural Development: First, I have to nail the Member's point that the funding is rightfully theirs. I know of no other organisation that has enjoyed taxpayers' support since the 1930s, and none of us can take for granted funding that comes out of the taxpayers' pockets or say that money is rightfully ours. We can agree a programme of work under which the Young Farmers Clubs' of Ulster deliver a number of outcomes that will have a very positive impact on rural communities in general. We need to nail the perception that the money is theirs and should always be theirs.

The Member disagrees with me, but loads of community organisations and voluntary groups would love to be in the same position as the young farmers' clubs. None of us can take for granted money from the small pot that the Executive get and have to distribute across a wide range of very important services. Nobody can say: "That money is ours; you cannot take it off us." The young farmers' clubs certainly do not say that to me, and it is unfortunate that we have got into this situation, because they have asked what they can do to persuade us to give them that money and said that they will do something for it. They never said: "That money is rightfully ours; give it back."

Mr K Robinson: I am glad that the Minister has moved towards the young farmers' clubs. However, this funding involves miniscule amounts of money and, given that her preferred option to move DARD headquarters west of the Bann will involve the astronomical cost of moving jobs outside their present location, surely there is an imbalance in her approach.

The Minister of Agriculture and Rural Development: Our position to address economic inequality is the conduit for the decision that I took, which was recommended in the Bain review, to move DARD headquarters. Although the funding for the young farmers' clubs is not a huge amount of money, it is still money that a lot of organisations would love to be able to access year on year for very little effort on their part. We have moved to a much more mature understanding between young farmers' clubs and the Department, but there needs to be maturity here too. Rural people have the same entitlement and right to decent well-paid employment as urban dwellers, and I make no apologies for fighting that battle throughout or for ensuring that the people from rural areas have access to good, well-paid jobs.

Mr Frew: I welcome the news. If I heard her right, the Minister said that she will provide three years of funding from a four-year budget. What is the rationale behind that?

The Minister of Agriculture and Rural Development: The last package of funding to the young farmers' clubs was for three years, and that is what they asked for.

Mr McCallister: At the outset, I declare an interest as a paid member of the Young Farmers Clubs' of Ulster. Some Members across the House maybe doubted my age, but I am sure that I can clarify that. I thank the Minister for her decision. It is a good news story that young farmers' clubs and the Department have achieved a result that will be widely welcomed across rural communities and the industry, as young farmers' clubs provide the next round of leaders for the industry. Can the Minister confirm that the level of funding is the same, and will she agree that young farmers' clubs will rise to the challenges that she has set before them?

The Minister of Agriculture and Rural Development: Subject to a business case, we have agreed that £75,000 per annum will be available over the three-year period. I welcome the Member's supplementary question as he was the first Member to raise the matter. John was first out of the traps, and I am delighted that we have come to an understanding with the young farmers' clubs. I look forward to working with them in future.

Mr Deputy Speaker: Obviously, the word "young" has a wide definition, Mr McCallister. Questions 2 and 3 have been withdrawn. Mr Gerry McHugh is not in his place to ask question 4.

Red Grouse

5. **Mr McFarland** asked the Minister of Agriculture and Rural Development what action her Department has taken to encourage the introduction of red grouse into mountain areas.

(AQO 1110/11)

The Minister of Agriculture and Rural Development: The College of Agriculture,

Food and Rural Enterprise (CAFRE), which manages the Glenwherry Hill farm, initiated the Glenwherry Hill regeneration project in 2009. That project aims to protect a wide range of habitats, including those for red grouse, hen harrier, merlin, curlew and snipe. The project involves a partnership between the Irish Grouse Conservation Trust, the RSPB and CAFRE. The Environment Agency and the Agri-Food and Biosciences Institute also make a significant contribution to the project through their advice, support and scientific input.

That pioneering environmental project has an agreed five-year management plan that satisfies the interests of the various partners and the demands of protective legislation. Already, the project has shown great success, with red grouse numbers in the past three years increasing from six pairs to 200 pairs, surpassing all expectations. The significance of that achievement cannot be overstated because, in 2004, the total number of red grouse across the Six Counties was estimated at between 200 pairs and 221 pairs.

The Glenwherry Hill regeneration project recognises that proactive management is essential in securing sustainability in biodiversity and in the livelihoods of those who live and work in the hills and uplands. In practice, management includes the burning of heather to provide a food source for young grouse chicks, sheep-grazing management, predator control and providing grit for the grouse. I launched the project at Glenwherry on 19 January, where I learned at first-hand of its success to date. I also assure the House that the aforementioned organisations were extremely positive about the potential benefits that may accrue in due course, and the publicity surrounding the project has been positive.

Funding is available to participants in agrienvironment schemes to encourage heather regeneration, as well-managed heather is a great asset to the farm, providing a valuable wildlife habitat for priority species such as the red grouse, curlew and Irish hare. I am interested in hearing the views of farmers and landowners on the benefits that agrienvironment schemes bring. My staff are in discussion with farmers and landowners to improve that in future.

Mr McFarland: I thank the Minister for her answer. How many farmers who are involved with the countryside management scheme intend to help with the regeneration of the red grouse?

The Minister of Agriculture and Rural Development: I do not know, because we do not yet have that information. We are reopening applications for the countryside management scheme, but I do not know how many farmers will be in a position to get involved in that work. I assure the House that my officials will be emphasising the importance of that work and its benefits to farmers whose land is applicable.

Mr Deputy Speaker: I call the other red grouse expert, Patsy McGlone, to ask a supplementary question.

Mr McGlone: I am not too sure about that, Mr Deputy Speaker. Gabhaim buíochas leis an Aire as ucht an fhreagra sin. I have been involved with a project on those matters outside Lough Fea in the Sperrins. Will the Minister ensure that there is a complementarity of effort between her Department and the Department of the Environment, particularly through the Northern Ireland Environment Agency, to maximise effort rather than one Department pulling in one direction and another Department pulling in another? We have noticed that happening on one or two occasions, especially around the burning of heather.

2.15 pm

The Minister of Agriculture and Rural Development: I do not think that there is any question of pulling in separate directions on this issue. My officials have worked very well with officials in the NIEA and are in regular communication with them. Where any land under agrienvironment agreement falls within a designated area, the Environment Agency is consulted as to the management required for that land. However, as the delivery agent for the countryside management scheme, we prioritise that work, and the NIEA provides advice and support to it.

Mr Deputy Speaker: Questions 6 and 7 were grouped with question 1.

Allotments

8. **Lord Empey** asked the Minister of Agriculture and Rural Development to outline how her Department encourages and supports allotment

holders to increase vegetable production, whether in an urban environment or as part of a farm diversification scheme. (AQO 1113/11)

The Minister of Agriculture and Rural Development: Under axis 3 of the rural development programme, there is an opportunity for farmers, their family members or other landowners to supplement their income by allocating an area of land for rent by the public as allotments. Such enterprises have an additional beneficial effect of enabling members of the community to have access to the outdoors and to the facilities to grow their own produce.

Local action groups may allocate grant aid to landowners for setting up allotments and facilities in rural areas, subject to congruence with agreed local development strategies, robust economic appraisal and competitive assessment. To date, five projects, including one feasibility study, have been offered up to £100,000 in axis 3 grant assistance for the development of allotments, while a further two are undergoing project assessment. One project in the south Antrim area has been completed.

Lord Empey: I thank the Minister for her response. She will be well aware that, in the past, some local authorities have had allotments policies. She will also be aware that there is fierce competition for those allotments, particularly in urban areas. However, the real issue here is diversification. There are huge benefits if that can be achieved in rural communities. How does the Minister's Department intend to promote that, particularly from the point of view of farm diversification? It is clear that the more of that sort of activity that can take place in rural areas, the better, and, ultimately, people can make small businesses out of them.

The Minister of Agriculture and Rural Development: There are a number of win-win situations in the whole issue of allotments. Under axis 3, farmers, their family members or private landowners may avail themselves of financial assistance for viable, sustainable projects at a rate of up to 50% of total eligible project costs, up to a maximum grant amount of £50,000. However, social economy enterprises may also avail themselves of financial assistance at a rate of up to 75% of total eligible project costs, up to a maximum grant amount of £250,000, subject to the state aid de minimis rule. Therefore, there are opportunities for social economy projects that want to get involved in this issue and can work with local farmers and landowners to bring that about.

Mr Bell: Given that food security is a priority for Europe, is there any way that the Minister's Department can make the bureaucracy less bureaucratic? Most people who are setting up a small business will be unable to go through the rules and regulations set down by Europe. If we go out and say that there is £250,000 available to set up a small business, it will attract a huge amount of interest. However, when people see the tomes of European regulation and bureaucracy, they will not be able to work through it and will give up after about the second volume. Can anything be done to make that information more accessible?

The Minister of Agriculture and Rural Development: It is very interesting that that question comes in the same week as the comments that we had about serious farmers. We are talking about allotments and producing more food and people being able to produce their own fruit and vegetables. I believe that anybody who contributes to our food supply and anybody who grows food for export or for the domestic market deserves respect and deserves to be appreciated for what they do.

I have made it very clear to the Commission and to all those working along with me, including the Agriculture and Rural Development Committee and our three MEPs, that those issues come up in conversation frequently. I believe that we need to support everybody who is contributing to the European food pot and ensuring that we have food security. We export so much of our beef and milk that, sometimes, we think food security is something that other member states need to take cognisance of, but I think that we are only a few decades from the biggest famine in this country. That memory will not leave us, and we want to ensure that there is a viable, sustainable food supply for future generations on the island of Ireland.

Mr Dallat: Does the Minister agree that most of us are probably second-generation rural dwellers and that, even though we live in towns, we have a fascination with getting back to the countryside? It is now accepted that health and the growing of vegetables are related. Has she had any conversations with the Health Minister

and, indeed, the Minister of Education, about making this a cohesive venture, from which farmers would, in fact, benefit as well as people who have allotments?

The Minister of Agriculture and Rural Development: I have had discussions with the Health Minister and the Minister of Education about the availability of fresh local produce for the most vulnerable in our society. That is certainly becoming increasingly popular. Work by people such as Richard Corrigan and Darina Allen has encouraged people to try to grow at least some of their own food and has made people aware of the benefit that it brings. We all know how exciting it is for children to see something that they have planted come to fruition. We can all start with a pot of tomatoes on a sunlit windowsill, and take it from there.

The Member made the important point that we are all just one or two generations away from the land. Indeed, some of us are still on it. It is important that children know where food comes from and the significance of the seasons to what we buy to eat, so that we do not lose track of where we come from and how we need food to sustain us.

Kilkeel Harbour

9. **Mr W Clarke** asked the Minister of Agriculture and Rural Development for an update on the proposal for a new breakwater at Kilkeel harbour. (AQO 1114/11)

The Minister of Agriculture and Rural Development: In 2010, the Department carried out an economic appraisal on the options for improving navigational safety at the entrance to Kilkeel harbour. The appraisal considered a range of options to reduce risks to what is known as ALARP — I hate acronyms, but they have to be used — or, as-low-as-reasonably-practicable levels. They included breakwater construction options, which earlier technical studies had concluded would achieve ALARP levels. However, other options were also identified and considered. They included the relocation of the fleet and the introduction of an enhanced safety-management system.

The overall aim of the appraisal was to improve navigational safety at the approach to the Kilkeel harbour entrance. The appraisal concluded that the introduction of an enhanced safety-management system would also reduce the safety risk to ALARP levels and that that solution represented the best value for money and could be implemented more quickly and at lower cost than a breakwater. The estimated cost of an enhanced safety-management system is £192,000; the cost of a breakwater is £15 million.

I have, therefore, decided that, in order to address the concerns about access to Kilkeel harbour in certain adverse conditions, an enhanced safety-management system should be developed and implemented as soon as possible. I have asked the Fishery Harbour Authority to draw up proposals for such a system, which will be prioritised for consideration for funding from the European Fisheries Fund (EFF). When the system is installed and operational, it will be reviewed after three years to ensure that the safety risk at the entrance to Kilkeel harbour is being maintained at as-low-as-reasonably-practicable levels.

Mr W Clarke: Go riabh maith agat, a LeasCheann Comhairle. I thank the Minister for her response. I agree with her that safety is paramount. It is absolutely essential that seafarers are protected. Obviously, resources are limited. Therefore, we have to be pragmatic. Will the Minister comment on proposals by the Fishery Harbour Authority to increase landing dues?

The Minister of Agriculture and Rural Development: Certainly. The Member mentioned safety. Problems arise when a vessel attempts to gain access to the harbour when it is not safe to do so. I fully recognise the skill and judgement displayed by skippers over the years, which have helped to avoid serious incidents. Hopefully, the decision I have taken will give them better information about the navigational conditions that prevail at the pier head.

For some years, the Fishery Harbour Authority has not generated enough income to meet its operating costs. That deficit has been met by drawing on reserves that were built on in previous years. As reserves have depleted, the authority has asked that it receive grant aid from the Department. I have agreed in principle that that should be paid, subject to necessary statutory provisions being put in place.

Mr McCallister: I am grateful for the opportunity to ask a supplementary question, because this is a constituency issue. I welcome the Minister's

response; it is a scheme that we would all like to see. What is the likely timescale? Has the Minister any dates in mind that she would like to work towards? From where will possible sources of funding be sought? Will they be sought from Europe, for instance?

The Minister of Agriculture and Rural Development: I cannot give a definitive timescale, but as soon as practically possible. We will be looking at EFF as a vehicle for bringing it forward.

Brucellosis: County Armagh

11. **Mr Brady** asked the Minister of Agriculture and Rural Development for an update on the brucellosis outbreak in the Keady and Lislea areas, including any action being taken by her Department. (AQO 1116/11)

The Minister of Agriculture and Rural Development: Most brucellosis breakdowns in the North of Ireland in 2010 were in Lislea and Keady, with eight and 11 confirmed breakdowns in those areas respectively. However, more than three quarters of those were in the first half of the year, and there was a significant reduction in new outbreaks in the latter part of the year. The most recent confirmed breakdowns in the North were disclosed in November 2010, and no infected herds have come to light since then.

Additional control measures continue to be employed in the Keady and Lislea areas, including controls on cattle movements; an increased frequency of herd blood testing; additional bulk milk testing; surveillance of animals at abattoir; and additional Veterinary Service epidemiological unit visits to investigate the patterns of disease.

I have also had constructive meetings with the PSNI Chief Constable and the Minister of Justice, David Ford, about fraudulent and illegal activity involving livestock. Earlier this month, I met the Irish Farmers' Association and the Ulster Farmers' Union to reassure them of our continued robust approach to disease control and to those who may seek to gain from disease spread, particularly in breakdowns that are close to the South.

Mr Brady: I thank the Minister for her answer. Will the Minister give the House some idea of when she thinks brucellosis will be eradicated in the North?

The Minister of Agriculture and Rural Development: If progress is maintained, we could see eradication within three years. Subsequently, that could lead to our obtaining official brucellosis-free status and allow some easement in the testing regime. However, we cannot be complacent, as the events of 2010 taught us that brucellosis hot spots can develop with a risk of considerable spread.

Mr D Bradley: Go raibh maith agat, a LeasCheann Comhairle. Gabhaim buíochas leis an Aire as an fhreagra a thug sí. Does the Minister agree that the word "outbreak" is a bit of a euphemism, since the disease was deliberately introduced into Lislea and Keady? Can the Minister give an indication of the costs sustained by her Department to date as a result of the disease being criminally introduced into those areas?

The Minister of Agriculture and Rural Development: I want to be clear. We know that the incident in Lislea late in 2009 was fraudulent; however, proving that others are fraudulent is difficult. In fact, it is not necessarily the case that they were fraudulent. Since brucellosis is such a contagious disease, the herds of many farmers in the area of the Lislea incident contracted that disease accidentally and through no fault of their own. It is important that we do not criminalise people for being victims.

Mr D Bradley: Some were deliberately introduced.

The Minister of Agriculture and Rural Development: Not all cases were deliberate. I have to give an absolute assurance to the House that there were accidental breakdowns in neighbouring herds as a result of a deliberate case. There is no doubt that there was a deliberate case, but not every animal that contracted brucellosis since late 2009 was infected deliberately. We are not about to criminalise anybody who found themselves a victim in this scenario.

I accept that the Member has asked more than one question. I do not have the costs with me, but I am happy to come back to the Member in writing.

Rural Roads

12. **Mr McGlone** asked the Minister of Agriculture and Rural Development whether she has made any representations on behalf of

rural communities to the Minister for Regional Development about the state of rural roads, and in particular, the poor condition of most unclassified roads. (AQO 1117/11)

The Minister of Agriculture and Rural Development: As the Member is aware, responsibility for the maintenance of the North's rural road infrastructure lies with the Department for Regional Development. As part of the development of actions for inclusion in the rural White Paper, which I hope to publish soon, I have had many bilateral meetings with Ministers about the challenges facing our rural communities. When I met the Minister for Regional Development, I raised the issue of rural roads. The Minister assures me that he continues to see rural roads as an important issue and that he will do all that he can within the resources available to him to maintain the roads infrastructure to keep it safe, effective and reliable. I refer the Member to Minister Murphy's response to AQW 3641/11 in relation to the maintenance of roads.

Mr McGlone: Perhaps, I can refer —

Mr Deputy Speaker: Order. That concludes questions to the Minister of Agriculture and Rural Development.

2.30 pm

Culture, Arts and Leisure

Mr Deputy Speaker: Question 3 has been withdrawn and a written answer has been requested.

Arts: Funding

1. **Mr McDevitt** asked the Minister of Culture, Arts and Leisure whether he or his Department has conducted an assessment of how many jobs could be lost in the arts sector as a result of the cut in the grant to the Arts Council. (AQO 1120/11)

7. **Mr Lyttle** asked the Minister of Culture, Arts and Leisure for an update on funding for the arts. (AQO 1126/11)

The Minister of Culture, Arts and Leisure (Mr McCausland): With your permission, Mr Deputy Speaker, I will answer questions 1 and 7 together.

My Department's indicative budget for the arts includes funding for the Arts Council, Northern Ireland Screen, creative industries, architecture, community festivals and departmental administration costs. I recently met the Arts Council to discuss the implications of the draft Budget and my priorities for the arts. I appreciate that the Arts Council's total resource budget over the four-year period of £50·286 million represents a 7·7% reduction from the 2010-11 baseline position. I should point out that, when the Arts Council's 2011-12 opening resource budget of £13·696 million is compared with the 2006-07 opening resource budget of £10·595 million, it is clear that investment in the arts has increased significantly during devolution. That is evidence of the Executive's appreciation of the hugely important role played by the arts in our society. I am, however, aware that the Budget represents a major challenge to the Arts Council and the sector.

I will continue to work with my officials, the Arts Council and other stakeholders in an effort to ensure that the impact of cuts is minimised. I will also carefully consider the responses to the public consultation on the draft Budget before allocations are finalised. The Arts Council estimates that 15 to 20 arts organisations could close, with up to 100 jobs being lost over the Budget period.

Mr McDevitt: I thank the Minister for his initial reply. Given the priority placed in the Programme for Government on growing an innovative, dynamic and creative economy, does the Minister not agree that cuts such as those that he is implementing in his departmental budget will only further undermine the creative economy's ability to play a positive role in bringing this region out of recession and getting its people back to work?

The Minister of Culture, Arts and Leisure: I very much regret that our budget is not as large as one would wish, but, nevertheless, it is the budget that we have been allocated and we, along with other Departments, have to face the implications of the £4 billion cut in the Northern Ireland block grant. It is, therefore, important that we do all that we can to ensure that money is spent wisely, that we get value for money, that we seek to secure other sources of funding into the sector and that we make sure that the sector is as viable and successful as possible because, as the Member rightly says, creative industries are an important part of rebuilding,

reshaping and refocusing the Northern Ireland economy.

Mr Hilditch: Despite the cuts that the Minister is being forced to implement due to the Tory cuts, will he attempt, where possible, to protect the creative industries sector?

The Minister of Culture, Arts and Leisure: There are some 36,000 people in Northern Ireland employed in the creative industries or in creative occupations. The creative industries are recognised across the world for their potential for job and wealth creation. I recently announced a new investment of £4 million in the creative industries, which will build on the success of the creative industries innovation fund.

I am pleased that the Department will continue to play a catalytic role in nurturing the creative industries sector by supporting the emergence of creative talent and creative entrepreneurs who can generate significant economic benefits for the region and help rebuild and rebalance the economy. That investment recognises the importance and potential of the sector to Northern Ireland and will support the region in competing and succeeding on the world stage.

Mr Lyttle: Given the vital contribution that the community arts sector makes, particularly to local community relations and building a shared future through community regeneration, how will the Minister ensure that it will receive a fair funding allocation in the budget?

The Minister of Culture, Arts and Leisure: We are still working through all the details of those things, but the Member rightly identifies the importance of the community arts sector, along with that of the voluntary arts sector and the professional arts sector. They are complementary, and all have a vital role in ensuring a vibrant arts sector in Northern Ireland. Whatever can be done will be done.

Mr Butler: The Minister said that 15 to 20 arts organisations will be affected by the reduction in the budget, with job losses incurred. How disadvantaged will rural arts projects be, compared with urban arts projects?

The Minister of Culture, Arts and Leisure: It is premature to go into any detail on that because we are still working with the Arts Council. Ultimately, decisions about the allocation of money across sectors will be made by the Arts Council. If there is an impact on the sector, it will be felt in urban and rural areas. We must ensure, however, that whatever happens will happen in a balanced way.

Mr Kinahan: When you, Minister, were assessing the cuts caused by the Labour-DUP overspend, I wonder whether you assessed the health and welfare implications of cuts in the arts.

The Minister of Culture, Arts and Leisure: I want to address the issue of the impact on the Northern Ireland Budget of the draconian cuts of £4 billion imposed by the Conservative-Ulster Unionist-Liberal Democrat and, maybe, Alliance coalition at Westminster. I always find it strange that people were encouraging others to vote for the Conservatives at the previous election.

With regard to the benefits that flow from the arts, the Member mentioned health. There is a wide range of benefits: social, health and economic. All those are important issues in arguing for more resources for the arts. I recognise the point that the Member makes about the arts having a role to play in physical and mental health.

Stadium Safety

2. **Lord Browne** asked the Minister of Culture, Arts and Leisure to outline the steps both he and his Department have taken to improve stadium safety. (AQO 1121/11)

The Minister of Culture, Arts and Leisure: Responsibility for taking steps to improve stadium safety rests, in the first instance, with the owners and operators of stadiums. However, my Department and I have for some time had in place a safe sports grounds initiative, the aim of which is to assist owners and operators of major stadiums to improve spectator safety at their grounds.

Steps that have been taken include, first, the introduction and full implementation of safety legislation, as called for by the Northern Ireland Assembly. As a result, there is now in place a statutory safety certification scheme in Northern Ireland for larger stadiums and stands, which is administered by district councils. Secondly, there is financial support for ground improvements. To date, more than £16 million has been awarded by Sport NI for that purpose, and roughly a further £1 million will be provided before the end of this financial year. Thirdly, we have established Department-approved NVQ training courses for match stewards. Those are

now freely available at a number of Northern Ireland-based further education colleges. Fourthly, a Northern Ireland guide to safety at sports grounds, known as the red guide, has been published. That sets out technical guidance and standards on spectator safety issues. Finally, a safety oversight body has been created in Sport NI to provide ongoing advice and guidance on safety matters to all interested parties and to monitor the implementation of the statutory safety certification scheme.

In addition, I am supporting the Justice Minister David Ford in developing, as part of the Justice Bill, much-needed and complementary criminal law legislation to help stadium owners to combat certain forms of dangerous and disorderly conduct that can occasionally occur at games.

Lord Browne: I thank the Minister for his answer. I am sure that he would agree that spectator safety is of the utmost importance and that it is important that the Safety of Sports Grounds Order be fully implemented. Under what programmes has funding been made available to stadium owners to carry out safety improvements to date?

The Minister of Culture, Arts and Leisure: Funding has been made available to date under the following Sport NI-operated programmes: an interim funding package of £3·5 million; the Football Foundation, which provides £1·17 million to football clubs only; and a stadia safety programme of £11·49 million. The remaining figure of approximately £1 million, which I mentioned in my answer to the substantive question, is being used for a stadia safety urgent works programme run by Sport NI: £531,000 for equipment and £452,000 for infrastructure works.

Mr McElduff: Go raibh maith agat, a LeasCheann Comhairle. The Minister will know that there is a direct link between stadia safety and spectator control. In light of that, will the Minister outline his position and his Department's position on the behaviour and chanting of some local soccer fans in and around the Aviva Stadium in Dublin recently? What steps are his Department taking in association with Sport NI and the IFA to ensure that there is no recurrence of such offensive behaviour when local soccer fans return to Dublin in May?

The Minister of Culture, Arts and Leisure: I am tempted to say that the legislation that we are dealing with relates to stadia in Northern Ireland. The events to which the Member referred happened in the Irish Republic, which is another country.

The behaviour in Dublin that we saw on a YouTube clip was, obviously, deeply disappointing and totally unrepresentative of the good behaviour of the overwhelming majority of the 6,000 Northern Ireland fans who were in Dublin for the match. Much work has been done by the IFA and the Amalgamation of Official Northern Ireland Supporters Clubs to address issues with behaviour, and they have been recognised as being among the very best supporters in Europe. It is regrettable that that reputation has been tarnished by the appalling behaviour of a small number of people in Dublin.

Mr A Maginness: I concur with what the Minister said about the appalling behaviour of some fans.

Will the Minister reassure the House that all sporting organisations, whatever stadia they have, will have access to the necessary resources to bring their stadia up to the required health and safety standards that the Minister is working towards?

The Minister of Culture, Arts and Leisure: The Member homed in on the phrase "all sporting organisations". I assure him that we treat all sports equitably, fairly and independently. We are absolutely clear on that, and it is something that I made very clear to all the main sporting bodies on meeting their representatives when I took over the position two years ago.

Mr Deputy Speaker: Question 3 has been withdrawn.

Elite Sports Facilities

4. **Mr B Wilson** asked the Minister of Culture, Arts and Leisure whether he will consider compensating those bodies which incurred significant expenditure in planning the five elite sports facilities for which funding has now been withdrawn. (AQO 1123/11)

The Minister of Culture, Arts and Leisure: All Departments are going through the biggest budget cuts that have been experienced in a generation, as a result of the Conservative and Liberal Democrat imposition on our Budget. I

say that for the benefit of Members who had forgotten that. As a result, while some of my Department's key priorities were met, others were not. I am disappointed not to have the funding to invest in the major facilities and infrastructure programme, which is more commonly known as elite facilities. I am conscious of the commitment and work put in by organisations and individuals in developing their projects and in bringing all the preferred bidders' bids to the outline business case stage.

As regards compensating those preferred bidders for the expense of developing business cases, in line with general and accepted practice for all applications for capital funding to my Department and, indeed, to many organisations within and without government, any expense incurred in making a bid to the programme was taken at risk. It was made clear to applicants at various stages throughout the process that that was the case and that the programme was dependent on securing the related budget. In such circumstances, I regret that there is no provision to refund costs incurred by the preferred bidders.

Mr B Wilson: I thank the Minister for his response. Unfortunately, I find it very disappointing. The withdrawal of funding at this late stage is unacceptable. I will refer to the case of Ballyholme Yacht Club and its application. I declare an interest, as the council provided a £5,000 grant towards the application. The club spent £40,000 on putting forward its application, which is money that could have been used in the club. Does the Minister not feel any responsibility to offer some form of compensation?

2.45 pm

The Minister of Culture, Arts and Leisure: The Member used the word "withdrawal", but money was not actually withdrawn. Money was bid for, but, when the Executive allocated resources to the various Departments, money was not allocated to that particular purpose. Therefore, it is not a case of withdrawing that money; it was not there to be withdrawn.

I dealt with the issue that the Member raised about refunds in my initial answer. It is not general or accepted practice for refunds to be made in applications for capital funding, and those projects are taken forward at risk. I understand and share the Member's disappointment that we are unable to take those projects forward. It would give me great pleasure to do so. However, we are unable to do that at present, and that is an unfortunate consequence of the situation that we face.

Mr Wells: I am sure that all Members also feel that it was regrettable that the Minister was unable to get the funding that he requested. Had that funding been available and had the projects gone through to the final stage and been accepted, what would the revenue consequences have been for the providers? I refer particularly to my council area, Down District Council, in which there is an application to build a velodrome.

The Minister of Culture, Arts and Leisure: I welcome the Member's question, and he raises a very important point. There is no guarantee that all the projects would have gone ahead. Projects were required to demonstrate, through their outline business case, that, among other things, there was definable need and operational viability.

The outline business cases were closely examined by economists from Sport NI and DCAL. My Department's economists identified a range of issues, including demonstrable need, value for money and, as the Member identified, the ongoing running costs of the projects. By way of example, one project proposed to operate at a considerable operating loss, which potentially would have presented the ratepayers in that council area with a substantial bill of some £700,000 to £800,000 a year. Some projects also created revenue consequentials from borrowing requirements, and my Department, rightly, needs to consider those issues when examining the value for money and ongoing viability of major projects. Those issues would have needed to be examined further by the applicants, with no certainty that they could have been resolved to the satisfaction of the Department. Given the financial scale of the projects, it would also have been necessary to refer the outline business cases to DFP for scrutiny and approval.

The business case for the velodrome in Down District Council area estimated that the borrowing that the council would need to take the project forward would add 3·4% to district rates. A further impact on the district rates would be the additional £250,000 required to run the velodrome, and that would be over

and above the running costs for a replacement leisure centre. Broad estimates indicate that that would add a further 1·6% to district rates, bringing the overall impact of financing the project and paying the extra running costs to an additional 5% on district rates. That also assumed that the council would receive £4 million from the sale of the land.

The proposal for a basketball and volleyball centre of excellence in Lisburn and the Antrim athletic project —

Mr Deputy Speaker: Time, Minister.

The Minister of Culture, Arts and Leisure: Those projects would have had annual operating deficits of around £110,000 and £100,000 respectively.

Mr W Clarke: Go raibh maith agat, a LeasCheann Comhairle. By the sound of it, the Minister will not compensate the councils. However, I believe that he should, because the councils concerned have put considerable time and resources into those projects. Following on from Jim Wells's question, could the Minister not progress the velodrome project to the third stage and allow for the possibility of resources for capital projects becoming available?

The Minister of Culture, Arts and Leisure: It is absolutely essential to have a business case that stacks up, and I would have thought that the Member would understand that. In my answer to Mr Wells, I indicated that an increase of 5% in the district rates for Down District Council would have been required to pay for the velodrome. Perhaps that council would have been happy to do that —

Mr W Clarke: There is a new leisure complex —

Mr Deputy Speaker: Order.

The Minister of Culture, Arts and Leisure: Maybe the Member was willing to argue the case for an extra 5% on rates at a time when most people were trying to keep rates below inflation. However, those are the financial implications of proceeding, and it is important that people are aware of that. Councillors and ratepayers will want to know the long-term implications.

From personal experience on Belfast City Council, I can say that leisure centres were put up all over the place in the 1970s. However, people have to face up to the burden on the ratepayer of the running costs of those over 30 years. People need to think about the long-term implications. It is possible to see the appeal, and it is a very appealing project, but the cost implications need to be recognised.

Mr K Robinson: As the gentleman over here referred to Ballyholme Yacht Club, I suppose that I must declare an interest. My brother was a commodore there, and I once shared a boat with the Member's wife.

Mr Deputy Speaker: Order. Perhaps the Member would include everybody in the question.

Mr K Robinson: Thank you, Mr Deputy Speaker. What is the total amount of lead-in money already expended and, to some degree, lost on these programmes, which will be cancelled as a result of the spending cuts that are about to overtake us?

The Minister of Culture, Arts and Leisure: The specific cost incurred to date by each programme is a matter for the applicants. The consultants employed to take forward their individual business cases were appointed directly by the applicants, and the negotiation of fees and the amounts involved were entirely a matter between the two.

City of Culture 2013

5. **Mr P Ramsey** asked the Minister of Culture, Arts and Leisure whether he or his departmental officials have met with the Derry-Londonderry City of Culture 2013 organisation committee to help it identify further possible funding opportunities and to discuss a strategy to promote the city throughout Ireland and overseas in advance of 2013. (AQO 1124/11)

The Minister of Culture, Arts and Leisure: The initial bidding process for the 2013 City of Culture competition was taken forward by the city council of Londonderry in conjunction with Ilex, the urban regeneration company. DCAL officials were involved in meetings and seminars in the run-up to the successful bid. In addition, DCAL is represented on the UK City of Culture working group. Although there have been no meetings specifically with the 2013 organisation committee, DCAL officials are in regular contact with the 2013 promoters to keep up to date with progress.

The programme for the United Kingdom City of Culture should be inclusive and open to

everyone, and work should be done to ensure that cultural groups in the city have the opportunity and the capacity to participate in what we hope will be a very successful UK City of Culture programme.

Mr P Ramsey: In 2013, the most important event in Northern Ireland will be the City of Culture and related activities around Northern Ireland, not just those in my constituency. However, it is important to maximise the impact of the event and to have a cross-departmental approach through the Executive. Will the Minister outline what efforts are being made through the Executive and by his Executive colleagues to ensure that programme moneys are tabled and presented to maximise the importance of the event?

The Minister of Culture, Arts and Leisure: A range of funding will come to the city of Londonderry in 2013. The Member is right: we want that done in a joined-up way. Resources will come from DSD and OFMDFM, and there will be ongoing support for the city, as there regularly is, from the Arts Council as the funder of arts and cultural programmes. I am sure that sport will also have a role to play, because the City of Culture will look at culture in a broad manner that will include sport.

Ms M Anderson: Go raibh míle maith agat, a LeasCheann Comhairle. In answer to the previous question, the Minister said how important it was to have a business case that stacked up. With regard to the City of Culture, has he received such a business case supporting proposals from the lead partner, Derry City Council? Has his Department received such a robust business case, which, as he said, is important?

The Minister of Culture, Arts and Leisure: A business case is required for a major investment. DCAL has contributed substantially to the capital infrastructure work in Londonderry. I have made it clear that, in respect of funding other programmes, DCAL has not allocated any funding towards the cost of programming. The UK City of Culture competition was initiated by the Department for Culture, Media and Sport in London. It was made clear at the outset that no additional funding would be provided to cities bidding for the award, either for the bidding process or for programming, in the case of the successful city. That funding position was communicated to all councils in a ministerial letter in July 2009 and further emphasised in a follow-up letter from DCAL officials in August 2009. The investment by my Department is ongoing, but there was major investment in capital works. I am sure that the Member is aware of all those investments in Londonderry.

Mr Humphrey: I thank the Minister for his answer. What have the Executive, through DCAL, invested in Londonderry in recent years, and how much did the council in Londonderry contribute to those projects?

The Minister of Culture, Arts and Leisure: DCAL has made a significant investment in the arts and cultural infrastructure of Londonderry over the past number of years. That was primarily through the North West Cultural Challenge Fund. That fund of £4 million supported projects such as the refurbishment and extension of the Playhouse and Waterside theatres and the new Cultúrlann Uí Chianáin Irish language arts and culture centre. The Mute Meadow public art project is under way and is programmed for completion by the end of March 2011.

I have details of all the investments that have been made in recent years in Londonderry: the Nerve Centre, the Gasyard Development Trust, the Verbal Arts Centre, An Gaeláras, the Waterside Theatre, the Foyle public art project and the Playhouse. The total investment was some £11·914 million. DCAL contributed £6·42 million to that from the Department directly and through the Arts Council. Other Departments and trusts contributed £5·4 million. Organisations raised £97,000. The council did not contribute anything.

I make that point because it arose in response to a question put to me at a previous Question Time about investment by government in the arts in a particular area. There is a role for central government, but there is also one for local government. I made that point in regard to a council in mid-Ulster, and it needs to be taken on board. Everyone needs to play a part: central government, local government and the private sector.

Mr Elliott: Will the Minister clarify whether he or his officials have had any discussions with any of the Loyal Orders in the city of Londonderry regarding the City of Culture?

The Minister of Culture, Arts and Leisure: The organisation of the programme and so on is the responsibility of the Ilex urban regeneration

company, which is taking it forward in conjunction with the city council of Londonderry. It is not something in which my Department has direct involvement.

The Member will pick up on the point I made in my initial answer. The programme must be inclusive and open to everyone, and that is not merely to say, "The door is open. You have an opportunity". It must also address issues of capacity to engage and participate. I hope that, at the end, we will see a City of Culture programme that reflects the rich cultural diversity of Northern Ireland and especially the rich cultural diversity of the city of Londonderry, in which organisations such as the Apprentice Boys of Derry have a particularly important role. The history of the city of Londonderry is diverse. There was a time in the nineteenth century when all the experts and those writing guide books commented on the Ulster-Scots nature of the city of Londonderry. I am sure that that is another aspect, in addition to the Loyal Orders, that will feature extensively in the programme.

Kennedy Kane McArthur

6. **Mr Storey** asked the Minister of Culture, Arts and Leisure for an update on plans to mark the centenary of Kennedy Kane McArthur's Olympic marathon victory. (AQO 1125/11)

The Minister of Culture, Arts and Leisure: Members will be aware from previous questions that I have met twice with the Dervock and District Community Association (DDCA). Through those meetings and subsequent correspondence, a number of opportunities have been highlighted, including events, funding, promotion, websites, the London 2012 Inspire programme and Open Weekend. My officials remain willing to offer guidance and support in relation to those opportunities. I also recommended that the DDCA seek support from local government, and it is my understanding that a working group is being set up.

In November, when I met representatives of the torch relay team in the London Organising Committee of the Olympic Games and Paralympic Games, I personally recommended that the torch pass through Dervock. However, final decisions on that will rest with LOCOG.

3.00 pm

Executive Committee Business

Welfare of Animals Bill: Final Stage

Debate resumed on motion:

That the Welfare of Animals Bill [NIA 28/09] do now pass. — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

Mr W Clarke: Go raibh maith agat, a LeasCheann Comhairle. I thank the Committee Chairperson, the Minister, departmental officials and all those who contributed to this very worthy legislation. For the benefit of those Members who are perhaps not au fait with it, the Bill will replace the Welfare of Animals Act 1972, which was not fit for purpose to deal with modern issues that affect the welfare of animals. I believe that the Bill will ensure that we have the most robust animal welfare law on these islands.

The Bill will mainly enshrine in law the welfare of all protected animals, including domestic pets and horses. It will enable action to be taken to prevent suffering, unlike the current position, which is that action is to be taken after suffering has been inflicted. We are all aware of and have seen on our TV screens dishevelled dogs, horses and other animals. The Bill will enable us to end the suffering that the public are witnessing.

There have been emotional and confrontational aspects to the Bill's passage, mainly where the docking of dogs tails was concerned. I believe that the amended clause on that subject is too wide-ranging and that enforcing it will create major problems for councils. Given the evidence, I realised that an argument could be made that some working dogs could be exempted. The Minister's proposal on that was fit for purpose.

However, we are where we are, and we will see in the future the problems that enforcement will cause local authorities, both in resource —

Mr Elliott: Will the Member give way?

Mr W Clarke: I will.

Mr Elliott: I thank the Member for giving way on that point. He mentioned local councils. Does he agree that the Bill will hand over quite a bit of responsibility to local councils but not enough

resources to go with it? Does he also agree that some local councils may struggle because of that lack of funding and because the police, DARD and other authorities will put a lot of pressure on them to deal with issues that are not currently in their remit but will be?

Mr W Clarke: The Minister can speak for herself about resources. I know that £760,000 is to be allocated to animal welfare over the Budget period, and there will be further discussions on that. Next week, for example, we have a meeting with NILGA and council representatives. The Minister, the Committee and departmental officials have been working their way through that matter.

I agree that the Executive need to take on board the fact that a plethora of new responsibilities is coming to local authorities.

Mr I McCrea: The Member referred to future meetings with NILGA and council officials. Does he not feel that that is too little, too late? Should the consultation not have happened prior to this process? I appreciate that in previous debates there was reference to discussions having been held with NILGA on another issue and that this subject came on the back of those talks. Does the Member not agree that that consultation should have been carried out properly and at the right time so that councils could have bought into the issue fully?

Mr W Clarke: I agree with the Member. Consultation can always be improved on. I declare an interest as a local councillor. This matter came before the councils, but they did not perhaps realise the responsibilities that would come to them as corporate bodies.

Council officers did a lot of work, but elected representatives were not au fait with what the extra responsibilities were going to be, which resulted in a disjointed approach to the issue. That can be improved on, and we have 12 months in which to get things right. It is about working in partnership and co-operation to get the best legislation and outworkings. There is a lot of work to do, and I am sure that the Minister will talk about the ongoing work that will be done. If we work at it in a genuine way, I am confident that it will be done.

I will not draw the point out too long. I want the Minister to indicate a time frame to deal with dog-breeding establishments and subordinate legislation. From the Committee's perspective, the evidence that we received showed that many dog-breeding establishments want greater regulation. They want to be scrutinised and to be treated like any other business. It is an emotive issue, and there are some unscrupulous dog breeders. We must ensure that animals are protected, but we must also protect legitimate breeding establishments. The Member talked about the role of councils. That is a massive issue.

I want to thank everyone who contributed to the passage of the Bill. It is good robust legislation about preventing cruelty; everyone in the House will unite around that. We do not want cruelty to animals on the island of Ireland. The Bill is a major improvement in animal welfare legislation.

A constituent of mine, Sandra Marsden, who set up the 2nd Chance Wildlife Rehabilitation Trust in Newcastle, told me that she was concerned that we do not have a dedicated rehabilitation trust in the North and, indeed, that such provision in Ireland as a whole was very weak. She mentioned the work of the USPCA sanctuary at Carryduff. We need to look at that issue, because there have been numerous cases of cruelty. For example, a number of swans were infected recently, and, in such cases, we need isolation areas for those animals and resources for a dedicated centre. Sandra Marsden asked me to raise that matter today, and I hope that the Minister will respond. Government resources are needed to fund the dedicated rehabilitation of animals.

Mr Beggs: I declare an interest as a local government councillor in Carrickfergus and my parents having a farm business that has animals that may come under the legislation. The Bill significantly increases the protection of animals in Northern Ireland. We have been operating under outdated 1970s legislation while the rest of the world has moved on. In particular, new legislation was enacted in England, Wales and Scotland four or five years ago. To a degree, we are just starting to catch up. I welcome the fact that the Bill increases the responsibility of owners of animals to protect their welfare. It will also enable earlier intervention and increase the ability to access property when concerns are raised. However, the Bill is balanced. A careful approach is required when asking for access to an individual's home so there is a need for lay magistrates to be involved and for a suitable amount of evidence to be presented to allow a magistrate

to be convinced that the need for access to residential property is appropriate.

I very much welcome the increased powers to deal with issues such as dogfighting. Those will help to nail that illegal, barbaric activity. Other aspects of the legislation enable the seizing of equipment that may be used either in the transportation of animals or as part of some illegal activity. That will also make it much more difficult for those who are involved in illegal activity to get back to abusing animals.

Ongoing consultation with local councils will be needed, and I welcome the fact that some consultation will occur next week. During its discussions, the Committee became aware that there would be an extensive need for training in that area at local government level. The Department has agreed to delay aspects of the Bill to enable that to happen. That has been a healthy process. The Department has allocated a budget of £760,000 for local government to put against the cost associated with the additional responsibility. The situation will have to be monitored to see whether that is a suitable sum.

Many aspects of the legislation are enabling, and more regulations will follow down the line. That will give the Department more time to get the fine detail correct, which is proper. As reflected in the Bill, the Committee, during its scrutiny, expressed a preference for the affirmative resolution procedure so that the Assembly will have an opportunity to give its approval, or show its disapproval, of any proposals, rather than proposals being brought in and a negative resolution procedure having to be used after the event.

As others have indicated, the issue of the docking of tails became a very difficult area and one that was full of debate. Originally, the legislation proposed to ban the docking of all dogs' tails in Northern Ireland, which, I dare say, would have followed the model used in Scotland. However, as a result of the evidence presented to the Committee and the Committee's views on that, some wisdom prevailed. Exemptions were accepted to protect dogs that had a higher likelihood of damaging their tails in the normal activity in which they are involved.

Mr I McCrea: Some wisdom prevailed in the end, but I do not hide the fact that I do not agree with this part of the legislation at all. Does the Member share my concern that, as it stands, once the legislation is enacted, there will be the potential for people to take dogs across the border into the Republic of Ireland, where there is not the same rigour or need for licensing on the docking of dogs' tails, and that that could have a negative impact on Northern Ireland?

Mr Beggs: That is an economic argument, not an animal welfare argument. This is the Welfare of Animals Bill. It has been indicated to me that many breeders in other parts of the United Kingdom are already bringing dogs through with tails. Therefore, it need not be as big an issue as the Member makes out. There is a risk that some breeders will move to get around the legislation. We cannot regulate on where shows and activities are held. However, we need to bear in mind that, as the Minister indicated earlier in the debate, legislation elsewhere may balance what is happening.

I go back to what I said originally: the Bill is primarily about animal welfare. I was astonished that some Members sought to grant exemption purely on the grounds of showing. An amendment was proposed to exempt dogs that are shown, which would have been a very strange aspect to include in an animal welfare Bill. I, too, tabled an amendment. The House has made its decision, and a balance has been achieved. It is not exactly as I would want or as the Member would want, but it is a reasonable balance that will make things all the better for animals in this part of the United Kingdom.

I hope that the Bill increases the likelihood of animals being treated better and makes it easier for statutory authorities to take early intervention against those who abuse animals, thereby ensuring that suffering and other animal welfare issues are minimised and, hopefully, brought to an end. I support the Bill, which is generally good legislation and is long overdue.

3.15 pm

Mr Lunn: I also declare an interest as a member of Lisburn City Council. We welcome the fact that the Bill has reached its Final Stage. As I am not a member of the Agriculture Committee, I will keep my remarks fairly brief. It was clearly time for a fresh look at the original 1972 Act, and, overall, we are pleased with the final result. The fundamental approach, to lay down basic principles but to pass enabling measures that

leave the way open for detailed subordinate legislation, is very sound.

Like other Members, I want to refer specifically to clause 6 and the vexed issue of tail docking other than for medical reasons or for working dogs. That certainly caused much debate and lobbying, but in my opinion, the Assembly got it right. We managed to reflect public opinion and acknowledge the views of the various interests, such as the working dog fraternity, the veterinary profession and, perhaps to a lesser extent, those who show dogs and breed them for showing. I hope that the show dog fraternity realises that we have passed a good measure that does not have to mean the end for their passion. I know that Ian McCrea commented on what might happen in the Republic of Ireland. However, it looks to me as though the Government in the Republic of Ireland will probably come into line with the UK. They do not have to, but they seem to be moving that way. Veterinary Ireland has made no secret of its attitude to tail docking. So hopefully the Republic will come into line with the UK to reinstate a level playing field. However, regardless of whether or not that happens, clause 6 is a good clause that has widespread support and is pretty good for the welfare of dogs. I am pleased that I managed to speak to that clause without saying "cosmetic".

As far as the rest of the Bill is concerned, I am pleased to see clauses on animal fighting; prohibition on keeping certain animals; and giving animals, presumably goldfish, as prizes to under-16s unless there is parental consent. That is a small matter, but it could be important in some cases. The provision on powers of entry in relation to animals in distress is overdue and certainly welcome. I also welcome the prospect of various powers being transferred to councils, subject to proper financial arrangements being put in place. Responsibility for the welfare of non-farm animals and for licensing pet shops, riding schools, and so on, should fit in well with councils' existing responsibilities and roles. I hope that those provisions can be implemented with the proper safeguards and in the timescale suggested in the Bill so that councils can afford to take on the responsibilities provided for. I commend the Minister, the Committee Chairperson and the Committee for all their work on the Bill. It is good legislation and is broadly welcomed.

Mr Savage: It may be appropriate to declare an interest as a member of Craigavon Borough Council and as a farmer. Animal welfare is a serious and important issue, especially for those in rural communities, and is a big responsibility for many people. As the custodians of the countryside, farmers and rural dwellers want animals to reach their full potential, and their number one priority is the safety and well-being of animals. The Bill supersedes the Welfare of Animals Act (Northern Ireland) 1972. It is encouraging that the Bill ensures animal welfare while allowing for detailed legislation through subordinate regulations and codes of practice.

At this stage, it would be remiss of me not to congratulate all those who had an input into making this excellent legislation. I pay tribute to the departmental officials for all the hard work that they have done: I assure Members that they have had a lot to listen to over the past months. I thank my colleagues on the Committee for Agriculture and Rural Development and the consultees who have had a big say in bringing about this legislation.

The legislation brings Northern Ireland into the twenty-first century. This is an issue about which we can proudly hold our heads high and say that the Assembly has done something good for the well-being of animals in Northern Ireland and across the world. From the sparrow to the biggest bird, the legislation will protect them all. I am pleased that the Bill has come before the House. I fully support it, the Minister, her Department and the Chairman of the Committee for Agriculture and Rural Development, who have all had a lot to listen to over the past while. The Bill has made it to this stage, and I have great pleasure in supporting it.

The Minister of Agriculture and Rural Development: Go raibh míle maith agat, a LeasCheann Comhairle. I thank Members for their contributions to the debate today and to the debates at earlier stages.

I will give a nod to the most contentious issue in the Bill, which is the docking of dogs' tails. I remind Members that the key aim of the Bill is to stop animals suffering unnecessary pain and distress and to promote and enhance the welfare of all protected animals. Therefore, in a bid to prevent pups suffering unnecessarily, the Bill imposes a ban on the cosmetic docking of dogs' tails. An exemption to that ban has been

included for certified working dogs, which have an increased chance of injuring their tails while working.

During Further Consideration Stage, we had a good bit of discussion about dogs to be shown. A ban on showing dogs whose tails have been docked after the tail docking powers have been commenced has also been included in the Bill. That is very important and has been included for two reasons. First, show dogs are docked purely for appearance and not to improve the health or welfare of the dog. Secondly, we are trying to change the mindset of breeders and the show fraternity to recognise that showing a dog with a tail is normal. A number of Members made the argument that certain breeds of dog will not be bred if their tails are no longer to be docked for showing. However, I do not believe that that will be the case. A large number of breeders do not breed for the showing arena but purely to supply pets. They will continue to breed those dogs.

The Chairperson of the Committee for Agriculture and Rural Development outlined the Committee's concerns that enforcement work for non-farmed animals would pass to councils. I fully appreciate that many Members are also councillors. Therefore, I understand the desire for reassurance about the enforcement powers for non-farmed animals passing to councils. As I have advised the House before, I do not intend to place an unfunded burden on district councils and ratepayers; hence, I have guaranteed annual funding of £760,000 for this Budget period. As Members will know from our parallel work on the Dogs (Amendment) Bill, the additional income that councils will receive from increased dog licence fees and fixed penalty receipts is estimated to be between £1 million and £1·3 million. That additional funding must be spent on dog warden services. However, it will free up substantial resources within councils, which could be redirected to animal welfare. I remind Members that enforcement agencies, including councils, must enforce the legislation, but will be able to exercise discretion as to how best to prioritise their actions within the available resources. In the current financial climate, it is unrealistic to expect unlimited funding for animal welfare. We all have to accept that cases will have to be prioritised.

The Member for Fermanagh and South Tyrone mentioned dogfighting and putting an additional burden on councils. I assure the House that dogfighting is a criminal activity and that enforcement powers around that activity are not to be confused with the work that councils are being asked to bring forward. Enforcement of dogfighting powers has been with the PSNI for some time and still rests with the PSNI. While developing the legislation, we developed a memorandum of understanding between the PSNI and councils to help on some of the issues that were of great concern to us during our work on the Dogs (Amendment) Bill.

The PSNI will take the lead on welfare issues involving organised animal fighting or where criminal activity is involved. The PSNI will also enforce powers in respect of wildlife and provide support for DARD and district council inspectors as necessary, for example, if there could be a possible breach of the peace. We are not abdicating all responsibility to district councils; there will still be a role for DARD around farmed animals, and for district councils and the PSNI.

I want to restate the guarantees I gave previously to the Committee for Agriculture and Rural Development and to the House. My Department will provide annual funding of £760,000 over the next Budget period to allow councils to implement the provisions in the Bill that refer to non-farmed animals. The powers in the Bill for councils to appoint inspectors will not be enacted until 12 months after Royal Assent is granted so that there can be full engagement with councils. Therefore, they will have time to prepare for implementation.

My officials will engage with councils during the lead-in period to provide advice and practical assistance to help their officials prepare for the new enforcement role in respect of non-farmed animals. In addition, as the Committee Chairman pointed out, I will meet members of the Committee for Agriculture and Rural Development and elected representatives of the rural affairs committee of NILGA to discuss future implementation on 1 March. My colleague said that we could almost be better at consultation. That is true, and we will work with NILGA during this period as well as with local government to ensure that everybody knows what is expected of them and what they are expected to do.

Licensing and registration functions will be passed to councils as new subordinate legislation is made. Again, councils will be fully consulted as part of the legislative process and fees will be set at an appropriate level to

recover full costs. I point out to Members that I am providing this funding to councils; I am not changing the role of the USPCA in any way. The USPCA is funded by public donations and currently investigates animal welfare complaints, no doubt in the knowledge that public funding will continue, but I believe it is important that councils are empowered and resourced to deal with local issues. They are the best people to do that given the nature of the work that they have done in providing an excellent dog warden service over decades. They are already responsible for dealing with dog control, and the new powers around animal welfare will enhance and strengthen the role of councils. I have no doubt that, over the next 12 months, councils will grasp this new challenge and be ready for implementation in April 2012.

A number of Members made comments, and one issue was raised by Willie Clarke on subordinate legislation for dog breeding establishments. That will be one of the first pieces of legislation taken forward after the Bill is enacted. I hope that consultation on that will take place later this year.

The rehabilitation of wild animals was also raised. A number of voluntary organisations deal with that issue; the powers in the Bill will not change that. I visited one such organisation on the edge of my constituency on Friday, which deals with animals from both sides of the border and will continue to do so. The PSNI will continue to deal with cruelty offences in respect of wild animals. However, we will obviously keep issues such as this under review.

Mr Ian McCrea asked, as did others, about how a market could develop for having tails docked in the South. The Department of Agriculture, Fisheries and Food, as part of its new proposed animal health and welfare legislation, has consulted on a proposal to ban mutilations in animals, including the docking of dogs' tails, which shows that the South of Ireland is already moving in the same direction as us. Showing dogs with docked tails has been banned in England and Wales, and the docking of all dogs' tails has been banned in Scotland.

To that end, I feel that the original position that we had would have made it easier for people to go ahead and enforce that power, but I know we will do all we can to ensure the enforcement of the ban, except on the small number of dogs that will be allowed to be docked. That procedure will have conditions attached, and I hope that nobody will abuse the power that we have left for certain people to have working dogs' tails docked.

3.30 pm

I know that not every clause is exactly as every Member would wish, but I remind Members that this is a significant piece of legislation that will greatly enhance animal welfare in the North of Ireland. It will provide a duty of care to all protected animals, including domestic pets and horses, and will make it possible to act to prevent animals from suffering. I think that that is something that we all want to see. We are strengthening the powers in respect of dogfighting and we are providing powers to regulate a wide range of activities that involve animals. We are also increasing the penalties for serious animal welfare offences. The Bill substantially updates and strengthens the existing powers to deal with animal welfare issues. It will put us at the forefront in our protection of farmed and non-farmed animals.

In conclusion, I am confident that the Welfare of Animals Bill will improve the welfare of animals, particularly domestic pets and horses, over many years to come. The Bill clearly sets out the duty of care obligations for all those who are responsible for keeping any vertebrate animal and increases the penalties for those who commit serious welfare abuses. It will greatly improve animal welfare standards in the North of Ireland, and I am delighted to conclude its Final Stage. Go raibh míle maith agat.

Question put and agreed to.

Resolved:

That the Welfare of Animals Bill [NIA 28/09] do now pass.

Education Bill: Legislative Consent Motion

The Minister for Employment and Learning (Mr Kennedy): I beg to move

That this Assembly endorses the principle of the extension to Northern Ireland of provisions of the Education Bill dealing with the Office of Qualifications and Examinations Regulation and the abolition of the Young People's Learning Agency for England.

On 30 March 2009, a legislative consent motion was brought before the Assembly by my predecessor, Lord Empey of Shandon, for the inclusion of Northern Ireland provisions in the Apprenticeships, Skills, Children and Learning Bill. Those provisions were to ensure that the Office of Qualifications and Examinations Regulation, which is commonly known as Ofqual, could continue to regulate vocational qualifications in Northern Ireland when it was established in statute. On that date, the Assembly endorsed the legislative consent motion. Subsequent to that endorsement, the Bill received Royal Assent in November 2009 and, on 1 April 2010, Ofqual was established as the independent regulator of all qualifications in England and of all vocational qualifications in Northern Ireland.

Ofqual is a non-ministerial Government Department that is accountable to the Westminster Parliament. In relation to carrying out its functions in Northern Ireland, it is accountable to the Assembly. In December 2010, Michael Gove, the Secretary of State for Education, wrote to me of his intention to introduce an Education Bill to Parliament. There were three distinct areas in the Bill that was introduced in Westminster on 26 January 2011 that impacted on Northern Ireland: changes in Ofqual's governance structures, an additional qualification standards objective and the dissolution of the Young People's Learning Agency (YPLA) for England. Although that is an England-only body, it has power to deliver services in Northern Ireland. To make those changes, it is necessary to amend sections of the Apprenticeships, Skills, Children and Learning Act 2009, and I will deal with each of the three areas in turn.

At present, the chairperson of the board of Ofqual is referred to as the chief regulator and is responsible for all aspects of Ofqual's performance of its duties. The board, through the chairperson, is accountable to the UK and Northern Ireland legislators for its activities in England and Northern Ireland respectively.

The Bill proposes to confer the title and role of chief regulator on the chief executive of Ofqual. That has the advantage of ensuring that there is absolute clarity concerning who is responsible for the activities of the regulator. Importantly, it also ensures that the person responsible for the day-to-day activities of Ofqual is publicly accountable for those activities. Ofqual's board will continue to exercise corporate governance responsibility in line with the operation of many other public bodies.

My Department recognises that those proposals are sensible and are made in light of the experience of Ofqual's first year in operation. In actuality, it is unlikely that much impact will be felt in Northern Ireland due to these changes. Ofqual's Northern Ireland engagement largely takes place through the operation of its Northern Ireland office and through the newly established Northern Ireland committee.

Secondly, Ofqual's activities are guided by a series of objectives, one of which is the qualifications standards objective, which places a duty on Ofqual to ensure that qualifications are appropriately rigorous and challenging, and are consistently so, over time. The current proposals extend that existing objective to include a duty to ensure that qualifications are also appropriately challenging in relation to qualifications outside the United Kingdom.

With the emergence of the European qualifications framework (EQF) and the ever-increasing globalisation of skills and labour, the proposed change will ensure that vocational qualifications in Northern Ireland continue to be as rigorous and challenging as employers demand. The change will also assist labour flows across borders, including with the Republic of Ireland, by ensuring that qualifications are comparable and valuable to employers and learners alike.

The third issue to deal with is the dissolution of the Young People's Learning Agency. The Apprenticeships, Skills, Children and Learning Act 2009 established two organisations to take over the responsibilities of the Learning and Skills Council (LSC), which the Act dissolved. The two new organisations were the Skills Funding Agency (SFA) and the YPLA. Those

English bodies carried over the existing powers and duties from the LSC, including a power to make services available in other parts of the United Kingdom with the consent of the Secretary of State for Education and the relevant Minister of the devolved Administration.

The Bill proposes to dissolve the YPLA and, because of its powers to operate in Northern Ireland, our consent is required. The YPLA has never exercised its powers in Northern Ireland and my Department had no intention of using that option. Therefore, that aspect of the Bill, as it affects Northern Ireland, is entirely administrative.

As was the case with the previous legislative consent motion to which I referred, the changes being introduced now do not in any way preclude further consideration of the regulation of vocational and general academic qualifications through a single regulator in Northern Ireland. It is still the intention of my Department and the Department of Education to conduct a review of qualification regulation arrangements in Northern Ireland in the latter part of 2011.

In conclusion, my view is that the proposed changes to Ofqual's governance and objectives are sensible. They will strengthen and enhance the regulation of vocational qualifications in Northern Ireland. I trust that Members will agree with me and support the motion. *[Interruption.]*

Mr Deputy Speaker: Order. There should be only one Member on his or her feet at any time.

The Chairperson of the Committee for Employment and Learning (Mrs D Kelly): The Committee considered the legislative consent motion on the Education Bill at its meeting on 12 January 2011 and has no objections to it.

The Minister for Employment and Learning: I thank the Chairperson of the Employment and Learning Committee, Mrs Kelly, for confirming the view of her Committee. Indeed, I thank the Committee for its consideration. I trust that I have set out in a comprehensive manner the background to the measure, which I now commend to the House.

Question put and agreed to.

Resolved:

> *That this Assembly endorses the principle of the extension to Northern Ireland of provisions of the Education Bill dealing with the Office of Qualifications and Examinations Regulation and the abolition of the Young People's Learning Agency for England.*

Justice Bill: Consideration Stage

Mr Deputy Speaker: I call the Minister of Justice, Mr David Ford, to move the Consideration Stage of the Justice Bill.

Moved. — [The Minister of Justice (Mr Ford).]

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 the Speaker's provisional grouping of amendments selected list.

There are six groups of amendments, and we will debate the amendments in each group in turn. The first debate will be on amendment Nos 1 to 7, which deal with victims and witnesses and live links, together with opposition to clause 5. The second debate will be on amendment Nos 8 and 9 and 47 to 60, which deal with policing and community safety partnerships (PCSPs), together with opposition to clause 34. The third debate will be on amendment Nos 10 to 26 and 61 and 62, which deal with sports, together with opposition to clauses 41 to 43 and 45.

The fourth debate will be on amendment Nos 27 and 28, which deal with treatment of offenders and alternatives to prosecution. The fifth debate will be on amendment Nos 29 to 32 and 64 and 65, which deal with legal aid and solicitor advocates. The sixth debate will be on amendment Nos 33 to 46 and 63, which are miscellaneous amendments under Part 8 of 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.

Clause 1 (Offender levy imposed by court)

Mr Deputy Speaker: We now come to the first group of amendments for debate, which deals with victims and witnesses and live links. With amendment No 1, it will be convenient to debate amendment Nos 2 to 7 and opposition to clause 5.

Mr McCartney: I beg to move amendment No 1: In page 2, line 3, after "('the offender levy')" insert

"or by agreement of the court, impose a community service order (within the meaning given by Article 13 of the Criminal Justice (Northern Ireland) Order 1996 (NI 24)".

The following amendments stood on the Marshalled List:

No 2: In page 2, line 17, after "nil)" insert

"and, impose a community service order (within the meaning given by Article 13 of the Criminal Justice (Northern Ireland) Order 1996 (NI 24))". — [Mr McCartney.]

No 3: In clause 3, page 3, line 24, at end insert

"(4) The governor of a prison or young offenders centre, or a person authorised by the governor, may make provision for a community service order to be carried out within the prison setting for the purpose of discharging a community service order." — [Mr McCartney.]

No 4: In clause 4, page 3, line 28, after "offender levy" insert

"or non-adherence of any community service order". — [Mr McCartney.]

No 5: After clause 6, insert the following new clause:

"Community Order Sentences

6A.—(1) Notwithstanding the provisions of Article 13 of the Criminal Justice (Northern Ireland) Order 1996, the community service order sentence for the purposes of section 1 is—

(a) 10 hours of community service, where the sentence imposed on the offender is or includes—

(i) a determinate sentence of imprisonment or detention for more than 2 years (not being a suspended sentence); or

(ii) an indeterminate sentence of imprisonment or detention;

(b) 5 hours community service, where that sentence—

(i) is or includes a determinate sentence of imprisonment or detention for 2 years or less (not being a suspended sentence); and

(ii) does not include a sentence falling within paragraph (a);

(c) 4 hours community service, where that sentence—

(i) is or includes a community order or a suspended sentence of imprisonment or detention; and

(ii) does not include a sentence falling within paragraph (a) or (b);

(d) 3 hours community service, where that sentence—

(i) is or includes a fine; and

(ii) does not include a sentence falling within paragraph (a), (b) or (c).

(2) The Department may by order amend subsection (1).

(3) No order shall be made under subsection (2) unless a draft of the order has been laid before, and approved by a resolution of, the Assembly." — [Mr McCartney.]

No 6: In clause 16, page 11, line 25, at end insert

"with the agreement of the appellant." — [Mr McCartney.]

No 7: In clause 16, page 12, line 5, at end insert

"(8A) If the court proceeds with the hearing under subsection (8) it shall not remand the appellant in custody for a period exceeding 8 days commencing on the day following that on which it remands him." — [The Minister of Justice (Mr Ford).]

Mr McCartney: Go raibh maith agat, a LeasCheann Comhairle. The Justice Bill has been a very important piece of work. Indeed, in many ways, it is a practical and tangible sign that the new Justice Department is now working with full democratic scrutiny. Just over 12 months ago, many people were predicting that that was not possible and that the Assembly could not handle the Justice Department. However, the working of the Committee, particularly its work on the Bill, has proved the opposite. Some people predicted that, if the institutions did not fall, perhaps the heavens might fall. However, the contrary has been the case.

As I say, the Bill has dominated much of the work of the Committee, particularly since October. I think that 16 Committee meetings were held, and we had an event in the Long Gallery that focused on the community safety partnerships (CSPs) and the amalgamation of the district policing partnerships (DPPs). We had detailed evidence sessions, and many stakeholders made excellent presentations, some of which were written. Indeed, throughout the scrutiny, we had presentations from departmental officials, during which there were good exchanges.

There was a robust examination of the Bill, clause by clause and line by line, and, hopefully, the officials will have seen that our questions were valid and necessary. Indeed, we ensured that, as a result of the clause-by-clause scrutiny, we are presenting the Bill in a strengthened and better way and in a way that will service better the people who we all represent.

3.45 pm

We thank the departmental officials for the way that they assisted us throughout the process. They attended a number of meetings, and they were there on practically a minute-by-minute call to illuminate us and to help us to help us to understand the rationale behind some of the clauses and the Bill in general. I commend the Committee staff, who, throughout the process, were under extreme pressure to deliver papers. All of the Committee members would say that they did an excellent job, and both they and the officials showed great patience with Committee members. I hope that the place in which we find ourselves today will assist the Minister and the Department in ensuring that, as the Bill goes forward, it will be in the strongest position possible.

The amendments that we have tabled deal with, in the main, the offender levy. Throughout the discussions at the Committee, we stated that we agree in principle with the levy. The levy is an acknowledgement and an acceptance by a person who has been convicted of a crime or an offence that they have caused injury or pain to a victim. We agree with that wholly.

We heard particularly from people who work in the victims' sector and with victim support groups that, very often, victims feel excluded from the justice process. They feel that, once they give their witness statement to the PSNI and are called to court, they have no other role and are nearly excluded from the process. The introduction of the offender levy will, in some way, bring victims into the process. We feel that the idea of a levy, although not a panacea, goes some way to addressing those concerns.

The idea of our amendment is to have a choice for people who are convicted between paying the levy and doing community service. That, in itself, nearly forces the person who has been convicted into a process of understanding what the levy is and what the community order is. Whatever choice they make, the choice will be part of the reparation for the offence that they

have committed and part of the restorative process. The Department calculated that around £250,000 will be collected from the levy per annum. We do not want to undermine the amount that will be collected by introducing the option of community service, but that option will strengthen the sense in a person that he or she has committed an offence.

We also believe that the combination of the reparation and the restorative aspect will serve victims better, and whatever deficit results from someone opting for a community order will not undermine the levy. Indeed, given the small amount that will be collected, the Department could come up with the shortfall. We have tabled the amendments because, if there were only a levy, with no option for a community service order or for allowing the person who had been convicted to be part of the discussion, the person might see it simply as a fine. Someone who was given a mandatory fine of £100 and a levy of £15 might see it as a fine of £115 and not necessarily enter into the spirit of the levy.

We believe centrally that the spirit of this aspect of the legislation is that the person who has committed the offence should address the fact that they have caused pain and hurt. The process of community service will put the person into that place. Many people might argue, perhaps correctly, that a person would opt to pay the levy rather than do the community service order. That is fine, but at least that will be part of a discussion. It will be explained to them why they have to pay a levy or do community service. When they make the choice, they will do so on balance and as part of ensuring that the victim feels part of the process. Therefore, we feel that this is a stronger way of doing it.

Officials said that the servicing and cost of community orders may be prohibitive; and, in many ways, may undermine what is being done by increasing the costs. We feel that the community order, as currently constituted, involves a minimum of 40 hours. However, those hours will be well reduced. We see each community order as being a one-off session, not a continuation. Therefore, it will be easier to monitor and process. Whatever the cost, we feel that it would be better to do that, and we have outlined that in the amendment. Amendment No 5 will outline the provisions of the community order.

As regards clause 5, I am not going to make the argument today that there is no such thing as a victimless crime, but there is an onus on us all to ensure that when a crime is committed, we can point to the victims. Therefore, we oppose clause 5, which relates to road traffic offences, on the basis that it is difficult to say, for example, who the victim is in respect of a speeding or similar type of offence. That is not to undermine the concept of a levy or in any way to excuse speeding or careless driving, but we want to ensure that people do not see the levy as another revenue mechanism. That is why we will be opposing clause 5.

Amendment No 7 deals with vulnerable witnesses. We support all clauses that deal with vulnerable witnesses. We feel that those add to the protection of witnesses and how evidence is gathered and conveyed through the court process. However, there is the aspect of the appellant's right, which is why we tabled amendment No 7. It is written in the clause that a court can proceed if there is no practical reason why a person should appear in front of it. We feel that that will be strengthened by saying that it should be done with the consent of the appellant. That is our detailed outline of the amendments.

The Chairperson of the Committee for Justice (Lord Morrow): Before addressing the amendments in group 1, with your indulgence, Mr Deputy Speaker, I wish to make a few general remarks in my capacity as Chairperson of the Committee for Justice. As the House is aware, the Committee extended the Committee Stage of the Bill to enable it to undertake detailed and careful scrutiny of an extensive and wide-ranging Bill, which consists of 108 clauses and seven schedules and covers a diverse range of policy areas, including sports provision, policing and community safety partnerships, new services for victims and witnesses, new alternatives to prosecutions and change to legal aid legislation.

I place on record my thanks to the members of the Committee for Justice for their contributions to the consideration of the Bill and Committee report. The detail in the report demonstrates that the Committee considered all aspects of the Bill in as full and thorough manner as the timescale allowed. I also thank the witnesses who provided such useful written and oral submissions and the departmental officials who were always at hand to provide a

prompt response to the many questions and discussions throughout the process.

Finally, I thank the Committee Clerk and her team who facilitated our formal evidence taking, the clause-by-clause scrutiny and the production of our extensive Bill report. I want to place on record my thanks and appreciation to the Committee staff who showed total and unqualified commitment. They had to deal with a very heavy workload and showed great resilience and dedication. They had to do so over a short period of time because we were given the Bill at a very late stage.

I wish to make a few general remarks about the Bill. The Committee welcomed the introduction of the Justice Bill and supported its principles at Second Stage. Having considered the detail of the Bill during the Committee Stage, the Committee is content with the majority of the clauses in the Bill.

However, there are a number of provisions that the Committee wishes to be amended or removed from the Bill entirely. Many of those amendments have been agreed with the Minister of Justice, and, indeed, he will move them today, which the Committee welcomes. However, several important areas of disagreement between the Committee and the Minister relate to clauses on sport and clauses on policing and community safety partnerships. I will explain those disagreements and provide more detail during the debate.

I turn to the first group of amendments. The Committee supports Parts 1 and 2 of the Bill. They will provide for improvements to the special measures provision, which will assist victims and witnesses in the criminal justice system. They will also provide for the introduction of a financial levy to be imposed by the court on conviction or attached to any voluntarily accepted non-court imposed penalty. This is to be known as an "offender levy".

Amendment Nos 1 to 5 relate to the provision of an option to complete some community service work instead of payment of the offender levy. The Committee discussed such a proposal, which aims to strengthen the reparation element of the offender levy. The point was made by the Committee that the offender levy, as currently presented in the Bill, may not have the proper focus on reparation, and if the aim of introducing the offender levy is to get people to recognise that they have done something wrong, the clause needs to be strengthened in that way. There is the possibility that, as the provision currently stands, people would simply see the levy as an addition to a fine, and it would not help in the process of offenders accepting that what they had done was wrong. The Committee also considered a number of concerns and issues about the proposal. They included a concern about the practicality of the proposal given the small amount of money that the levy involved and the likelihood that it would increase the cost of administration; an issue that had already been highlighted in relation to the operation of the levy itself.

In evidence on another Part of the Bill, departmental officials indicated that it might be very expensive to introduce community service options. They cited the example of the cost of supervised activity orders, when a probation officer is involved in setting up the opportunity, making sure that arrangements are made and checking that the person has turned up and completed his or her allotted number of hours, as around £1,000 per case. The fact that the proposal would also reduce the money generated to support victims and the likelihood of it complicating court proceedings were also raised, together with how it would be applied to someone sentenced to imprisonment and how the victim could be part of the process. Taking account of the likely cost and practicalities involved in offering an option of completing community service work, the Committee decided that it could not support the proposal. The Committee is, therefore, content with the clauses as they stand and does not support amendment Nos 1 to 5. It does not oppose that clause 5 stand part of the Bill.

The Committee considered amendment No 6, which deals with a requirement for the appellant to agree to the use of live links at preliminary hearings for appeals to the County Court. The requirement was advocated by the Human Rights Commission in its evidence to the Committee. When the issue was raised with the Department, it clarified that the provision for the use of live links at preliminary hearings on appeal to the County Court under clause 16 relates to preliminary hearings for appeals to the County Court and not to the appeal hearing itself, at which a person has a right to appear. The Department explained that a preliminary hearing could be on a straightforward issue that had to be dealt with in advance of the trial and could, feasibly, last a matter of minutes.

The provision sits with other provisions on preliminary hearings at which the appellant and defendant have the right to make representation by live link hearing, but the decision on its uses rests with the court. The Committee agreed that it was content with clause 16 as it stands and does not support the amendment.

Amendment No 7 was brought to the Committee by the Department during Committee Stage and sets out what will happen if the live link breaks down.

It replicates what is provided for in parallel live link legislation for preliminary hearings, so that there is a limit on the length of time that a person can be remanded for before the matter is brought back before the court.

4.00 pm

The Committee agrees with the Department that amendment No 7 is valuable in achieving consistency with other live links legislation and in providing a guarantee to appellants in ensuring that any rearranged hearing is held promptly. The Committee is, therefore, content to support amendment No 7.

Finally, I will mention one issue in relation to clause 14. The Committee considered whether there should be a statutory requirement for a trained mental health advocate to be present during live links involving mentally disordered offenders. When questioned on that, the Department indicated that to put a requirement for an advocate into the Bill could create a statutory duty for advocates in all live link proceedings. The Department outlined that arrangements will be in place for assistance to be provided at a live link for patients detained in hospital. That will include the patient's nurse and the Shannon Clinic's advocacy service.

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

The patient's personal consultant psychiatrist will also be on site. That is an enhancement, as, typically, RMOs do not accompany a patient to court. The Department gave the Committee an undertaking that it would ensure that a letter of guidance is issued to RMOs regarding support during live links involving mentally disordered offenders and that it will monitor the impact of clause 14 as it is rolled out. The Committee is content, subject to the commitments given by the Department, which I want to place on the record here today.

Mr B McCrea: There is obviously considerable work to get through on the Bill. I noted Lord Morrow's assertion that the Committee did as good and as thorough a job as possible in the time available and that the consultation period had been extended. Nevertheless, we have concerns about some issues in the Bill.

The first group of amendments deals with victims and witnesses and live links. Having considered the matters put forward and listened to the arguments made by Members on Benches opposite, my party is not convinced about the need for amendment Nos 1, 2, 3 and 4, nor for opposition to clause 5. Due to the relatively short timescale for community service orders, we do not think that they provide sufficient deterrence or sufficient rebalancing in their effect. In fact, we think that the whole issue is to detract from the proposed levy.

I listened to what Lord Morrow had to say about the Committee's deliberations on that, but we are not sure that we have got the correct balance on where those levies will play their part. It seems that, if people view them as being merely an additional part of the fine, they are not as useful as they might be. There is, therefore, deliberation to be had on that issue, and we look forward to the Minister's presentation on that. We are unhappy with the generality of the levy and, in particular, unfortunately, with Sinn Féin's attempt to address the shortcomings.

There is an issue in respect of whether the applicant's approval for the use of live links is required. We may have looked at that in a different way from others, and I was not sure that I followed exactly the argument that Lord Morrow was putting on this, but, as a general principle, we think that a live link should be used without the appellant's acceptance, if the court directs that one should be used.

Mr O'Dowd: One of the reasons why the amendment is before the House is that one of the bodies that raised concerns about the matter was the Human Rights Commission. The commission said that it was important, particularly in cases using live links, that the appellant is given the right to appear before the court. That is not explicit in the legislation. We had some toing and froing with departmental officials on that matter, but we remain unsatisfied with their explanation, as does the Human Rights Commission. We did not just

pluck the issue out of the air; it is a concern of that body.

Mr B McCrea: I am grateful for the Member's clarification on that. He will have noted that, in my introduction, I said that the arguments we come across are somewhat complicated. I am interested in what the arguments and the counter-arguments are. The Member will know that I have some interest in human rights and how we deal with such matters. As with all rights-based issues, sometimes there are specific concerns that have to be addressed, but there can also be a position of competing rights.

In the issue that we were looking at, the question is why live links would be used. If they are used in a particular case involving, for example, domestic violence or other issues and if they are used for the protection of others, we cannot know what is in the mind of the judge or the court that makes the direction to use live links. On that basis, where the issues are properly considered by someone who is competent to do so, we would expect the judgement of the court to take precedence in the matter. As with all such issues, it may well be that, if the competent person makes the wrong decision, that will be open to judicial review and other legal remedies. Although we accept that there is some discussion around that, as matters stand at the moment, we believe that the courts are competent to make their own decisions on what is right and proper, given that the probable reason for using live links is to ensure that victims, particularly vulnerable victims, are protected and supported.

I turn to amendment No 7, which proposes that an appellant cannot be held on remand for more than eight days. We think that there is some merit in the view that things should be time-bound and that it is not appropriate to give people carte blanche to move on to all those issues without a review.

Our general position is that we are concerned that the Bill is meaty legislation that needs a lot of consideration, and we have not had time to explore fully all the ramifications of it. Nevertheless, given the time available and the work that has been done by the Committee, we are content with the major elements of the Bill and will support those, subject to the comments I have made already. It is, of course, the right of other Members present to make an argument that explains a different point of view. All we are doing at this stage is giving notice about where we have concerns, and we are interested to hear what other Members have to say.

Mr McDevitt: Like Committee members who spoke previously, I want to place on the record our thanks to the officials from the Department of Justice, the Minister and our own Committee Staff for the work that they have invested in making it possible for us to have a debate at Consideration Stage on the first piece of justice legislation debated in the House in over a generation.

I think that I described this legislation as a bit of a gumbo at Second Stage. It has something for everyone. There was a bit of rummaging around at the back of the cupboard to find stuff that needs to be made law before it goes out of date. That said, I think it has served the Committee very well in being able to come to terms with its ability to scrutinise justice legislation and being able to better understand the competing demands, tensions, rights and needs that must be balanced in legislation that deals with matters in the criminal justice system.

Dr Farry: Will the Member consider that he will discover, when he takes over from Alasdair McDonnell as the MP for South Belfast in the future, that justice Bills —

Mr Deputy Speaker: I ask Members to stick to the point, which is the Justice Bill.

Dr Farry: You have not heard the point yet. It is routine for justice Bills to be miscellaneous, and virtually every criminal justice Bill that has gone through at Westminster in the past 20 years was of a miscellaneous nature.

Mr McDevitt: This would undoubtedly be a lesser place without Dr Farry's insightful and erudite contributions to all matters of debate, be they legislative or not.

I want to turn my attention to the first group of amendments. I have sympathy for the amendments tabled by colleagues in Sinn Féin but do not agree with us proceeding with them at this time. The SDLP supports the principle of an offender levy, and we are happy to make law that will give it effect. In doing so, we acknowledge that it will be a mechanism available to the criminal justice system as a short and sharp way to address minor misdemeanours.

The point in my mind and, I think, in the party's mind is to give effect to something that will have that short, sharp effect and will be clearly explained to be a separate levy — we would require it to be explained as such — when being administered. However, it also provides a new opportunity to raise funds for victims. The point of the levy is to use the money that it raises to support victims' services. That is important and welcome. If we were to allow individuals facing an offender levy the opportunity of community service, we would not provide the opportunity for funds to be raised for victims. I am not sold on that idea. It is much better that we legislate for this to be what it is: a sharp fine that gives individuals receiving it an opportunity to reflect on their actions and to remain without a record unless they choose to repeat their actions. It also provides the opportunity for victims' services to receive the financial support that they very much need, and we are able to send a positive signal from this House that that is what this legislation is about.

I have a further concern, which is about the cost of community service orders. It would be falling prey to the law of unintended consequences if we made legislation that, on the one hand, provided an opportunity to impose a fine and raise money for victims and, on the other, subjected the criminal justice system to an unforeseen cost, as I think the Committee Chairperson said, in administering new community service orders. It could end up costing more than it raises and none of the money would go to victims.

For those reasons, I am still not convinced of its merits. However, it would be helpful in the next couple of years to return to Mr McCartney's point — maybe the Minister could return to it — and to reflect on whether the levy was working as intended, consider the sort of money going to victims' services and see whether there would be a restorative or community service opportunity that could be explored at that point.

I support and the SDLP will support clause 5, because we simply do not believe that there is such a thing as victimless crime. All crime has a victim, whether direct or indirect. Crimes of the nature of those mentioned in clause 5, which relates to road traffic offences, have an impact on society. They cause victims. It would be a very unfortunate signal for us to send from this House during the first opportunity to enact justice legislation in a generation if we missed that point. There is no question that the criminal justice system needs to get much better at understanding that every misdemeanour has an impact on society, and it is human beings who are directly or indirectly impacted by that misdemeanour. For that reason, we support clause 5 as it stands.

We support amendment No 7, which has been tabled by the Minister to tidy up some of the issues that were raised in Committee. We remain unconvinced that amendment No 6 would address the Human Rights Commission's concerns. The Human Rights Commission's issues are genuine and real, but I am not sure that amendment No 6 would address the issues. So for now we prefer to leave the Bill as it stands.

I appreciate the opportunity to make this contribution on the first group of amendments.

4.15 pm

Dr Farry: I also acknowledge the historic nature of the fact that we are having a detailed debate at Consideration Stage of a Justice Bill under devolution in Northern Ireland. I also put on record my party's acknowledgement of the work that was done by the Justice Committee and the support of its staff as well as the Bill team in the Department of Justice and the Minister — I almost forgot him.

We fully support amendment No 7, which is a sensible way forward and renders the Bill more in keeping with human rights considerations.

It is with regret that I feel that the Sinn Féin amendments are not viable for the way forward. They point to a slight misunderstanding of the concept of the offender levy. The offender levy is not designed to be an alternative to existing methods of disposal or penalising people for offences; it is designed as a supplement to existing penalties, whether they are imprisonment or fines. In that sense, introducing the notion of a community service order as an alternative to an offender levy is like mixing apples and oranges. The offender levy has to be seen as an add-on to existing measures, whereas a community service order should be seen as an alternative to imprisonment. My party is keen on community service orders and sees merit in them.

No doubt, we will have wider discussions in the Assembly over the way in which we deal

with offences and over the most effective way forward. However, introducing a replacement for the offender levy at this stage perhaps does not do justice to the notion of what the offender levy is about and undermines the notion of what community service orders are fundamentally about.

The point has already been made that replacing the offender levy with a community service order would be incredibly disproportionate from a financial perspective. If we end up with a situation in which the cost of administering something far outweighs the financial, economic or social benefit to society of the measure, we will have to ask ourselves whether it is the right way to go. That is the situation with the Sinn Féin amendments.

Ultimately, we also have to consider the fact that the offender levy is about trying to redirect more resources to the needs of victims. If we go down the line of a community service order, we will undermine the ability to build even a small fund to assist victims. It is important that we consider the interests of victims. Virtually every party in the Chamber has stated that we need to deal with that issue better under the devolution of policing and justice.

Lord Browne: I greatly welcome the opportunity to speak on the amendments in group one. Having sat on the Committee for Justice throughout the period in which it considered the Bill, I welcome the provisions that will introduce the offender levy and improve the facilities available to vulnerable victims and witnesses in our courts. Those are certainly steps in the right direction. The enhancement of special measures provisions for the vulnerable will help to improve the process of justice and will ensure that the trial process is as fair and just as possible for all those involved.

On the related subject of live links, I was pleased that the Northern Ireland Human Rights Commission at least approved of clauses 11, 14 and 19. However, those who will enact the new regulations for live link evidence should take note of the advice given to the Committee by the Bar Council. It suggested that those special measures should be directed where they are needed and should not become the standard for court proceedings.

I welcome amendment No 7, which was tabled by the Minister, but I oppose amendment Nos 1 to 6. In Committee, the principle of reparation was welcomed by victim support groups, the Probation Board and the Northern Ireland Association for the Care and Resettlement of Offenders. I think that a majority of people in the country would agree that a mechanism that channels money from offenders, albeit a small amount, and makes it available for use by victims' services is a good thing. Although there can be and are legitimate questions about how the levy is administered and operated, the general principle of offenders making a small payment, when they can afford to, that will directly help victims of crime is sound.

During the Committee's consideration of the offender levy, it received a submission from British Irish Rights Watch, which raised concerns that the levy may constitute a breach of United Nations and European rules in the case of those who are imprisoned and are also charged the levy. That organisation argued that that would, in effect, constitute a double punishment. However, I do not share that view for the same reason as I oppose amendment Nos 1 to 6, which I believe are flawed. The offender levy is not a punishment in the conventional sense, if it is a punishment at all. The value of the levy is that it creates a direct link between those who commit crime and the rehabilitation and support of the victims of crime. The small amount charged through the levy, even before the offender's ability to pay is taken into account, is not designed to deprive the offender of anything or to deter him from offending in the first place. That is what prison is for. Rather, the purpose of the levy is to help pick up the pieces after the crime has been committed and to reinforce the fact that offenders should be responsible, if only in part, for the care of victims of crime.

Amendment Nos 1 to 6 would place the levy on the same standing as a punishment. Community service orders are often used by courts as an alternative to short prison sentences. They are self-evidently a form of punishment and the opposite of what the offender levy is supposed to be. Therefore, using community service orders, as Sinn Féin suggested, in cases in which an offender cannot afford to pay the levy is simultaneously unconstructive and incompatible and is beside the point of the levy. One cannot be a substitute for the other. Some valid concerns may exist about the offender levy, but the lack of a punishment for those who cannot afford to pay is hardly one of those.

It would be worth considering the impact that amendment Nos 1 to 6 would have, particularly on what British Irish Rights Watch sees as the double punishment of offenders. Aside from suggesting that the levy is equivalent to an enforced punishment, the implication of amendment Nos 1 to 6 is that they would create a situation in which offenders were effectively serving imprisonment and community service at the same time.

We could have an interesting discussion on the merits of this and the value of community service orders, but I do not think that those two should be rammed together. Therefore, I oppose amendment Nos 1 to 6.

Mr Buchanan: As a member of the Committee, I thank the Committee staff and its Clerk for the huge amount of work that they did in the short time that we had. I support the Committee's position on the first group of amendments, and I will certainly be a lot briefer than Lord Browne.

I do not believe that there is an argument for amendment Nos 1 to 5. There is a real danger that the focus would be changed from offender levy to community service. The amendments would give offenders the choice either to pay a levy or to do some type of community service that is of no benefit to the victims. The offender levy was included in the Bill to make offenders aware that not only must they pay the price for the offence committed, whether by a fine or imprisonment, but they must pay a levy to help support the victims and the witnesses of the crime. We must remember that they are the vulnerable people in society who are so often forgotten. To move the focus to community service is to defeat the purpose of the offender levy and send out the wrong message to victims and the entire community.

If we want offenders to get the message that the crime that they committed was wrong and that, as a consequence, they must pay the price for that crime, we must hit them where it hurts. If they go to prison, their pride is hurt. If they pay a levy, their pocket is hurt. However, community service does not have much of an effect on them, and it places an extra cost on the Department. We must realise the reason for it, and we must realise that you have to be cruel to be kind. If someone commits an offence, they must pay the price. Therefore, I support the Committee's decision to oppose the amendments and support amendment No 7.

The Minister of Justice (Mr Ford): Mr Deputy Speaker, like others, before responding to the amendments that have been discussed so far, I crave your indulgence to take this, my first opportunity at Consideration Stage, to say a few words about the progress of the Bill to date and to thank the Committee for its assistance in getting such a detailed and complicated Bill to Consideration Stage in the relatively short time available. I thank the Chairperson, Lord Morrow, and the Deputy Chairperson, Raymond McCartney, for their support and commitment to seeing that this large Bill went through.

The Committee Stage has been challenging, though it has also been extremely helpful to me and my officials. It would be fair to say that we have had a reasonably good working relationship with the Committee throughout on nearly everything. We simply would not have achieved what we have achieved so far without significant hard work on both sides. Other Members have already said that a Bill with 108 clauses, 10 proposed new clauses at this stage and 55 other amendments is a complex Bill, and I am grateful to all those who have done the work to get there. At one point, I foolishly promised the Chairperson and the Deputy Chairperson that, if questions came from the Committee, the Department would get the answers back within the week. I made that promise secure in the knowledge that my officials would comply with the promise that I made, and I express my thanks to all those in the Department of Justice and in the Committee office who contributed to ensuring that procedures went smoothly.

4.30 pm

One Member said that the Bill came about as a result of rummaging around at the back of a cupboard. We have all acknowledged that this is the first Justice Bill in this place in a generation, and it is clear that there was a lot of catching up to do. There are other issues that we were unable to get into this Bill because of drafting issues or lack of time, and we still have a certain amount of catching up to do on them. However, this Bill is a significant step forward in providing a better justice system for all the people of Northern Ireland, and the Assembly as a whole should recognise that significant achievement.

Many of the amendments that stand in my name today — I suspect they will stand in my name tomorrow, too — came about as a result of the

Committee's deliberations. A number of new policy areas that have been brought into the Bill have gained the Committee's support, and there are perhaps only half a dozen matters that are still matters of dispute. That is significant, given the difficulties that were perceived 12 years ago, when it was assumed that this Assembly was not mature enough to handle justice issues. We can take a degree of pride in that respect.

We have had some fairly healthy and extensive debate on issues like sports law and policing and community safety partnerships, and no doubt we will continue to do so over the next couple of days and when we come back for further stages. However, I want to register my genuine thanks to the Department. The Department has had from 12 April 2010 to February of this year to get a Bill to this stage; that it has done so is an outstanding achievement.

I am looking forward to lively exchanges on the later groups of amendments in this Consideration Stage debate. As Lord Morrow has highlighted, the great majority of what has happened, and, indeed, the great majority of what we are considering in this group of amendments, involves matters that have been agreed.

Let me turn first to the issue of the offender levy and then to the live links. Mr McCartney, speaking on behalf of himself, Ms Ní Chuilín and Mr O'Dowd, proposed what is effectively a community service alternative to payment of the offender levy. I certainly understand the principle behind the amendments — that reparation can be made through community service in lieu of payment — but I do not believe that it is a viable option in the area that we are considering. There is absolutely no doubt that community service is a valuable tool in the criminal justice system, and we might well see an expansion of it in other areas as we look at the very positive results that have been achieved by, for example, the Probation Service. However, that is different to what is being considered under these amendments to the Bill.

The imposition of the offender levy is a recognition that all crime impacts on society. The revenue is to be used to fund a victims of crime fund that will provide additional support for groups and organisations that support victims and witnesses, both in the justice system and in the wider community. The levy is separate to any other disposal for the offence, and it is to be used exclusively for a singularly reparative purpose. The amendments map the suggested alternative of community service in lieu of paying the levy onto the existing community service order. However, the community service order, as it currently stands, is a disposal available to the court for serious offending and for significant offences as an alternative to imprisonment. The legislation under which it operates can be imposed only where the offence for which it is given would be punishable by imprisonment. Before announcing the imposition of the levy, the court will already have determined the appropriate sentence for the offence committed, whether that is a fine, a community sentence or a custodial sentence. A key part of the offender levy is that it is not imposed for the offence but as a consequence of a relevant sentence being given. The levy could not, therefore, be substituted with a period of community service under the current community service order legislation.

Leaving aside the legislative issues, providing a community service option in lieu of payment of a modest offender levy would also be problematic on a number of fronts, some of which have already been highlighted by other Members. First, the cost would be extremely significant. Using comparators, we estimate that the cost of such a community service order could vary from £200 to £1,000 per case for the number of hours of community service proposed, compared to the levy enforcement costs, which are largely cost-neutral under the proposed arrangements. For orders of less than 40 hours, which, as Mr McCartney highlighted, is the standard minimum for a community service order, the administrative costs become an excessive proportion of the overall costs. That would raise significant concerns, given the situation that the Department's budget is in at the moment.

Providing a community service option would involve finding suitable work placements, risk-assessing participants to ensure their safety and well-being or that of others, monitoring attendance and responding to non-compliance issues.

The community service option would create a completely new area of work the probation service staff, who are not involved in managing fines and suspended custody sentences, and it would have to be resourced separately. I

believe that diverting probation service staff from dealing with their current priority areas to manage that process would not be the best use of one of the Department's most valuable resources.

Court-imposed fines are the most popular disposal that the courts use, and we estimate that more than 17,000 such fines will be subject to the levy each year. That gives some measure of the impact that the community service option could have on administration costs and on the revenue that is available to the fund, even if only a small percentage of disposals are dealt with in that alternative way.

The community service option would also place an additional administrative burden on the courts and would complicate proceedings, as the judge would be required to consider the individual's fitness to undertake unpaid work. There is the added difficulty of dealing with those who choose not to appear personally in court.

Of course, the offender levy is not just added to fines, and there will be inherent practical difficulties in delivering community service in a custodial setting. Those are the sorts of issues that would make that option practically difficult. On the other hand, however, prisoners who choose not to do any community service work would leave prison without making any contribution. Under our proposed arrangements, prisoners would contribute £1 a week to the victims of crime fund, with minimal administrative costs, throughout the time that they spend in custody.

There are legitimate concerns about affordability for some offenders, but the sum is relatively modest and is expected to be within most offenders' means. Arrangements are in place to assist those who may have difficulty paying. The court would have to consider the offender's means before applying any monetary order, and where it has been determined that the offender would have real difficulty, the court would have the ability to reduce the levy or fine where necessary. The court would also have a number of options to assist payment, including a time extension and payment by instalment. Offenders who receive a fixed penalty as an alternative to prosecution also have the opportunity to pursue the matter through the courts if they wish.

Although I believe that community service has a significant and, perhaps, growing role to play in delivering payback to the community while not contributing directly to the delivery of victim services, it is not appropriate in this area. We have to ask ourselves about the benefits that it offers to the victim in those circumstances. I believe that the provisions already meet the reparative intention behind the amendment without incurring the significant additional costs that would arise if we were to deliver a community service mechanism. The provisions deliver the spirit of the levy, which is about ensuring that offenders take some responsibility for the harm that their actions caused.

Mr McCartney talked about an extra fine. However, let us be absolutely clear: in both the judgement delivered from the bench and the follow-up letters from the court, the offender levy would be specified clearly as a separate item, and the difference between the fine and the offender levy would be absolutely clear to the offender. Therefore, I do not support amendment Nos 1 to 5. However, I believe that it is essential that we keep the issue under review, and I am quite prepared to say that the Department will continue to examine the operation of the system as we move forward.

Clause 5 deals with fixed penalties for motoring offences, and I believe that Mr McCartney's opposition to the clause is wrong. I listened carefully to the views that were expressed on clause 5, and, although questions can be asked about who the victim is in such circumstances, the reality is that there is no such thing as an entirely victimless crime. Someone who commits a motoring offence may get away with it on a particular occasion, but other similar offences may have direct and obvious victims. Traffic fixed penalties are issued for infringement of the criminal law, and the levy will be used to support the needs of all victims who are impacted by crime. We are not advocating that the levy be attached to all road traffic offences; we suggest that it be attached only to the more serious offences that result in an individual's driving licence being endorsed with penalty points.

Road traffic offences in particular impact on all other road users, including pedestrians. Offences such as speeding have a real potential to cause death or serious injury. Excessive speeding has been identified as a real cause of accidents, and the fact that a particular offence did not result in more serious consequences on one occasion does not mean that such actions, if repeated, would not have a serious effect. The

imposition of the levy would make offenders think about the consequences of their actions and of the harm that those actions could do to victims and to society as a whole. Therefore, removing clause 5 would also impact on the application of the levy to other fixed penalty schemes that exist and those that would be created under Part 6 of the Bill, which I will discuss later.

The new fixed penalty provisions in Part 6 deal with issues such as disorderly behaviour, criminal damage and retail theft, all of which are offences that have a direct impact on victims. That is why I believe that it is essential that clause 5 should stand part of the Bill.

I will move on to the two amendments that deal with live links, one of which was tabled by me, and the other tabled and outlined by Mr McCartney. The effect of Mr McCartney's amendment No 6 would be to require the court to seek the agreement of the appellants to a live link in a County Court preliminary hearing before such a live link could be used. I oppose that amendment, as, I believe, do most other Members, given what has been said. The live link that we are talking about is for preliminary hearings — short, case-management type hearings at which no final decisions are taken. Where substantive court decisions are being taken, for example, in a sentencing hearing, consent will be required, given the nature of the hearing and the decision to be taken. There will be no change in that.

To require consent for preliminary hearings, however, of maybe only a minute or two's duration — there can be upwards of 20,000 of those in any year — would set a precedent and could have a knock-on effect with potential consequences for court business as a whole. I assure Members that, in preliminary hearing cases, defendants already get the opportunity to make representations. That is included in statute and is consistent with other live link legislation relating to preliminary hearings. As I understand it, it works well. Therefore, I oppose amendment No 6.

Amendment No 7, tabled in my name, relates to the Bill's provisions to enhance live link facilities in court. The amendment provides for situations in which a live link breaks down, and, on an appeal, to ensure that, as is the case in other live link contexts, the remand period must be limited to eight days; it cannot be the normal 28 days. The amendment is not about any change in policy; rather, it corrects an oversight and ensures consistency in live link legislation in different cases. The amendment has the Committee's support.

I wish to refer briefly to Lord Morrow's point about clause 14 and his welcome for the proposals contained in it. The way in which defendants who have mental-health issues give evidence by live link is a significant issue that needs to be addressed. It is certainly the case that such patients will receive support wherever they are being detained, most often in Shannon Clinic. They receive their support from a variety of professionals in multidisciplinary teams, not just from the responsible medical officer (RMO) but from other key workers such as nurses, counsellors and social workers. That is the option that exists, and I believe that those arrangements are adequately in place to provide for the proper support to the patient on the site as they carry out their duties in giving evidence and taking part through the live link process. Lord Morrow read the Department's guarantee into the record, and I am quite happy to repeat that I will ensure that a letter of guidance is issued to all the RMOs in light of clause 14.

That concludes my comments on this group of amendments.

Mr McCartney: Go raibh maith agat, a LeasCheann Comhairle. I will make a number of observations. The points that I outlined initially are on the record.

First, I want to make it very clear that we are in favour of the levy and that we support the idea of a victims' fund. In the Department's outline of the offender levy in the explanatory and financial memorandum to the Bill, it states that the idea of a levy is:

> *"to make offenders more accountable for the harm they cause"*

and to

> *"increase … satisfaction with the criminal justice system".*

Therefore, in our view, the way to do that, and to guarantee or underwrite it, is through the community service order. A person who ends up paying an offender levy of £5 for a fine may not even understand that he or she is being made more accountable, nor will that, in my opinion, provide victims with some sort of satisfaction

that, all of a sudden, the criminal justice system is delivering for them.

It is not a case of trying to replace one with the other. It is about giving people a choice. It forces offenders into a position in which they are asked, at the end of the court proceedings, what they want to do. We could all speculate whether a person would rather pay £5 or do three or four hours' community service, but, at its core, they are being forced into a position in which they are being seen to be more accountable for the harm that they have caused. Furthermore, victims will feel that it is not an add-on. In all fairness, if a person who is caught speeding by a speed camera ends up paying £65, that person will not say that £60 was for the speeding offence and £5 was levied because they had done some harm.

In my opinion, it would just be seen as a £65 fine. I disagree with the road traffic measure in principle. Most people will see the levy as an add-on to a fine rather than as a serious attempt to redress some harm that they have caused.

4.45 pm

Similarly, a community service order, or some equivalent, for someone who goes to prison, under which a prison governor can lay out a programme of work as part of the reparation or restoration, is something that we can do. We remain of the view that, if we are serious about making people more accountable and giving victims a better sense that the criminal justice system is delivering for them, the levy can be strengthened by the community service order.

I do not want to question costs. However, it is interesting that, one minute, we were told that the cost would be £1,000 per case but today we are told that the cost may be as low as £200. I do not think that the wider community service orders would cost £200 in circumstances in which someone will do four hours, decreasing to one hour, on the outside.

It is inappropriate to say that someone who has been caught speeding has committed a crime when it is not legislated for as a crime. I do not think that we should speak about road traffic offences as crimes. There is an onus on us to point out to people the harm that they have caused. In some road traffic offences, the court may decide that there are victims. There might be a case to be made in such an instance.

However, where there is not a clear victim, people may view the levy simply as a means of collecting revenue. That may be laudable, but, if we are trying to tell victims that we are serious about addressing their issues, the levy should not be seen just as a way of giving them money. Unlike road traffic offences, other offences are obvious, cause harm and pain and create a victim. Many victims and victims' support groups will just see the levy as a way of collecting money.

The deficit could be made up, no matter how tight budgets might be. Officials told us that the amount raised by the levy is £250,000 per annum, which is not exactly a massive amount of money. Some people may opt out of it and go for community service, which will serve the greater need, make offenders more accountable, make them understand that they have caused harm and give victims a better sense that the criminal justice system is delivering for them. Even if everyone did that and the Department had to pay the whole £250,000 cost, we would be better served.

We heard evidence from the Human Rights Commission that it had concerns over live links and the consent of the appellant. We cannot understand why anyone would not want to seek the consent of an appellant, particularly when the Human Rights Commission has expressed reservations. It is not exactly a big burden to ask people whether they are comfortable with the idea of not appearing. Given the Human Rights Commission's reservations, we cannot understand the opposition to amendment No 6.

Question put, That amendment No 1 be made.

The Assembly divided: Ayes 22; Noes 66.

AYES

Ms M Anderson, Mr Boylan, Mr Brady, Mr Butler, Mr W Clarke, Mr Doherty, Ms Gildernew, Mr G Kelly, Mr A Maskey, Mr P Maskey, Mr F McCann, Mr McCartney, Mr McElduff, Mrs McGill, Mr M McGuinness, Mr McLaughlin, Mr Murphy, Ms Ní Chuilín, Mr O'Dowd, Mrs O'Neill, Ms S Ramsey, Mr Sheehan.

Tellers for the Ayes: Mr Brady and Mr F McCann.

NOES

Mr S Anderson, Mr Armstrong, Mr Attwood, Mr Beggs, Mr Bell, Mr D Bradley, Mrs M Bradley, Mr Bresland, Lord Browne, Mr Buchanan, Mr Burns,

Mr Callaghan, Mr Campbell, Mr T Clarke, Mr Cobain, Rev Dr Robert Coulter, Mr Craig, Mr Cree, Mr Dallat, Mr Easton, Mr Elliott, Lord Empey, Dr Farry, Mr Ford, Mrs Foster, Mr Frew, Mr Gallagher, Mr Gibson, Mr Givan, Mr Hamilton, Mr Hilditch, Mr Humphrey, Mr Irwin, Mrs D Kelly, Mr Kennedy, Mr Kinahan, Ms Lo, Mr Lunn, Mr Lyttle, Mr A Maginness, Mr McCallister, Mr McCarthy, Mr B McCrea, Mr I McCrea, Mr McDevitt, Dr McDonnell, Mr McFarland, Mr McGlone, Miss McIlveen, Mr McQuillan, Lord Morrow, Mr Neeson, Mr O'Loan, Mr Poots, Mr P Ramsey, Ms Ritchie, Mr G Robinson, Mr K Robinson, Mr P Robinson, Mr Ross, Mr Spratt, Mr Storey, Mr Weir, Mr Wells, Mr B Wilson, Mr S Wilson.

Tellers for the Noes: Ms Lo and Mr McCarthy.

Question accordingly negatived.

Amendment No 2 proposed: In page 2, line 17, after "nil)" insert

> *"and, impose a community service order (within the meaning given by Article 13 of the Criminal Justice (Northern Ireland) Order 1996 (NI 24))". — [Mr McCartney.]*

Question put and negatived.

Clause 1 ordered to stand part of the Bill.

Clause 2 ordered to stand part of the Bill.

Clause 3 (Deduction of offender levy imposed by court from prisoner's earnings)

Amendment No 3 proposed: In page 3, line 24, at end insert

> *"(4) The governor of a prison or young offenders centre, or a person authorised by the governor, may make provision for a community service order to be carried out within the prison setting for the purpose of discharging a community service order." — [Mr McCartney.]*

Question put and negatived.

Clause 3 ordered to stand part of the Bill.

Clause 4 (Offender levy imposed by court: other supplementary provisions)

Amendment No 4 proposed: In page 3, line 28, after "offender levy" insert

> *"or non-adherence of any community service order". — [Mr McCartney.]*

Question put and negatived.

Clause 4 ordered to stand part of the Bill.

Clause 5 (Offender levy on certain penalties)

Question, That the clause stand part of the Bill, put and agreed to.

Clause 5 ordered to stand part of the Bill.

Clause 6 ordered to stand part of the Bill.

Mr Deputy Speaker: I will not call amendment No 5 as it is consequential to amendment Nos 1 and 2, neither of which has been made.

Clauses 7 to 15 ordered to stand part of the Bill.

Clause 16 (Live links at preliminary hearing on appeals to the county court)

Amendment No 6 proposed: In page 11, line 25, at end insert

> *"with the agreement of the appellant." — [Mr McCartney.]*

Question put and negatived.

Amendment No 7 made: In page 12, line 5, at end insert

> *"(8A) If the court proceeds with the hearing under subsection (8) it shall not remand the appellant in custody for a period exceeding 8 days commencing on the day following that on which it remands him." — [The Minister of Justice (Mr Ford).]*

Clause 16, as amended, ordered to stand part of the Bill.

Clauses 17 to 20 ordered to stand part of the Bill.

Clause 21 (Functions of PCSP)

Mr Deputy Speaker: We now come to the second group of amendments, which relate to policing and community safety partnerships. With amendment No 8, it will be convenient — *[Interruption.]*

Mr Deputy Speaker: Order. If Members are leaving, they should do so quietly. With amendment No 8, it will be convenient to debate amendment No 9 and amendment Nos 47 to 60, as well as the opposition to clause 34.

The Minister of Justice: I beg to move amendment No 8: In page 17, line 26, at end insert

> *"to consider fully any views so obtained;".*

The following amendments stood on the Marshalled List:

No 9: In clause 22, page 18, line 21, at end insert

"and to consider fully any views so obtained". — [The Minister of Justice (Mr Ford).]

No 47: In schedule 1, page 65, line 9, leave out sub-paragraph (12). — *[The Minister of Justice (Mr Ford).]*

No 48: In schedule 1, page 66, line 4, at end insert

"(2A) The joint committee shall issue to PCSPs a list of organisations appearing to the joint committee to be appropriate for designation under sub-paragraph (1).

(2B) The joint committee may revise and re-issue that list.

(2C) In making any designation under sub-paragraph (1) a PCSP must take into consideration any organisation for the time being on a list issued under sub-paragraph (2A) or (2B)." — [The Minister of Justice (Mr Ford).]

No 49: In schedule 1, page 66, line 4, at end insert

"(2A) The Department may by order designate organisations for the purposes of this paragraph.

(2B) No order may be made under sub-paragraph (2A) unless—

(a) the Department has consulted each PCSP; and

(b) a draft of the order has been laid before, and approved by a resolution of, the Assembly." — [The Chairperson of the Committee for Justice (Lord Morrow).]

No 50: In schedule 1, page 66, line 5, after "PCSP" insert

"or by an order under sub-paragraph (2A)". — [The Chairperson of the Committee for Justice (Lord Morrow).]

No 51: In schedule 1, page 68, line 4, leave out sub-paragraphs (4) and (5) and insert

"(4) At any time thereafter, there shall be—

(a) a chair appointed by the council from among the political members; and

(b) a vice-chair elected by the independent members from among such members.

(5) In appointing to the office of chair, the council shall ensure that, so far as practicable—

(a) a person is appointed to that office for a term of 12 months at a time or, where that period is shorter than 18 months, for a period ending with the reconstitution date next following that person's appointment;

(b) that office is held in turn by each of the four largest parties represented on the council immediately after the last local general election." — [The Chairperson of the Committee for Justice (Lord Morrow).]

No 52: In schedule 1, page 70, line 19, at end insert

"Expenses

16A. The council may pay to members of a PCSP such expenses as the council may determine." — [The Minister of Justice (Mr Ford).]

No 53: In schedule 1, page 70, line 21, leave out paragraph 17 and insert

"17.—(1) The Department and the Policing Board shall for each financial year make to the council grants of such amounts as the joint committee may determine for defraying or contributing towards the expenses of the council in that year in connection with PCSPs.

(2) A grant made by the Department or the Policing Board under this paragraph—

(a) shall be paid at such time, or in instalments of such amounts and at such times, and

(b) shall be made on such conditions,

as the joint committee may determine.

(3) A time determined under sub-paragraph (2)(a) may fall within or after the financial year concerned." — [The Minister of Justice (Mr Ford).]

No 54: In schedule 2, page 73, line 36, leave out sub-paragraph (11). — *[The Minister of Justice (Mr Ford).]*

No 55: In schedule 2, page 74, line 36, at end insert

"(2A) The joint committee shall issue to DPCSPs a list of organisations appearing to the joint committee to be appropriate for designation under sub-paragraph (1).

(2B) The joint committee may revise and re-issue that list.

(2C) In making any designation under sub-paragraph (1) a DPCSP must take into

consideration any organisation for the time being on a list issued under sub-paragraph (2A) or (2B)." — [The Minister of Justice (Mr Ford).]

No 56: In schedule 2, page 74, line 36, at end insert

"(2A) The Department may by order designate organisations for the purposes of this paragraph.

(2B) No order may be made under sub-paragraph (2A) unless—

(a) the Department has consulted each DPCSP; and

(b) a draft of the order has been laid before, and approved by a resolution of, the Assembly." — [The Chairperson of the Committee for Justice (Lord Morrow).]

No 57: In schedule 2, page 74, line 37, after "DPCSP" insert

"or by an order under sub-paragraph (2A)". — [The Chairperson of the Committee for Justice (Lord Morrow).]

No 58: In schedule 2, page 76, line 35, leave out sub-paragraphs (4) and (5) and insert

"(4) At any time thereafter, there shall be—

(a) a chair appointed by the council from among the political members; and

(b) a vice-chair elected by the independent members from among such members.

(5) In appointing to the office of chair, the council shall ensure that, so far as is practicable—

(a) a person is appointed to that office for a term of 12 months at a time or, where that period is shorter than 18 months, for a period ending with the reconstitution date next following that person's appointment;

(b) that office is held in turn by each of the four largest parties represented on the council immediately after the last local general election." — [The Chairperson of the Committee for Justice (Lord Morrow).]

No 59: In schedule 2, page 79, line 21, at end insert

"Expenses

16A. The council may pay to members of a DPCSP such expenses as the council may determine." — [The Minister of Justice (Mr Ford).]

No 60: In schedule 2, page 79, line 23, leave out paragraph 17 and insert

"17.—(1) The Department and the Policing Board shall for each financial year make to the council grants of such amounts as the joint committee may determine for defraying or contributing towards the expenses of the council in that year in connection with DPCSPs.

(2) A grant made by the Department or the Policing Board under this paragraph—

(a) shall be paid at such time, or in instalments of such amounts and at such times, and

(b) shall be made on such conditions,

as the joint committee may determine.

(3) A time determined under sub-paragraph (2)(a) may fall within or after the financial year concerned." — [The Minister of Justice (Mr Ford).]

The Minister of Justice: The group contains a total of 16 amendments and the opposition to clause 34. I propose to consider each of the amendments in turn and to conclude by commenting on clause 34.

Part 3 is a significant section of the Bill that establishes new policing and community safety partnerships (PCSPs) by bringing together the functions of district policing partnerships (DPPs) and community safety partnerships (CSPs). It represents a pivotal move towards more joined-up working to benefit local communities. The ability of the partnerships to deliver on the ground will be key, and it is my hope that by combining the functions of the two existing partnerships, greater things will be achieved.

PCSPs will play a key role in building confidence in the justice system, in ensuring that the public have their say in how crime and antisocial behaviour are dealt with on the ground, and in ensuring that everyone plays their part in working towards a safer society. There has been strong support for the principle of the amalgamation, although a variety of views have been expressed about the precise way of doing it.

Amendment Nos 8 and 9 are on considering the views of the public. The amendments are to clause 21(1)(d) and clause 22(1)(d), and are in response to comments that were made by various stakeholders during the Committee evidence session. Stakeholders felt that the amendment was needed to ensure that the new policing and community safety partnerships should fully consider the views of the public that are obtained during their consultations. The

intention behind the amendment was already present because PCSPs, like DPPs before them, will be required to actively consider the views of the public. The amendment simply strengthens that commitment. I certainly believe that partnership should take full advantage of the input of voluntary and community groups and the public. I am committed to ensuring that their voices are heard. I am content to take on board the views of the stakeholders and the Committee's support and to support this amendment. I hope that it will serve to strengthen the duty of PCSPs to engage with their community and to properly reflect the public's views through their work.

Amendment Nos 47, 52, 54 and 59 to schedules 1 and 2 deal with the payment of expenses. Amendment Nos 47 and 54 remove sub-paragraphs that would have restricted the payment of expenses to independent members of the partnerships only. My alternatives, which are amendment Nos 52 and 59, make provision for councils to pay expenses for all members by means of a new paragraph 16A in schedules 1 and 2. Those amendments will ensure that all members of the partnerships are on an equal footing, that none of them is out of pocket as a result of their participation, and that councils are provided with the ability to pay expenses to representative members who do not receive them from their own organisations.

Amendment Nos 48 to 50 and amendment Nos 55 to 57 deal with designated organisations. All relate to paragraph 7 of schedules 1 and 2. The Justice Committee has tabled amendment Nos 49, 50, 56 and 57 to give effect to its preference for my Department to have the power to designate by order specific organisations onto all PCSPs. I oppose those amendments.

The key issue is that PCSPs should have flexibility in their method of operation, which means that each should be able to designate organisations that they feel would assist in meeting local needs. Importantly, they should have control over their own affairs because that is one of the key principles behind the establishment of the new partnerships.

I, therefore, propose alternative arrangements in the form of amendment Nos 48 and 55, which would see a list of organisations that are considered appropriate for designation to be produced by the joint committee, which is to say the Department and the Policing Board working together. It will be up to each PCSP to decide whether the designation of those organisations is appropriate for them. They will not be obliged to have representation from those bodies, but they will be required to give serious consideration to including them. That is why I propose amendment Nos 48 and 55, for which I request the support of the House.

Fundamentally, this comes down to the philosophy behind the establishment of partnerships. Are we to leave partnerships with maximum flexibility or be overly prescriptive at that level? Moving into a new era for dealing with policing and community safety, I believe that the partnerships should have the opportunity to be flexible in their operation, and my amendments provide that better than the Committee's.

I turn now to paragraph 10 of schedules 1 and 2, which relate to the appointment of the chairperson and vice-chairperson. The Committee has tabled amendment Nos 51 and 58, which aim to ensure that the chairperson of the PCSP, or of the DPCSP in Belfast, is always an elected member, in the same way as the chairperson and vice-chairperson of the policing committee. However, I wish to retain the original drafting for the Bill, which allows for independent or elected members to hold the position of chairperson.

I fully recognise that the policing committee method is derived directly from the existing operation of the DPPs and, therefore, from the Patten report, and the proposals already in the Bill carry forward the principle of the primacy of elected members in carrying out work that is currently the function of DPPs. However, I believe that after the initial period of 12 months has elapsed, during which the chairperson of the policing committee will be the chairperson of the partnership, there should be the potential for an independent member to hold the position of chairperson of the PCSP or DPCSP.

I do not believe that the statutory exclusion of independent members would be acceptable to the public or to the many current independent members of DPPs, in particular. Many independent members of DPPs, particularly those who have served as vice-chairperson, have shown that they would be capable of assuming the chair of the partnership. That would allow the partnership the flexibility to consider the best person to deal with the job of

chairing the overall partnership, which is slightly different from that of chairing the policing committee. That is why I oppose the Committee amendments. They are not necessary to ensure the success of PCSPs, and may actually impede their discretion and flexibility, which, as I said, is one of the key principles behind my proposals in establishing the new partnerships. I want to ensure the maximum flexibility for local partnerships to reflect local needs and deal with them in a way that suits their locality.

Paragraph 17 of schedules 1 and 2 deals with finance, to which amendment Nos 53 and 60 relate. I propose to strengthen the Bill's commitment to provide funding support for PCSPs by making a definite commitment to fund councils to establish and run those PCSPs. I thank the Committee and stakeholders for their views on that. I understand the need for the partnerships to be certain of long-term financial commitment to funding. I am content to propose those amendments to paragraphs 17 of schedules 1 and 2. The amendments also permit funding to be paid as a grant drawn down in advance of spend, rather than retrospectively. That should help reduce the bureaucracy surrounding the administration of the partnerships. It is another part of the flexibility that I wish to see.

I turn now to the issue that has taken up a considerable amount of time in various quarters, including the Committee and Executive: clause 34, as drafted, relates to the duty of prescribed public bodies, in the exercise of their functions, to consider crime and antisocial behaviour implications. The principles of clause 34 are fundamental to the Bill. It provides the means to ensure that public bodies with a direct influence on community safety issues step up to their responsibilities to engage with their localities and have a direct impact on improving safety in their areas. PCSPs have a lead role in ensuring compliance with that duty by bringing relevant issues to the attention of those responsible. Many have a part to play in reducing crime and antisocial behaviour, and contributions can take many forms, including better street lighting and designing out potential problem spaces.

Support for that duty, as set out in clause 34, was widely expressed, particularly in response to the Justice Committee's call for evidence. In fact, a number of stakeholders felt that the clause should be strengthened. Among those most strongly in support of clause 34 were a considerable number of existing partnerships and the Police Service. Conversely, some were concerned that such a duty would place an unwarranted burden on public bodies. My intention has been to find safeguards against the risks of administrative burden and costly litigation, while ensuring that there is a substantive duty on relevant organisations to support the delivery of safer communities.

I shared an amended version of the clause with the Justice Committee on 18 February after its formal consideration had finished, and I thank it for its careful further consideration of and suggestions on that clause. Although the Committee expressed support for the general principle, it was not content with what was then seen as the inclusion of an optional filter mechanism whereby legal action under the clause could be taken only by the Attorney General. The Committee also felt that the wording of the clause needed to be fine-tuned, and my officials have taken that suggestion away with them.

5.15 pm

I note the Justice Committee's opposition to clause 34 in its current form, and I will not support the Question that clause 34 stand part of the Bill today. However, subject to Executive Committee consideration later this week, it is my intention to bring a replacement clause forward at Further Consideration Stage. There is a fundamental requirement to have something similar to clause 34 if we are to ensure that community safety is prioritised across a range of organisations. The detail has now to be worked out, and I trust that that will be done successfully within the next week or so.

The Chairperson of the Committee for Justice: The clauses that cover the integration of the roles of community safety partnerships and district policing partnerships to create a single partnership for each district council attracted a large volume of responses, and the Committee held an evidence event in the Long Gallery to give as many interested organisations as possible the opportunity to put forward their views.

The Committee supports the broad principle of creating a single partnership for each council area, but a number of members had concerns about the complexity of the model proposed for Belfast, how it will integrate with existing structures such as the West Belfast Community

Safety Forum and Partners and Community Together (PACT) groups and the additional administrative and resource burden that it may place on Belfast City Council. The Department suggested that the issues could be addressed when the guidance on the operation of the functions of the partnerships is drawn up and when discussions are ongoing to resolve the difficulties.

The Committee supports amendment Nos 8 and 9, which strengthen clauses 21 and 22 to ensure that genuine and meaningful consultation takes place. The clauses as they stand require a policing and community safety partnership and a district policing and community safety partnership to make arrangements for obtaining the views of the public about matters concerning the policing of the district and enhancing community safety. The amendments will ensure that the views obtained are fully considered. The Committee recommended that the amendments should be made following evidence received during Committee Stage, and it welcomes the Minister's agreement to table the amendments for consideration today.

The Committee had serious reservations about the implications of the statutory requirement that clause 34 would place on Northern Ireland Departments and public bodies to have due regard to crime, antisocial behaviour and community safety implications in exercising their duties. We concluded that, in the absence of a suitable amendment being tabled, it has no choice but to oppose the clause standing part of the Bill.

The Committee reached that conclusion following detailed scrutiny of the clause, and I will outline how we got to that position. Following the introduction of the Justice Bill to the Assembly, the Minister advised the Committee that some members of the Executive were concerned about the implications and requirements that might arise for Departments. The Minister had given an assurance that clause 34 required the Department of Justice to publish guidance and had also given an undertaking to go back to the Executive once the Committee had considered the clause. It is, therefore, clear that there were concerns about that clause from the very start. Evidence received by the Committee did, however, indicate that there is support for that provision from many community safety partnerships, district policing partnerships, the Northern Ireland Local Government Association, the PSNI and the Policing Board, and some of those organisations want it to be strengthened further.

The Attorney General for Northern Ireland attended the Committee meeting on 18 January to discuss clause 34, and he articulated a number of concerns that centred around the wide scope of the clause and the corresponding potential for legal challenges, which could be very costly. The Attorney General expressed the view that the current provision is likely to give rise to a great deal of problems and claims without necessarily generating positive outcomes and improved policymaking or thinking by the various public bodies.

The Committee shares those concerns and views and is also concerned about the cost of implementing any requirements arising from the statutory duty and the associated additional administration, particularly given the current difficult financial climate. The Committee does not support some of the language used in the clause, which appears to combine the actuality of a reduction in levels of crime and antisocial behaviour with perceptions of them. That could give rise to a situation in which, although an actual reduction in crime has been established by empirical methods of assessment, the local community's perception might be that there had not been a reduction.

During oral evidence, the Department advised the Committee, as the Minister has said, that the clause is regarded as important to the future partnerships and that the intent is to establish a principle about how public bodies should interface with the PSNI and others on crime and antisocial behaviour, rather than to create a bureaucratic structure. However, the Department confirmed that there would be an obligation on organisations to demonstrate that they are complying with the statutory duty.

In an attempt to address the Committee's concerns, the Department provided draft amendments to clause 34 during Committee Stage. The amendments removed the wider, more general requirement for a body to do all that it reasonably can to enhance community safety, limited the number of bodies impacted by the clause to those that will be prescribed by the Department through regulations, and strengthened the requirement to consult other Departments prior to the issuing of guidance

on the clause. The aim of that was to ensure that practical implications for Departments are addressed and that they have adequate opportunity to feed into the guidance. Among other things, the guidance will address how the duty may be fulfilled in the most appropriate way for an organisation in the delivery of its functions.

Before the Committee could assess whether the draft amendments addressed our concerns and the concerns outlined by the Attorney General, the Department advised that it would provide the Committee with a different amendment. Departmental officials attended a Committee meeting on 8 February and informed members that the new amendment required the Department to secure the approval of the Attorney General before issuing any guidance on how a public body should comply with the duty.

The Department had just discussed the new amendment with the Attorney General, and he was of the view that two aspects of it should be strengthened. The first of those was so that the duty of the public body was to the guidance which he has approval of, and the second, to ensure that there is no wasteful litigation, was that the guidance will lay out the extent to which the failure of a public body to meet the guidance could be dealt with. The Department, therefore, was in the process of considering changing the amendment to clause 34 again and was not in a position to provide a draft amendment for the Committee to consider prior to the completion of the Committee Stage on 11 February.

Since then, the Committee has been briefed on further ongoing work to try to find an acceptable clause that will deliver the general principle and merits of the current clause but limit the scope of the public bodies to which it will apply and mitigate the concerns regarding the likelihood of widespread and costly challenges. The Committee still has reservations with elements of the proposed new clause and has written to the Minister about those. The Committee wants and, indeed, expects public bodies to do all that can reasonably be expected to contribute to tackling community safety and antisocial behaviour. However, the statutory duty that clause 34 currently creates for a large number of public bodies, and the potential for widespread costly legal challenges, are not helpful or acceptable.

Unfortunately, in the absence of any suitable amendment being presented today that would address the genuine concerns that have been raised, the Committee must maintain its stance and is unable to support the clause. I urge the House to join the Committee in opposing clause 34. The Minister has an opportunity to introduce a new clause at Further Consideration Stage, and the Committee will continue to work with the Minister with the aim of introducing a suitable new provision at Further Consideration Stage by way of an amendment that everyone can support.

I will now deal with amendment Nos 47 to 50 and 54 to 57, which all deal with the designation of organisations to a policing and community safety partnership. The Minister and the Committee do not agree on that matter, and, therefore, two different sets of amendments are in front of the House.

The Minister outlined the reasons for his approach. I am still not sure of the reasoning behind his proposed amendments, which appear to be a halfway house. On the one hand, he wants to indicate organisations suitable for designation; on the other hand, he does not want to designate them, but would rather leave the decision up to individual policing and community safety partnerships, which will not achieve the objective, which is to ensure that, by designating them, they are represented on the PCSPs.

Initially, the Department's position was not to designate any organisations. However, following the Committee's consideration of the matter, the Department conceded that there was not a strong argument for saying that it would be inappropriate to designate a relatively small number of organisations, which should always be present on a PCSP. However, the Minister's preferred approach, as outlined in amendment Nos 47, 48, 54 and 55 does not ensure that certain organisations are represented on all PCSPs. Rather, he is suggesting that the joint committee, which is made up of the Department and the Policing Board, will issue a list of organisations that appear to the joint committee to be appropriate for designation. In making any designation, a policing and community safety partnership must take into consideration the organisations on the list. However, it is not compelled to designate them.

In contrast, the Committee is clear in its support for the general principle that a small number of organisations should always be present on a policing and community safety partnership. That is reflected in amendment Nos 49, 50, 56 and 57, which we tabled today. Our approach requires the Department to produce a regulation listing the proposed designated organisations, which would come before the Assembly for approval. That will place the decision-making in the hands of the Assembly, which the Committee believes is the most appropriate place for it, and will give the partnerships integrity and prevent a partnership, for whatever reason — accidentally or otherwise — from excluding an organisation that should be represented on the partnership.

There was strong support for that approach during the Committee's oral evidence event. The Committee had in mind to include, for example, the Probation Board as one of the specified organisations. In designating a small number of key organisations, the Committee does not believe that it will seriously restrict the flexibility of the policing and community safety partnerships, as the likelihood is that designated organisations will be invited anyway. However, it will ensure a consistent level of skills and expertise across the PCSPs and ensure that a locality cannot take the view that a particular organisation such as the Probation Board is not relevant and leave it out for whatever reason. On that basis, the Committee seeks the support of the House for amendment Nos 49, 50, 56 and 57.

I will now turn to amendment Nos 51 and 58, which the Committee tabled. They seek to change the appointment arrangements for the chair and vice-chair of a policing and community safety partnership and a district policing and community safety partnership. The Committee is of the view that the chair of a PCSP should always be an elected member and should be appointed in the same manner as set out in the Bill for the appointment of the chair of the policing committee, that is, by the council using the same procedure that currently exists, which is that the office is held in turn by each of the four largest parties represented on the council immediately after the last local general election.

The rationale behind the proposal is that democratic accountability is key for policing and community safety partnerships. Therefore, an elected member should be the chair. That will also create better council buy-in and put a greater responsibility on the elected member to make the case for, and press the council to support and contribute towards, PCSPs. If an elected member is not the chair, there is a real danger that the councils will not engage sufficiently and will not provide appropriate funding, as there is no requirement or incentive for them to do so, particularly given that there is a minority of elected members on the policing and community safety partnerships and the councils are not represented on the joint committee.

The Minister indicated to the Committee and has done so in the House today that he does not believe that the statutory exclusion of independent members will be acceptable to the public at large or to the many current independent members of DPPs in particular. In his view, it is not necessary to ensure the success of the PCSPs and may be seen to impede the discretion of the new partnerships to manage their affairs to best effect, which is one of his key principles in establishing them.

The Committee would, however, point out that independent members are not excluded from the post of vice chair. The argument about the need for democratic accountability and to create a situation that will facilitate and encourage buy-in from councils, as I outlined, is compelling. We seek the Assembly's support for those amendments.

5.30 pm

The Department advised the Committee of its intention, in response to concerns raised by the Committee and stakeholders, to bring forward amendment Nos 52 and 59 to give councils scope to pay expenses to all members who do not receive them from their own organisation. On behalf of the Committee, I support amendment Nos 52 and 59.

With regard to amendment Nos 53 and 60, the Department advised the Committee that, as scrutiny of the Bill had progressed, the need to clarify the means of funding for policing and community safety partnerships had arisen. The Department, therefore, proposed to table amendments at Consideration Stage to ensure that the Department and the Policing Board's commitment to funding the policing and community safety partnerships was conveyed and to include further details of the actual mechanisms for funding them. The Department

intended to allow provision of a grant in advance of spend, rather than retrospectively. The Committee supports amendment Nos 53 and 60.

Ms Ní Chuilín: Go raibh maith agat, a LeasCheann Comhairle. Before I go into detail on the second group of amendments and the clauses to which they relate, I want to put on record my thanks to the other Committee members for the work that has been done to bring the Bill thus far. Thanks and appreciation must, definitely, also be afforded to Committee officials. Some of them are present in the Chamber. I believe that it is true to say that, by the time the Bill goes through, some of those officials will have attended more justice meetings than certain members of political parties. We all know who they are. I want to give my appreciation to the Committee staff who organised witnesses to appear in front of the Committee and to the witnesses who appeared to give evidence.

I want to deal in particular with the Belfast model. Sinn Féin's position has been clear: in Committee, it abstained from voting on that aspect of the Bill. It is fair to say that my party shall, as opposed to may — two favourite words of legislators — table amendments at Further Consideration Stage regarding the Belfast model. As the Chairperson mentioned and as is cited in the report, discussions are ongoing, and many complexities surround that model. We hope to have tabled amendments by the time the Bill reaches Further Consideration Stage if the situation has not been sorted out by Belfast City Council or, indeed, by the Department. I just want to put that on record.

I have absolutely no desire to go over some of the detail that has been well covered by the Chairperson, except to say that the Committee was and still is at odds with some of the proposals made by the Department and the Minister, particularly, as has been pointed out, those that relate to the designation around community safety partnerships. As other Members mentioned, a lot of work has been done at different stages. Certainly, at the event in the Long Gallery on 16 December, there were discussions about issues that now relate to amendment Nos 52, 59, 53 and 60 and around the Policing Board and the Department. It was made clear that the finance issue needed to be resolved. I am happy that that is the case.

Many people put an awful lot of work and time into community safety partnerships and DPPs, as they are at present, and continue to do so. Well, some people did. I can speak only for my area, North Belfast. Certainly, other areas could learn from exemplary work that has been done on community safety in that area. I am sure that the community would have difficulties with the level of participation of some elected representatives. That is not without prejudice. I have to say that participation by some political parties has been fairly inconsistent.

I want to touch briefly on clause 34. The Minister made some comments when he opened the debate on clause 34. I want to be clear: the Committee's opposition to clause 34, as it stands, should not be translated into the Committee's opposition to public and statutory bodies delivering community safety and the enhancement of community safety in our communities through, for instance, the Design Out Crime initiative and so on. I am not saying that the Minister said that as such, but he needs to accept that, when the clause is brought forward properly, we all must be able to share it and stand over it.

The Minister of Justice: It was not my intention to suggest that there was opposition to the principle behind clause 34. It is clear that there is a general view that we need something like clause 34. The problem is that we have not yet defined exactly what it should be.

Ms Ní Chuilín: I appreciate that the Minister did not mean to suggest that. There is a concern about the potential to make bad legislation and the impact that that will have. It will end up in court and cost more money, and nobody will have responsibility for anything. I do not think that any of us wants to make bad laws, and we do not want to pass those on to public bodies. We have a further opportunity at Further Consideration Stage to get this right, but it is a small opportunity to get this right.

Even before the Attorney General came to the Committee and gave advice, various members had spoken about their concerns around clause 34. Some of us are very active on community safety partnerships; we have been through the arduous task of trying to make some statutory bodies accountable with regard to better community safety and making sure that we do not have community safety by postcode. Some allegations in that regard could, from

my perspective, have been levelled at some statutory bodies, depending on what they were and which room they were sitting in. We do not want that. Likewise, we do not want to end up in court. There are constant ongoing challenges to someone's provision or the statutory obligation to provide services. That is one of the issues that needs to be sorted out, and it was outlined by the Chairperson.

The Chairperson has outlined which clauses we are supporting and which amendments we are and are not supporting. We will table amendments at Further Consideration Stage, particularly in respect of clauses 20, 25, 28 and 31 and the Belfast PCSP model.

Mr Cree: I declare an interest as a member of the Northern Ireland Policing Board. From the outset, the Ulster Unionists have broadly supported the proposals to amalgamate the district policing partnerships and the community safety partnerships into the new PCSPs. That is because the change brings with it the opportunity to prevent waste as well as the introduction of greater clarity.

PCSPs should be a fundamental mechanism through which the public can engage with the police. Those partnerships should act as a forum in which dialogue can be had between the two. The public should be given the opportunity to impress on the police what issues are causing concern in their local area, and the police can act accordingly. It is, therefore, a necessity that PCSPs not only make arrangements for obtaining the views of the public about matters concerning the policing of their community but that they take those views fully into account. For that reason, I welcome amendment Nos 8 and 9 to clauses 21 and 22. Those amendments would make it a core function of PCSPs and DPCSPs to consider fully any views so obtained from the public. That strengthens the voice of the community within PCSPs, and, for that reason, they are positive amendments.

The subject of financial remuneration for those involved in PCSPs has also come in for some debate. Amendment No 52 to schedule 1 provides scope for the council to pay all members of a PCSP such expenses as the council may determine. That allows expenses to be paid to members who do not receive them from their own organisation. Originally, the Bill provided for expenses to be paid only to independent members of the partnerships. I support that amendment, as it could encourage experienced people to become involved in PCSPs and DPCSPs who might not otherwise have considered it possible. That can only improve the quality of partnerships.

Clause 34 places a duty on public bodies to consider community safety implications when exercising their duties. The Committee decided that it will oppose that clause. I believe that that is due to reasons relating to the wide scope of the clause and the potential for costly legal challenges that that brings. There have also been concerns about the implementation and administrative costs of clause 34. The rationale behind the clause is positive, and I know that the PSNI supports the proposal to make other bodies apart from it more responsible for crime and antisocial behaviour. Crime and antisocial behaviour should be tackled using a cross-departmental, cross-agency approach, and placing a duty on public bodies to give due regard to those issues promotes that idea. The police have the main role to play in combating crime and antisocial behaviour, and their performance in that role is held to account by the Policing Board.

A problem with clause 34 is that there is no provision for effective scrutiny of public bodies as they carry out that intended new duty. The potential difficulties with net widening in relation to legal challenges have also not been adequately overcome. Therefore, regrettably, I understand the intention of the Committee to oppose clause 34 and express my disappointment that the Minister could not facilitate an agreeable outcome in that area.

Finally, amendment Nos 48 and 55 would allow the joint committee to issue a list of organisations appearing to the joint committee to be appropriate for designation on to a PCSP or DPCSP. The partnership would have to take that list into consideration when making a designation. However, those amendments do not have the necessary scrutiny function, and, for that reason, I am not convinced of their merit and see no place for them in the Bill.

On the other hand, amendment No 49 will mean that the Department may, by order, designate organisations if a draft of the order has been laid before and approved by a resolution of the House. That amendment is therefore preferable

to amendment Nos 38 and 45 in the scrutiny that it provides.

5.45 pm

Mr A Maginness: I thank the Chairperson and Deputy Chairperson of the Justice Committee for the skilful manner in which they have led the Committee and for the thorough way in which the Committee has dealt with all the matters before it. I thank the Committee staff for their thoroughness and endless assistance. I also thank the Department's officials for their help and co-operation, which, as colleagues said, was first-class.

In relation to clause 20 and the establishment of PCSPs, the SDLP is of the view that that is a proper and timely reform of DPPs and community safety partnerships. We see it as an enhancement of the original concept of the DPPs, which were created as a result of the Patten Commission. It is important to maintain that link with the community, to expand the original role of the DPPs into one of considering community safety in general and to increase community involvement. One of the weaknesses of the present system is insufficient community involvement at DPP level. That fusion is important, and I think that it will work. It is right and proper that the Department came to the Committee with that concept and encapsulated it in the draft legislation. It is important for the Assembly to support that concept and its objectives, which are to provide a greater sense of security and safety for local — I emphasise the word "local" — communities. The more local people and local organisations are involved, the better.

I commend the Committee for emphasising the need for meaningful consultation, for encouraging the Department to expand the way in which the PCSP would operate and for ensuring that the partnership will give full consideration to the views of local organisations and the local community. The addition of the related amendments is extremely helpful because they strengthen the need for the partnership to take into consideration, in a genuine and sustained way, the views of local communities. That is vital to the future success of that organisation.

There was much discussion about antisocial behaviour. I am grateful to the Department for drawing the attention of the Committee to the definition of antisocial behaviour in the Anti-social Behaviour (Northern Ireland) Order 2004:

> *" an anti-social manner, that is to say in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household"*

That is a useful guide to what constitutes antisocial behaviour because we could talk for ages without reaching a precise understanding of what it means. We all know what it means in our lives and in the lives of ordinary citizens, but a definition in those terms is helpful to the Committee and the House.

Along with colleagues, I disagree with the way in which clause 34 has been drafted. Perhaps I will go a little further than most colleagues by saying that, even if amendments were brought to the House in the way that the Minister took quite some time to describe and outline, I am not certain that I would support clause 34. It imposes too heavy a duty on public bodies and would give rise to considerable additional public expenditure and costs. It would also give rise to litigation that could result in actions for compensation, which could be detrimental to the way in which public bodies operate. It might not enhance their view of developing community safety. Instead, it might damage and weaken them and make them risk-averse. In any event, the clause places too heavy a duty, at this point, on public bodies. We should be careful about expanding statutory duties to public bodies at large. There are many statutory duties on public bodies. If we add another one, we will add a not insignificant burden to public bodies.

The Department has not properly costed the proposal. I am not certain that the Department could properly cost the proposal in practice. Imposing a statutory duty on public bodies would mean taking into consideration not just the PSNI or local councils but lots of other bodies, such as the Housing Executive. It is important for us to estimate the cost of that for a wide range of public bodies. The cost could be substantial, which, in times of economic stringency, would not be particularly helpful to those public bodies. I ask colleagues to consider that extremely carefully. It is important that those matters be costed. The Minister will probably be able to reply in more detail on this, but I am not certain that his ministerial colleagues are aware of or are sensitive to what the clause might mean for their Departments.

I am perhaps more strongly opposed to clause 34 than some of my colleagues on the Committee and in the Assembly. I am not

convinced that any future amendment would change my point of view, but I will not rule that out completely. There was a timely intervention by the Attorney General on the matter. I sensed that he was not fully satisfied with the draft amendments that were put to the Committee. Whether or not he is now satisfied with them, I do not know, but his points were very influential in shaping the minds of Committee members on the matter.

On the issue of payment to members of partnerships, it is important that people are properly remunerated for the work that they do. It is public work, and it is important, but it means cost in respect of time, particularly for independent or lay members. It is important that those people receive proper remuneration for their time. It is also important that those who are public representatives and are involved in such bodies be properly remunerated. I will add one caveat to that: if we are looking at local government at large — I am sorry if I am straying a little, Mr Deputy Speaker — we should consider giving local councillors a decent salary, which would end the need for some of them to join committees and outside bodies to enhance their remuneration. As I said, it would be much better if councillors received a decent salary and forwent any outside or additional payments. That would be the proper way to approach things, and, although it is an individual view, it is one that is worthy of some consideration in the House.

There was a difference of opinion between the Committee and the Minister on the issue of designated organisations. I prefer the way in which the Committee has approached the matter, and I support that position.

It is right and proper that councillors, who are elected public representatives, should be able to be chairpersons of partnerships. It is important that we maintain that democratic mandate. That would not take away from the standing of independent members of partnerships, and I disagree with the Minister on that point. Independent members are appreciated and have a very real value to add to partnerships' deliberations. However, there is a special position for councillors. They have a democratic mandate that should be respected. They should be able to become the chairpersons of the partnerships, not just the chairpersons of the policing committees.

There is not a great deal of disagreement over this group of amendments. It may appear that there is, but, in the main, the Committee and the Minister and his officials saw eye to eye. Clause 34 may be the exception to that, but that deals with quite a substantive issue on which disagreements are sincerely held.

Dr Farry: When discussing this group of amendments, it is important that we recognise that the policing and community safety partnerships are the most innovative aspect of the Bill. Hopefully, they will also come to be seen as its most important aspect. In that sense, it is important to understand the thinking behind those partnerships and what they are there to do.

The creation of the new partnerships is a great deal more than an attempt to rationalise the existing district policing partnerships and community safety partnerships. That might seem to be the case at a time of financial pressure, but the problems of having parallel organisations were identified by a number of people over many years. Although there will be some efficiency gains from running the two organisations into one, the new partnerships must be regarded as much more than the sum of their parts. They are concerned with a new way of doing things and a greater degree of localism, partnership and co-operation between councils, the police and different agencies so that they can address the problems of crime, antisocial behaviour and community safety at a practical level in local communities and neighbourhoods.

Although we may be creating a bespoke set of arrangements to reflect Northern Ireland's particular circumstances, we are not reinventing the wheel. The new arrangements draw on a considerable body of evidence that exists elsewhere in the United Kingdom.

It is also important to reflect that the police are in favour of that new type of working. When the current Chief Constable, Matt Baggott, took up his post, he came with very strong credentials in respect of the community policing taking place in the Leicestershire Constabulary and of buying into the wider context of crime and disorder partnerships that have been in existence in Great Britain for quite some time.

6.00 pm

It is important that Members bear in mind what we are trying to achieve. This is not simply a matter of bums on seats, moving people around or whatever we call it. It is about the delivery of change for communities. When people refer to the costs involved and whether it has the potential to become bureaucratic or whether there will be costs for Departments and public bodies in how they comply with potential new duties, it is important to bear in mind the savings that could exist if there were proper community safety partnerships working effectively in Northern Ireland.

Those savings are to be found in how we address crime and antisocial behaviour. If we prevent something happening, the costs to society are far less than a situation where a crime or antisocial behaviour occurs. Those costs are not just the costs to the system of processing offenders but the economic, environmental and social costs borne by those affected by crime and the wider neighbourhoods that are affected by crime. There are also implications for the ghettoisation of neighbourhoods affected by crime and the impact that that has on people's employment opportunities and health and on the prospects for bringing in inward investment. All of that has to be seen as part of a package of joined-up government and how we can make this society work better. Although justice has a role to play, it is a much wider agenda for the entire Executive, the public sector, and beyond the public sector into civil society across Northern Ireland.

In turning to the detail, inevitably discussion is directed towards clause 34. I am speaking with some reluctance and perhaps pragmatism in recognising that we need to have further discussions on finding a form of words that the Committee, the Department and the Assembly can agree on. However, it is important that we try to promote joined-up government, whether between the Executive and Departments or between agencies at the grass roots. We need a mechanism to try to drive that forward. Those mechanisms are in law in other parts of the United Kingdom. Although I understand that some people are expressing a large degree of caution, the examples of practice elsewhere do not bear out that caution. Things have proceeded without the fears that people have promoted coming to pass. We need to be conscious of the wider context.

As we move towards joined-up government, if people say that we must learn to walk before we can run and that we must take it one step at a time, so be it. Hopefully, a revised text of clause 34 will reflect that stage-by-stage approach to how we do joined-up government.

If we are to really make policing and community safety partnerships work, we must ensure that the right people representing the right organisations are at the table with the authority to deliver on behalf of those agencies, and that there is a willingness by the Departments and the agencies involved to engage and, if necessary, to commit resources for collaborative working, so that everyone saves in the long run. Although some organisations may have to dip into their pockets, the savings to the system down the line will be that much greater, not just financially but in terms of all the other costs that are potentially avoided.

Clause 34 is needed, and I strongly disagree with the approach taken by Alban Maginness in suggesting that there may not need to be anything in that stage or that there is a nervousness about anything being done in placing duties on others. I stress that we absolutely do need to have something there.

Mr A Maginness: Will the Member give way?

Dr Farry: Just a wee second.

If it is not going to be the perfect solution, let us at least get something down and experiment with it, learn the lessons from it and return to it in due course.

I give way to Mr Maginness.

Mr A Maginness: I hear what the Member says. However, this matter has not been properly costed. It is necessary to cost it because we are going to put too great a burden, both financially and resource-wise, on to public bodies. We can do that, but we have to prepare for it. One crucial way of preparing for it is to assess what the impact is going to be on a public body. That has not been done, in my opinion.

Dr Farry: That may well be the case with a very narrow reading of the issue. However, the comment that Mr Maginness makes reflects a drawing in of the wagons by public agencies, as they focus on a narrow definition of roles and responsibilities, perhaps set out in statute, for their particular organisations, taking almost a beggar-my-neighbour approach.

However, my point stands. Many Members from many parties, including from the SDLP, have stressed the point in the Assembly that we talk increasingly about the notions of early intervention and preventative work and the need to invest resources collaboratively, with people bringing money to the table collectively and investing up front to prevent things from happening. If we do that, the evidence is borne out. Strathclyde is the shining example. We will find that there are savings to be made, even in the short term, and there will be better product, with communities experiencing a reduction in crime and antisocial behaviour.

Say we have education, health and the police working to identify young people at risk and trying to intervene, through schools and social workers, at an early stage. That may well involve an increased cost up front for the organisations involved. However, if that young person is prevented or discouraged from going down a path of crime or engaging in antisocial behaviour, we are saving money in the court system and in more costly interventions by schools or social services down the line, such as someone having to be taken out of a domestic situation and placed into care. We also avoid the non-financial costs of what that crime and antisocial behaviour would have done to a community. There is a big prize to be found here, through the finances. I plead with Members not to get bogged down in the very narrow concept of a budget line on this, and to see the bigger picture of what this is trying to achieve. Similar models have worked elsewhere, not just in these islands but around the world, providing better and more rounded outcomes for their communities.

Other amendments are causing some particular concern. It is important that we respect these partnerships as such, and we stress the word "partnership". That includes flexibility in respect of giving chairmanships and vice-chairmanships and not being overly prescriptive. Nine times out of 10, there may well be a situation where an elected member ends up in the chair or vice-chair position, but it is important that we are not overly prescriptive in this regard and that we respect that what we are doing is trying to shape local solutions for local problems.

In a similar vein, it is important that we do not overly prescribe the particular bodies that need to be involved in different areas. It well be that the local partnership is better placed to discover which bodies are most relevant to the particular needs of an area.

I certainly agree with the Minister's decision not to oppose the Committee's opposition to clause 34. It is important that we have something of substance at Further Consideration Stage. We should try to take this forward and, at the very least, see how it goes and then return and increase this incrementally as people build up more confidence and see the logic of what this is all about.

Lord Browne: I declare an interest as a member of Belfast City Council, which is mentioned in some clauses. I simply want to direct my remarks to opposition to clause 34, which I know that the Committee examined in some detail. Although it is important and right that public bodies avoid actions that would increase crime or antisocial behaviour problems, it is another matter to impose a duty on a public body:

> *"to do all that it reasonably can to enhance community safety."*

Strabane, Londonderry and Limavady DPPs highlighted the fact that that will create the requirement to "community safety proof", as they put it, all policies and procedures. As we heard, that would place a huge administrative burden on any public body that fell under the remit of the clause. Although some public bodies, such as the police, are necessarily focused on crime reduction, many others do not have a direct input into the process of crime prevention. If this duty were placed on them, it would be more likely to give rise to cases going through the courts than it would to improving people's lives and communities. Indeed, I think that the Attorney General made that point to the Committee. Ultimately, I believe that clause 34 is far too vague and too far-reaching. It may be well intentioned, but it is unlikely to achieve its goal.

The Department claimed to the Committee that it was not its intention to create a large bureaucratic construct to monitor compliance and regulate the process. However, it is very hard to see how that will not be a necessary by-product of the clause, as every public body that is affected will have to follow the assessment and review process for every decision that it has to take.

Mr A Maginness: I agree entirely with what the Member said about clause 34. However, I ask

him to consider that not only does it refer to a community safety duty on a public body but it is complicated. Clause 34(3) states:

> *"References in this section to enhancing community safety in any community are to making the community one in which it is, and is perceived to be, safer to live and work, in particular by the reduction of actual and perceived levels of crime and other anti-social behaviour."*

If that is examined, it could be seen that there could be a situation in which crime or antisocial behaviour have actually reduced, but the local perception in the community is that they have not. So I am not sure how such a duty could be carried out in the context of that clause, which seems to be confused and confusing.

Lord Browne: I thank the Member for that intervention. I understand that the definition of the word "perceived" will add further complications to the clause. Indeed, the only assurance that the Minister promised to the Committee was that there would be consultation before the guidelines for the clause are drawn up. I do not believe that that will go far enough to address the Committee's very serious and far-reaching concerns on the clause.

Basically, clause 34 does not appear to offer the public any real advantage in crime prevention or safety. Conversely, however, as we heard, it holds a large number of unanswered and potentially costly questions for the public bodies that will be subject to it.

Although I oppose clause 34, I welcome amendment No 52, which is in the Minister's name and concerns remuneration. I am glad that that issue has been resolved.

6.15 pm

Mr Givan: As this is the first opportunity that I have had to speak on the Bill, I join others in thanking the Committee staff for all the work that they did to help us carry out our work. I also thank the departmental officials, who certainly gave a good account of themselves. In my view, the Minister can be very proud that his officials fought vigorously for him at every opportunity, at times unsuccessfully, but, on most occasions, ultimately got their way. They did a very good job of making sure that we knew and fully understood all the issues before we took decisions on them.

I will touch briefly on a couple of points relating to this group of amendments. Like other colleagues, I share the concern about the inclusion of clause 34, which deals with the duty on public bodies. I am sure that all Members feel that public bodies should, of course, consider antisocial behaviour and the effects of crime. However, the issue is whether we should put explicitly in legislation a duty on them to do that. Indeed, I feel that we are almost inferring, by seeking to have it included, that those public bodies do not take those matters into consideration, when they, in fact, do. When public bodies are looking at issues, they should be allowed to look at the broadest scheme of things, and then take decisions about how best they can exercise their function. By putting a duty on those public bodies, we are elevating one particular area above all others. Those bodies, then, have to ensure that their functions are organised around a piece of legislation to make sure that they are protected from it.

Mr B McCrea: Does the Member agree with the Chief Constable that there is merit in the spirit of clause 34, that the police quite often find themselves isolated in being responsible for all the actions that are taken, and that they could do with support, particularly over the Twelfth and such like, from other Departments, whether that it is in the form of diversionary activity or other activities. Whatever way we phrase it, and the Member is quite right in saying that we do not want to over-elevate it, we need to find a way to ensure that the police are not isolated and left alone.

Mr Givan: I expressed those sentiments in my opening comments. Every public body should, of course, be concerned about those issues. Whenever those issues are elevated by placing a duty on public bodies, I stand with the Attorney General, who has concerns that such a duty opens up the potential for litigation to the point at which public resources will be spent on defending those public bodies in exercising their functions. People will never be absolutely happy with everything that a public body does, and, therefore, they turn to the courts. It is very clear that Northern Ireland is a highly litigious society, and people will be quite willing to take public bodies to court.

I agree that we should oppose the inclusion of the duty at this stage. I am very reticent to have it included when it is further defined, because, at this point, I still have significant reservations

about the inclusion of the proposals that the Department put to the Committee. I ask myself, what is driving that? Those who are driving towards having a duty are those who are very much focused on the community safety aspect of the work that they do, and rightly so. Indeed, if community safety was all that I was ever interested in, my sole purpose would be to ensure that we create legislation solely with that in mind. However, public bodies need to take on a broader spectrum of views when they exercise their functions. In my view, placing a duty on them makes that job much more difficult.

In my experience, we too commonly have government by writ rather than by wit. The duty would impose that problem on public bodies, whereas at the moment they can take matters into consideration without a duty having to be placed on them. I have considerable concerns about clause 34 and about its future inclusion when we get to Further Consideration Stage. I wait to see what comes from the Department and the Executive on the issue.

We have reached a compromise position on the designation of the specified groups. Local bodies should be given freedom to decide what is best for them when it comes to having designated organisations on the new partnerships. We should specify single bodies that can be identified across the board and with which all local partnerships are content. However, I am content with the compromise position that we have reached.

I thank Committee members for supporting me in taking forward the issue of the chairperson and vice-chairperson of the new partnerships. We have moved away from direct rule. Under devolution, we put power into the hands of locally elected representatives. We are setting up partnerships that will include councillors. Councillors will be in a minority on them. That is an issue in itself, but I will tolerate it. I felt that it was a compromise position for an elected member to hold the position of chairperson for the reason that that person is an elected member. In my experience, independent members do a good job on district police partnerships. However, the public have not given them a mandate to be there. Politicians, who have been given a mandate, should be given greater weight and responsibility to carry out those duties.

My concern with councillors being in a minority was that councils would not fully commit themselves to working the partnerships. My experience on the South Eastern Education and Library Board, on which councillors were in a minority, was that the independent members grouped together to the exclusion of all elected members of that body. I do not believe that the Alliance Party was represented in that organisation, but every other party in the Chamber had members on it. We did not hold the positions of chairperson or vice-chairperson of that organisation. It created an unhealthy tension, and elected members, rightly or wrongly, were able to act in perhaps not the most responsible way. I will go as far as to say that. When elected members are put in positions of responsibility, where they have to exercise power, they will usually do so. Some on our own Executive have that ministerial responsibility and are perhaps not exercising it in the most responsible way, but I digress.

The arrangement that I suggest will ensure that councils will buy into the process by having a councillor in the position of chairperson. It does not in any way reflect on independent members' ability to do the job. However, it creates the correct distinction, in that elected members have a mandate to be there and, therefore, should be empowered to take up positions of responsibility.

Mr McFarland: I welcome the final sorting-out of the DPP and CSP difficulty. I was a member of the Policing Board when DPPs were set up back in 2002. When the NIO set up CSPs shortly after, there ensued quite a row over who would do what and what the powers would be. That row has wrangled on since then, so I thank the Minister for finally — hopefully — sorting it out.

I want to try to get the Minister to clear up some confusion. When DPPs were set up originally, we spent quite a lot of money on managers and secretaries. The idea was that councils would take DPPs under their wing for the first year and eventually allow them to fly of their own accord. DPPs were to be semi-independent and able to do their own thing. Some councils allowed that to happen, but other councils resolutely refused. Some DPP secretaries are chief executives of councils to this day. Indeed, DPPs effectively became council subcommittees. Will the Minister clarify how it will work now? Will councils free up PCSPs to run semi-independently, or are they likely to come under

complete council control, with chief executives running them as subcommittees of councils?

Mr B McCrea: I am grateful for the opportunity to add a little bit to this debate, and I declare an interest as a member of the Northern Ireland Policing Board. I want to deal with clause 34, which is a matter of some concern when we look at DPPs, CSPs or PCSPs, as they will be called. The police have made representations about the fact that they really want to make sure that they are not isolated in their duty to deliver remedies against antisocial behaviour. It is really important that we find a way of making sure that our public bodies work together in unison and as appropriate. I am quite sure that my colleague Mr Cree will have put forward the argument that the principle of getting public bodies to work together and to take on board a responsibility for dealing with a whole lot of issues should be accepted, but that it is important that the legislation is drafted in a way that does not overburden those bodies. Nevertheless, I just want to put on record the reason why we oppose clause 34. It is not because of its spirit; rather, it is because we want something that is much better, more properly thought out and is actually supportive.

The Minister of Justice: In making my winding-up speech on this group of amendments, it is appropriate that I welcome Members' general support for the direction of travel in seeking to enhance the work of the two existing sets of partnerships and to establish the new PCSPs. It is clear that some Members see that proposal as an enhancement of the Patten report, while others see it as an enhancement of local partnership. Other Members talked about community safety issues. However, for whatever reason, there has been general support, particularly for issues such as enhancing funding and the role of public consultation.

Let me just say a word or two about my past experience as a member of Antrim Borough Council at a time of Antrim DPP and as a member of Antrim CSP. Like Alan McFarland, I remember CSPs being established not that long after DPPs were established, and, even at a very early stage, it was clear that there was the potential for, if not exactly conflict, a lack of understanding when broadly the same group of people met in the same room at different times of the month to discuss broadly the same issues. Legitimate questions were asked about why the NIO had gone down the road of setting up a second set of partnerships. I am, therefore, delighted that we are addressing that problem in this first Bill after the devolution of policing and justice powers and that we are actually working in tune with what is happening in many parts of Northern Ireland at the moment to bring things together.

I do not know whether Alan McFarland was quite right when he talked about DPPs being designed to "fly off". I am not sure to where they were designed to fly off. However, the structures that I am putting forward are certainly based on what I see happening as I go round and talk to people in different areas. In some council areas in Northern Ireland, there is a centralised partnership staffing arrangement whereby the DPP manager and the CSP manager is one and the same person, and that enhances the ability to work together. There are also some places where exactly the same group of councillors sits on each of the partnerships or where the same person is the chairperson on a year-by-year rotation.

The structures recognise the reality that the way in which those two partnerships have been set up to work is not ideal and is not meeting the needs of local communities. That is why I believe that there is clear agreement on the general direction of travel that we are proposing. It is in line with what I might call flexible evolution on the ground, unless I were to offend some members of the DUP by using the word "evolution". The reality is that both partnerships have evolved. We have seen changes, and that flexibility is what we are now seeking to build on.

Lord Empey: I thank the Minister for giving way. During the Committee's discussions, it became clear that one of the issues that is not necessarily addressed in the Bill, but which I hope can be addressed over time, is the sheer number and complexity of arrangements for involving the community. In addition to the proposals here, there are PACT arrangements at ward level, CPLCs and various other forms of community involvement in policing. Those arrangements not only involve high fuel consumption in respect of police time but are immensely complicated for an ordinary member of the public who wants to get their point across.

There are about four different routes. This compresses two of those, which is fine as far as it goes. However, does the Minister agree that much more clarity has to be brought

to the situation so that there is a simple, straightforward mechanism in place? All those things, including the PACT arrangements, mean that significant amounts of police time are spent attending meetings that we appear to be duplicating and triplicating, with the same people turning up at DPP meetings, PACT meetings and all the other meetings. Although what is proposed is fine as far as it goes and although I support the concept, this is unfinished business. I would like to hear the Minister's views on that.

6.30 pm

The Minister of Justice: I am not sure whether I am supposed to refer to him as Sir Reg or Lord Empey at this point, but the Member for East Belfast raises an interesting point. We are seeking to balance flexibility for local working with simplicity of structures. The issues around PACTs and CPLCs vary from one area to another, and, in many cases, within one policing area there will be different structures in different areas. The proposals in the Bill will provide the key underpinning partnership arrangements. Within that, there is an option for local solutions to meet very localised needs, which may continue to be through CPLCs or PACTs. That will be a decision for local people on the ground. That is entirely in keeping with my desire for flexibility, although I agree that it does not necessarily provide simplicity. However, if police see the benefits of engagement at a very local neighbourhood level, the last thing that I would wish to do is stop that engagement. I want to ensure that we provide the right structures for engagement at district council and police area level, and we have already highlighted some of the issues where that relates to difficulties in Belfast.

The other issue that might have been highlighted is how local councils will progress as regards community planning issues. What is proposed in the Bill for local policing and community safety partnerships is entirely compatible with the direction in which we may see community planning moving in future years. However, that could not be left waiting until the other aspects of community planning and local government reform were sorted out.

I turn initially to clause 34, which was where I finished and which the bulk of the conversation has concerned. It started with Lord Morrow raising the serious concerns of the Committee. He also highlighted the concerns of other Departments and the Attorney General around what was originally proposed for clause 34. In a sense, it seems somewhat nugatory work to spend a lot of time this evening discussing clause 34 when, in a few moments, we will almost certainly not see it stand part. However, we have to be absolutely clear that the principle behind clause 34, if not the exact wording as currently appears, is strongly supported by a huge range of stakeholders, including councils, many of the local partnerships and, principally, the police and the Policing Board, although other Departments and the Attorney General have expressed their reservations about how it may operate.

Given the recent history of where the Department of Justice was until 11 April 2010, I am always cautious about drawing analogies with England and Wales. However, the reality is that similar legislation in England and Wales does not attract masses of litigation. In fact, the total amount of litigation that has happened in England and Wales under a duty similar to that in clause 34 could be counted on the thumbs of two hands or, possibly, the thumb of one hand. Although there are genuine concerns that the duty may lead to litigation, we need to check against the practical reality elsewhere. It is in that context that I seek to ensure that, by bringing clause 34 back and seeking revisions to it, we will have a replacement clause that will meet the legitimate concerns of some Departments. However, we cannot remove the fundamental duty to promote community safety from organisations that have a significant input to that.

A significant variety of views were expressed this evening across the Chamber, varying across a spectrum that is occupied by Alban Maginness and Paul Givan at one end and Basil McCrea and Stephen Farry at the other. I am not sure what that says about those combinations of Members or who is most embarrassed about that. However, as we develop a replacement clause, I am seeking to develop the balance between addressing the concerns that have been voiced and maintaining the principle of the duty as it was originally intended and as it is strongly supported, most particularly by the Police Service. In that sense, it is fairly analogous to some of the other responsibilities that Departments have. Every Department has a responsibility to rural-proof, but we do not hear about litigation on that every week. We need to

ensure that the duty is not excessively heavy and that it is focused on the areas where it is most relevant and most realistic. Nonetheless, there is a need for that duty.

If the vast majority of public bodies are carrying out their duty, as has been suggested, there should be no problem with the requirement to ensure that others live up to their responsibilities. It may also be the case that some bodies with regional responsibility are better in some areas than others because of personality issues. That is the sort of incentive needed to ensure that all bodies live up to best practice as seen elsewhere. We could look at that issue. However, as Alban Maginness highlighted, there is an issue of cost. This has not been costed, and he suggested that perhaps it could not be costed. That may well be the case. However, we cannot count the opportunity costs or the real cost to society if we fail to deal with community safety issues and end up following through with a vast amount of other costs as crime and antisocial behaviour grow. If we cannot find the right means of ensuring that we tackle issues before they become problems, we will end up paying huge costs.

Mr A Maginness: I understand what the Minister says, but he is putting it in stark terms as being between a public body that is carrying out a duty for the purposes of public safety and dealing with crime and antisocial behaviour. It is not a stark choice. Nobody is suggesting that any public body should not pay attention to and carry out its functions in trying to reduce crime and antisocial behaviour. The Minister is taking the wrong approach, and he is putting it in too stark a context. It is not a black-and-white situation.

The Minister of Justice: I thought that Mr Maginness was on the point of agreeing with me in saying that bodies were carrying out their duties having regard to community safety, but —

Mr A Maginness: Well, they are.

The Minister of Justice: If that is the case, it should not be a problem, but, by accepting that clause 34 will not proceed and that we will seek to carry something forward in a way that is entirely proportionate and meets the legitimate concerns that have been expressed, we have acknowledged that it is not actually black and white; there are shades of grey. However, much of the legislation that we make is concerned with shades of grey.

We will seek to ensure that we get a relevant and appropriate package of responsibilities. It may be more onerous on some Departments whose work is directly related to issues around crime and antisocial behaviour than to others, but I believe that that is the essence of ensuring that we get the partnerships to work well. We will ensure that we find the appropriate way of limiting the scope of the clause to the relevant bodies; of limiting exactly how it is applied; and of ensuring that we have proper clarification through guidance that could be used as a defence in legal matters. Those are the sorts of issues that we are looking at, and I am committed to ensuring that there is full consultation with other Departments as we move that forward. However, at the end of the day, we are debating a clause that we are proposing to delete. I hope that, at Further Consideration Stage, we will have a clause that satisfies all the concerns that have been expressed from both sides.

Lord Morrow and Carál Ní Chuilín both mentioned potential concerns about the complexity of some of the arrangements in Belfast, and I entirely acknowledge those complexities. Those are inherited in the sense of the existing pattern of DPPs in Belfast and the function of the current operation of the four police areas that operate in the city. I would be much happier if everywhere was as simple as Antrim or Newtownabbey, where there is a one-for-one arrangement, but that is not the way in which things currently work in Belfast. For that reason, we have been having significant discussions with Belfast city councillors. I had a meeting a couple of weeks ago with an all-party group, and we are continuing to work at official level to see what the opportunities are. If Ms Ní Chuilín or any Member wishes to suggest explicit proposals to simplify the structures for Belfast, I would be delighted to hear them at Further Consideration Stage. At the moment, we have the Department's best guess at the system that best meets the needs of the existing arrangements for DPPs and CSPs and allows us to move forward in a way that is consistent with what different parts of the House regard as the future necessities. However, let us see what opportunities there are. If we can simplify the structures, I am certainly open to that. I recognise that Belfast has a fairly unwieldy structure. We are seeking to improve how that works.

There was some debate about the designation of public bodies for inclusion in the partnerships. Lord Morrow described my approach as something of a halfway house. I suppose that, in a sense, it was a halfway house because it was an attempt to produce a compromise. I regret that we have not managed to reach a compromise on that point at this stage. It comes back to a point that I emphasised in my opening remarks on this group of amendments: flexibility has to be the key issue for ensuring that each PCSP works to the best of its ability in its area. That is why I want to give each partnership the opportunity to tailor its make-up as appropriate and to strike its own balance.

It is clear that some organisations will always be included in every partnership. It is inconceivable that the Police Service, the Housing Executive and the Probation Board will not be seen as key partners in each of the 26 districts and, indeed, in whatever subgroups there may be in Belfast. However, it is important that the partnerships retain a degree of autonomy, which is not what the amendment would provide. The Committee's preference for compiling a list of specified organisations, unless it is an extremely short list, risks undermining the principle of local flexibility. It would also undermine a key principle put forward by a number of Members, which is that elected members should have a degree of primacy. If we have an excessive number of specified other organisations, we will end up with elected members making up an even smaller proportion of the partnership than they otherwise would. At the moment, they are likely to be the largest group, but not a majority, in the partnership. The central designation of too many groups could lead to a large and unwieldy group in which the influence of local councillors would be reduced even further.

There are dangers in the Committee's recommendation that the process of designating or amending designations be made through the Assembly by affirmative action. It is my understanding that that is the how the process operates in England and Wales. At the risk of repeating the concern that I aired a few minutes ago, a system that does not work terribly well and has had its list of organisations continually amended through formal parliamentary procedure would not be a good idea for us. A greater degree of flexibility would be easier and would be better operated. That could be done through the informal compiling of a list by the Policing Board and the Department rather than through the formalities of the full procedure that the Committee proposes.

The other area that probably attracted the greatest attention was the issue of the chairperson and vice-chairperson of the overall partnership. As I said, the arrangement for the policing committee is a four-party rotation, depending on the outcome of each set of local elections. As the policing committee carries forward the work that the DPPs have done up to now, I understand the importance of that rotation in recognising the democratic mandate. However, the focus of the overall partnership has to be on community safety, and the delivery of safer communities does not require the chairperson to have a specific electoral mandate. Many people play a part in community life. Many members of CSPs and independent members of DPPs play their part without an electoral mandate. I do not believe that we are really saying that councils will engage fully only if the chairperson has an electoral mandate. We see in DPPs and CSPs that independent members, elected members and those who represent other agencies can produce valuable contributions to the work of those partnerships. It is folly to suggest that an independent member, a local senior probation officer, a housing manager or a team leader from the Youth Justice Agency could not, in a year as chairperson, show that he or she could bring that partnership together in a slightly different way. The suggestion that councils may somehow withdraw from involvement in the partnerships if a councillor is not the chairperson is somewhat invalidated by what we see of the operation of the DPPs.

6.45 pm

Surely the divisions between parties that apply when the chairperson of a DPP rotates could produce just as much of a suggestion that people would be unhappy and might withdraw. Members must consider whether, by insisting on a councillor chairing the partnership as well as the policing committee, we are in danger of being seen to secure jobs for the boys — let us face it, it is mostly boys — who happen to be our political colleagues. I am not sure that the public want to see that. Such an approach insults, to a degree, others who participate in the two partnerships at the moment and will participate in the partnerships in the future.

It is unnecessary to require that the overall partnership always be chaired by a councillor. The key issue for councils must be the safety of local communities. I would expect councils to participate in delivering that, whoever is in the chair, given that the most votes being cast for the chairperson by any single group would be those from councillors. Therefore, the Committee's amendment No 51 is unnecessary, and I urge the House to reject it.

Question, That amendment No 8 be made, put and agreed to.

Clause 21, as amended, ordered to stand part of the Bill.

Clause 22 (Functions of DPCSP)

Amendment No 9 made: In page 18, line 21, at end insert

"and to consider fully any views so obtained". — [The Minister of Justice (Mr Ford).]

Clause 22, as amended, ordered to stand part of the Bill.

Clauses 23 to 33 ordered to stand part of the Bill.

Clause 34 disagreed to.

Clause 35 ordered to stand part of the Bill.

Clause 36 (Regulated matches)

Mr Deputy Speaker: We now come to the third group of amendments, which deal with the regulation of sports. With amendment No 10, it will be convenient to debate amendment Nos 11 to 26, 61 and 62 and opposition to clauses 41 to 43 and clause 45.

The Minister of Justice: I beg to move amendment No 10: In page 25, line 26, leave out paragraph (c).

The following amendments stood on the Marshalled List:

No 11: In page 25, line 29, at end insert

"(e) in Chapter 6, to a match to which any of the paragraphs of that Schedule applies." — [The Minister of Justice (Mr Ford).]

No 12: In page 25, line 32, leave out from "two hours before" to end of line and insert

"one hour before the start of the match or (if earlier) one hour". — [The Minister of Justice (Mr Ford).]

No 13: In page 25, line 34, leave out "one hour" and insert "30 minutes". — *[The Minister of Justice (Mr Ford).]*

No 14: In page 25, line 38, leave out "two hours" and insert "one hour". — *[The Minister of Justice (Mr Ford).]*

No 15: In page 25, line 39, leave out "one hour" and insert "30 minutes". — *[The Minister of Justice (Mr Ford).]*

No 16: In clause 37, page 26, line 8, leave out "anything" and insert

"any article to which this subsection applies". — [The Minister of Justice (Mr Ford).]

No 17: In clause 37, page 26, line 13, at end insert

"(1A) Subsection (1) applies to any article capable of causing injury to a person struck by it." — [The Minister of Justice (Mr Ford).]

No 18: In clause 38, page 26, line 22, leave out "an" and insert "a sectarian or". — *[The Minister of Justice (Mr Ford).]*

No 19: In clause 38, page 26, line 25, leave out "religious belief,". — *[The Minister of Justice (Mr Ford).]*

No 20: In clause 38, page 26, line 26, at end insert

"(3A) For the purposes of this section chanting is of a sectarian nature if it consists of or includes matter which is threatening, abusive or insulting to a person by reason of that person's religious belief or political opinion or to an individual as a member of such a group." — [The Minister of Justice (Mr Ford).]

No 21: In clause 44, page 28, line 32, leave out "or from". — *[The Minister of Justice (Mr Ford).]*

No 22: In clause 44, page 29, line 6, leave out subsection (5). — *[The Minister of Justice (Mr Ford).]*

No 23: In clause 44, page 29, line 15, leave out paragraph (c). — *[The Minister of Justice (Mr Ford).]*

No 24: In clause 49, page 33, line 6, after "up" insert "sectarian hatred or". — *[The Minister of Justice (Mr Ford).]*

No 25: In clause 49, page 33, line 8, leave out "religious belief,". — *[The Minister of Justice (Mr Ford).]*

No 26: In clause 49, page 33, line 14, leave out subsection (3) and insert

"(3) For the purposes of this section sectarian hatred is hatred against a group of persons defined by reference to religious belief or political opinion or against an individual as a member of such a group." — [The Minister of Justice (Mr Ford).]

No 61: In schedule 3, page 81, line 7, leave out from "or" to end of line 9. — *[The Minister of Justice (Mr Ford).]*

No 62: In schedule 3, page 81, line 19, leave out from "or" to end of line 21. — *[The Minister of Justice (Mr Ford).]*

The Minister of Justice: I will describe how the package of sports law provisions will be adapted and applied. Amendment No 10 would remove clause 36(1)(c) and is purely consequential to my intention that clause 45, which covers ticket touting at football matches, should not stand part of the Bill. It would help if I explained my reasons for removing clause 45 and the effect that that has on the lead amendment.

At Committee Stage, members opposed the creation of provisions to combat ticket touting at football matches. They felt that there was little need for such powers, given the nature and attendance levels of our local games. They also felt that considerable confusion could be caused around the legitimate transfer of tickets to family or friends.

I had reservations about removing the provisions, because ticketing and crowd segregation needs to be managed for safety purposes at large international matches with full houses. Indeed, there have been such matches recently. With the assistance of the Minister of Culture, Arts and Leisure, I secured agreement from the IFA that ticketing arrangements would be reviewed by the association ahead of the 2011-12 season, with a view to improved arrangements. On that basis, I am satisfied that football match organisers will address any need to segregate fans, without the requirement of introducing a ticket touting offence. The Justice Committee supports the removal — I thank it for its advice and assistance on the provision — as does the IFA and football supporters. Amendment No 10, therefore, removes the reference to chapter 4 ticket touting and its connection to regulated matches.

Amendment No 11 inserts into clause 36 an appropriate reference to the provisions of chapter 6, which deals with enforcement matters. The inclusion of chapter 6 in that way ensures that the sports provisions can be enforced appropriately by reference to powers given to the police in chapter 6. It is not a new policy, but it was omitted inadvertently from the Bill at its introduction and is now included for completeness.

Amendment No 12 is part of a small package with amendments Nos 13, 14 and 15 that together reduce the period during which the Bill's in-ground offences of missile throwing, chanting, pitch incursion and so on will apply. The Committee and stakeholders advised me that the period that was originally provided for — from two hours before a match until one hour after it — was unnecessarily long. In response, I now believe that a shorter period of one hour before a match until 30 minutes after it will, in practice, be long enough.

Amendment Nos 16 and 17 together pick up a helpful suggestion from the Committee about the offence of missile throwing at regulated matches. It sharpens the focus of the offence to be solely on throwing articles that have the capacity to injure someone. The amendments will, therefore, exclude relatively harmless items from the scope of the offence.

Amendment Nos 18, 19 and 20 are again a response to the Committee's views that the proposed offence in clause 38 to tackle offensive chanting should make specific reference to sectarianism. It had always been my intention that the new chanting offence would cover sectarian chanting. However, I very much agree with the Committee's suggestion that an explicit reference should be made in the relevant provision to sectarian chanting. Members will note that the proposed definition of the word "sectarian" reflects my view that, in this context, sectarianism is about matters that are hurtful on the basis of a person's religious beliefs or political opinion. A parallel adjustment on sectarianism is made to clause 49 by amendment Nos 24 to 26 to make it explicit that stirring up sectarian hatred is covered in the definition of disorder.

I will turn now to the three clauses that deal specifically with alcohol, namely clauses 41 to 43. The Chairperson of the Committee for Justice has given notice of the Committee's intention to oppose the inclusion of those three clauses. That would remove the offences

of being drunk, possessing certain drink containers or possessing alcohol on the terraces at a regulated match. The Committee agreed with me that alcohol at games should be controlled, but it did not agree that the clauses were the correct approach. It did not feel that new criminal law was needed but felt that clubs already regulate themselves and that the clauses could be unworkable.

Ulster Rugby had a particular concern about clause 43, which makes it an offence to have alcohol in a part of the ground from which the match may be directly viewed, except in private viewing facilities such as executive boxes and social clubs. In response, I tabled amendment No 46 to clause 107, the effect of which would be that, before clause 43 could be brought into operation, the Assembly would have to vote to approve the commencement Order. I will return to that during discussion of the group 6 amendments.

Although I have noted those concerns carefully, I remain strongly of the view that alcohol abuse can and does exacerbate crowd control problems inside grounds. The intoxication of supporters inside a ground can make a critical difference. I do not just mean in situations where rival fans are threatening disorder; I also mean emergency evacuations such as, for example, in the event of a fire or some other dangerous incident. So, I contend the importance of the retention of clauses 41 to 43, and I note that the Minister of Health, Social Services and Public Safety, Michael McGimpsey, and the Minister of Culture, Arts and Leisure, Nelson McCausland, agree with me on those points. However, I appreciate the different circumstances that apply to each sport as regards the availability of alcohol at matches. That is why I have agreed to consult fully with all concerned before any element of clause 43 is commenced and why I have tabled amendment No 46 to require a vote of the Assembly before a commencement could proceed.

Amendment Nos 21 to 23 apply to clause 44, which creates offences in connection with alcohol on vehicles. Again, the Justice Committee felt that the Bill went too far in controlling the possession of alcohol on the way both to and from matches in that way. Having also consulted Sport NI, I now agree that some relaxation of the original proposals for drink on vehicles is in order.

Members will recall that clause 44 addresses drinking on special buses en route to and from regulated sports matches. My amendments would limit the effect of the offences to journeys to matches by excluding journeys from matches. In addition, the proposed offence of being drunk on a relevant vehicle would be excluded from the Bill. The Committee supported those changes, as did the IFA and the football supporters.

Amendment Nos 61 and 62 reflect concerns that the proposed sports offences might apply to matches where crowd control difficulties should not be expected to occur. Schedule 3 sets out the particular sorts of matches to which the various offences and banning orders will apply. Paragraphs 6(b) and 8(b)(ii) of schedule 3 include rugby and Gaelic matches played at grounds that have a stand that requires a safety certificate under the Safety of Sports Grounds (Northern Ireland) Order 2006. I am now advised and I accept that such venues are very unlikely to pose crowd control difficulties that would require criminal sanctions. Therefore, the amendments would exclude matches at such venues from the list of regulated matches. Again, the Committee supported that adjustment.

I contend the importance of the retention of clauses 41 to 43 and the other alcohol-related clauses. However, I appreciate the different circumstances that apply to each sport regarding the availability of alcohol at matches. I repeat that that is why I agreed to consult fully with all concerned before any element of clause 43 is commenced, and that is why I tabled amendment No 46 to require a vote of the Assembly before commencement could proceed. That concludes the explanation of the third group of amendments.

The Chairperson of the Committee for Justice: Part 4 of the Bill is designed to create a new package of powers in the area of sport and spectator law and applies specifically to football, GAA and rugby union. This part of the Bill raised fundamental issues and concerns for the Committee, and we made a series of recommendations for amendments, many of which the Minister agreed to take forward. The Committee will oppose the Question that three clauses stand part of the Bill.

On the first set of amendments, Nos 10 to 15, the Committee considered views that

were expressed in the evidence on the sports clauses, particularly the time period that would apply to regulated matches, and questioned the Department on whether the proposed period of two hours before and one hour after a match was excessively long. In light of the concerns that were raised on the issue, the Department informed the Committee that it proposed to make an amendment to reduce the period during which the powers would apply to regulated matches by half, to one hour before a match and 30 minutes after it. The Committee agreed that that is a more sensible and appropriate approach and supports amendment Nos 10 to 15.

Amendment Nos 16 and 17 relate to clause 37, which covers the throwing of missiles. The Committee believed that the wording that is used in the clause — "to throw anything" — was too wide and vague and could cover incidents such as a scarf or a cap being thrown. The Committee supported the provision on the basis that it enhances the current law and affords extra protection to players, officials and spectators but asked the Department to consider including the word "missile" in the clause to reflect properly what it is trying to achieve. Although the amendments do not include the word "missile", the wording applies to any article that is capable of causing injury to a person who is struck by it, provides greater clarity around the intention of the clause and focuses on items that are likely to cause injury. Therefore, the Committee is content to support amendment Nos 16 and 17.

Amendment Nos 18, 19, 20, 24, 25 and 26 deal with sectarianism. All those amendments were tabled by the Minister following a recommendation by the Committee, and they have our full support. When the Committee considered clause 38, which relates to chanting at sporting events, it asked why sectarianism was not covered. Although the Department indicated that it was covered under the more general definition in clause 38, the Committee was of the view that, to send out the right message, it should be stated explicitly in the clause. The Department agreed to look at the possibility and, before the end of Committee Stage, advised the Committee that it was willing to table such an amendment.

The Department also proposed to make a similar amendment to clause 49, which deals with banning orders for violence and disorder, and the Committee welcomes that development.

7.00 pm

Clause 44 deals with offences in connection with alcohol on vehicles travelling to regulated matches. The evidence indicated a divergence of views between the different sports. The Irish Football Association and the Amalgamation of Official Northern Ireland Supporters Clubs suggested that the offence of having alcohol on vehicles going to and from a match should be dropped, but the GAA welcomed the offence for people travelling to matches.

The Committee questioned the logic of including restrictions when travelling home from a match and had concerns about the necessity for the clause at all. In response to the Committee's concerns and taking account of the views of the sporting organisations, the Minister brought forward amendment Nos 21, 22 and 23, which remove entirely the offence of being drunk on a vehicle and restrict the clause to provide only for an offence of consuming alcohol on a specified vehicle for journeys to a designated match. There will be no restrictions on the way home. The Committee is satisfied that the amendments largely address the concerns that it had in relation to clause 44 and, therefore, will support them.

Clause 45 applies only to football. During the Committee evidence sessions, a question was posed regarding whether the provision was about ticket touting or whether it was about ensuring segregation of rival supporters. The Department subsequently informed the Committee that the Irish Football Association and the Amalgamation of Official Northern Ireland Supporters Clubs had made representation that controls on the sale of tickets and segregation of rival fans can be addressed adequately by the initiatives developed by the IFA, in conjunction with member clubs.

The IFA intends to review the way that tickets are distributed and sold for domestic games, with a view to implementing new regulations for the start of the 2011-12 season to ensure that clubs control and account for any tickets sold on their behalf. In the light of the IFA's suggestion that it can control the sale of tickets appropriately through self-regulation, the Department advised that it intended to withdraw the ticket-touting provision. The Committee

agrees that self-regulation is the best approach and supports the Minister's intention to oppose clause 45's standing part of the Bill.

In relation to amendment Nos 61 and 62, the GAA advised the Committee during the oral evidence sessions that it had asked for the designation of stands requiring a safety certificate, as outlined in schedule 3, to be reviewed as it widened the scope of the legislation too far. Following further consideration of the matter, the Department informed the Committee that it intended to remove sports grounds at which there is a stand requiring a safety certificate, thereby ensuring that the provisions apply only to matches at designated grounds. The Committee agrees that that is a sensible approach which will avoid applying the legislation to matches with relatively low or minimal attendances, and it supports amendment Nos 61 and 62.

I now want to turn to the three sports clauses that the Committee opposes. They are clause 41, which relates to being drunk at a regulated match; clause 42, which relates to possession of drink containers, etc; and clause 43, which relates to possession of alcohol. Let me be absolutely clear: in no way does the Committee condone an irresponsible attitude in relation to alcohol or bad behaviour at sporting grounds or events. However, the Committee remains unconvinced of the necessity for those three provisions and does not believe that the Department has presented a strong enough case to justify the need for further criminal offences, given the legislation and powers that are already in place.

The Committee is also of the view from the evidence received that if those offences are brought in, they are unlikely to be enforceable and will be impractical. The Committee does not wish to make legislation for legislation's sake and believes that the law already in place, together with self-regulation by the relevant sporting bodies, is the better approach to take. The Committee for Culture, Arts and Leisure reached a similar conclusion in respect of those clauses, questioning their necessity on the basis of existing legislation and regulation by sports governing bodies. It is interesting to note that the Minister is now willing to accept that self-regulation is the better approach to adopt in relation to ticket touting and is willing to drop clause 45, but is not willing to adopt a similar approach to these clauses.

I will now explain the Committee's position on each clause. Although the Committee does not disagree with the objective of clause 41, it is strongly of the view that the clause is unnecessary for two reasons. The first is that adequate legislation is already in place and enough powers are already available to deal with the situation. Moreover, three sporting organisations confirmed that procedures are already in place to refuse entry or to remove persons from their respective grounds if they behave in a drunken or disorderly way. The second reason is that the provision is unlikely to be enforceable. The fact is that the PSNI is in attendance at few sporting matches; therefore, reliance would be placed on stewards and volunteers to provide evidence. The Public Prosecution Service, in written evidence, indicated that clause 41 does not include a definition of drunkenness:

> *"Accordingly, an assessment of a defendant's condition is likely to be open to challenge on a number of grounds, including that such assessment is subjective and wrong",*

It could be difficult in certain circumstances to satisfy the test for prosecution to prove the commission of an offence to the requisite criminal standard, namely "beyond reasonable doubt". The Committee does not accept the Department's argument that the clause is required as current law may not be sufficient to deal with someone who is drunk in a sports ground. Therefore, it agreed to reject the clause in its entirety.

The Committee also has strong reservations about clause 42, which relates to the possession of drinks containers, etc, and whether it is necessary. Having discussed it with the Department, the Committee is of the view that it would be very difficult to enforce and impractical to work. The provision aims to prevent drinks containers being thrown or used as weapons by creating a criminal offence of being in possession of a disposable bottle, can, etc. Although the intention is laudable, when pressed on how the provision would work in practice, the Department confirmed that, in its view, other items such as flasks and babies' bottles, which would not be considered as likely to be discarded, could be allowed in at clubs' discretion. It was the Committee's view that those items could do as much, if not more, damage if thrown than articles that are covered by clause 42.

Confirmation was also provided that in many instances, for safety reasons, sports clubs already removed drinks containers from spectators entering a ground under their own regulations. The Committee is of the view that self-regulation by sporting organisations in that area is preferable to creating more criminal offences. It remains unconvinced of either the need for clause 42 or, if it were to be adopted, the enforceability of it.

The Committee has serious reservations about the necessity of clause 43. No evidence was presented to the Committee to suggest that that issue was causing a significant difficulty or seriously disrupting the many sporting events that thousands of sports fans attend regularly and which are ably managed by sporting organisations themselves. However, serious issues about the implications of the clause, particularly with regard to rugby, were brought to the Committee's attention.

The Committee is of the view that the provision is unnecessary as evidence has not been produced to show that there is a problem that needs to be addressed. The Committee is concerned that varying the application of the provision to the different sports, as proposed by the Department, could be discriminatory and does not view that as a reasonable or sustainable approach. The Minister either believes that there is a need for the clause, in which case he should put forward an argument that it should apply to all three sports immediately, or he does not believe that there is a need for it in any or all of the three sports, in which case he should not bring forward the legislative proposal at all.

It is the Committee's view that the provision will have implications for the future financial viability of Ulster Rugby and, with regard to rugby and GAA, is inconsistent with legislation elsewhere in the UK and Europe. The punishment of three months' imprisonment for possession of alcohol also appears unfair, given that the fine for being drunk is only £1,000. Since completion of the Committee Stage of the Bill, the Committee has received further correspondence from Ulster Rugby that makes it clear that it wants rugby to be removed from clause 43 entirely.

Ulster Rugby is not content with the Minister's proposed approach of relying on a commencement Order by way of affirmative procedure, despite indications to the contrary by departmental officials when the Committee was considering the clause, and it believes that rugby's inclusion in the legislation will seriously impact on its commercial viability.

The Committee for Justice does not support the creation of criminal offences where a need has not been justified and wishes to avoid creating legislation for legislation's sake, particularly when self-regulation by the relevant sporting bodies is preferable and satisfactory. The Committee is at a loss as to why the Department wishes to introduce the clause, particularly when the sporting bodies did not identify a need for it.

The Committee does not condone bad behaviour in any shape or fashion at sporting events. However, clauses 41, 42 and 43 are unnecessary, unenforceable and impractical. The Committee seeks the support of Members in opposing them.

Mr O'Dowd: Go raibh maith agat, a LeasCheann Comhairle. As this is the first occasion that I have spoken today on the Bill, may I join in the comments that have been made about the work that Committee staff and departmental staff have done on the Bill.

Before I go into the details on the clauses and amendments that we are discussing, I want to say that this chapter of the Bill reflects a piece of very good work by the Committee, not only with regard to how it scrutinised each of the clauses, but in respect of the principles of criminal legislation and why the Assembly should be adopting criminal legislation.

As was pointed out in the Chairperson's address, a number of the clauses in the Bill are either unworkable or unnecessary. It was said on several occasions in the Committee that we did not see ourselves rubber-stamping unnecessary or unworkable criminal legislation. That is a good message to send out to the Department of Justice. There is no point in bringing forward legislation for the sake of bringing it forward, because the Committee will seek to endorse only legislation that is necessary.

We also have to remember that these clauses refer to sporting events, where, on most occasions, the majority of spectators go on a weekly basis, enjoy the game, enjoy the atmosphere on the terraces and go home with no trouble taking place. From that point of

view, one has to be reluctant about bringing in criminal legislation governing those aspects.

I accept that there are certain issues that need to be tidied up in the legislation. On many occasions, the departmental officials reminded us that, in 2007, the Assembly voted for the adoption of legislation from England. Most of the Justice Bill flows from that legislation. If I were voting on the legislation from England again, I certainly would not be voting in favour of it. With age, comes wisdom and experience. I am not sure that the simple adoption of legislation from England or elsewhere is necessary or will always work in our circumstances.

I move now to the amendments. I welcome the fact that the Minister and the Department recognise the concerns raised by the GAA in relation to the definition of a regulated match. The dialogue between the sporting codes and the Department, on evidence, has been very good, and the Department certainly was in listening mode when that evidence came forward.

We support and acknowledge the Department's amendment in relation to the throwing of missiles.

The issue of chanting called for much deliberation at our Committee meetings and when evidence was being given, not only by the sporting codes, but, in particular, by the Human Rights Commission. I think that the Human Rights Commission helped move the debate on in respect of how sectarianism, in particular, could be defined in law. I welcome the fact that we have, for the first time, I think, defined sectarianism in domestic legislation and specified how someone could be found guilty of practising a sectarian chant or being involved in a sectarian event. That is welcome.

There may be some read-across to legislation in relation to parades that never made it to the Chamber, but the fact that we have managed to define sectarianism in legislation is welcome.

7.15 pm

Clause 39, which relates to going on to the playing area — the pitch invasion — still causes concern. That is one of those areas where we have to be careful about how we legislate. We certainly accept and acknowledge the fact that all three codes are keen to see that clause adopted, because they do have concerns about public safety and safety in their sports grounds. However, the question we have to ask ourselves is whether we want to make it a criminal offence for someone to go on to a pitch during a celebratory pitch invasion, which has been a part of sporting events down through the ages. That is a question that still hangs over clause 39. We could be criminalising people for getting involved in such activities. Anyone who goes on to a pitch to cause harm to the players or officials or to offend them certainly needs to be dealt with, but they can be dealt with through other legislation. Indeed, the three codes have shown that they can be robust in dealing with any of their supporters who are involved in pitch invasions. The IFA referred to a case involving a group that I refer to as the "Coleraine three", who were involved in a pitch invasion and assaulted one of the officials. They were banned from that ground, and, I believe, every other ground, for life. The codes have shown that, without the need for criminal legislation, they can certainly deal with anyone who is involved in unsavoury behaviour.

I will move to the alcohol regulations around matches, which has been the cause of much debate in the media and in Committee. It is certainly not the case that members of the Justice Committee are party animals and that we wish to see drinking on each and every occasion, but those are the clauses that I refer to when talking about workable legislation and necessary legislation. Of the provisions in those three clauses, some are unworkable and the rest are unnecessary. Indeed, I put the question to a senior PSNI officer when he was in front of the Committee about being drunk at a match or outside a ground. I told the officer that he currently had legislation that can deal with that, and he agreed, but he said that, if the Assembly wished to give the police further legislative powers, they would take them, and he referred to it as a case of crossing the t's and dotting the i's. However, I do not think it is the role of the Assembly to simply create legislation for the police to take on board and use on some occasion.

The effort that was made to describe a drinks container for inclusion in clause 42 was farcical at some levels and a waste of valuable time at another level. Questions were raised about the possession of alcohol in the grounds; indeed, about the whole issue of alcohol. It is certainly abused in our society. It is responsible for a lot of petty crime and, indeed, more serious crime in our society. However, I think it is wrong

to punish everyone, because some people act responsibly around alcohol and with the consumption of alcohol. The message we should be sending out is that there needs to be responsibility around alcohol; there does not need to be a complete ban on alcohol.

At the rugby matches the weekend before last, when the television cameras spanned across the crowd, you could see people sitting enjoying a drink of alcohol. There was no crowd trouble, disturbances or any such behaviour. That does not necessarily apply only to rugby. It can apply to the other two codes as well, because, thankfully, we do have a pretty good record when it comes to crowd control and crowd behaviour in our sports grounds. If people can consume alcohol responsibly, it is a good thing.

The soccer and GAA representatives informed the Committee that they do not allow alcohol into their stands or near the pitches. They control that through their stewards and through a voluntary code and, to date, there has been no necessity from their point of view — maybe I am misquoting them, but I do not think I am — to bring in legislation that would see a complete banning of it.

I am sometimes of the view that sporting codes in particular do not wish to offend government, and will support clauses that are brought forward by government because they think that is the right thing to do. However, I certainly think the Committee has made the right decision in planning to vote against clauses 41 to 43.

There was much debate about possession of alcohol when travelling to regulated matches. Sinn Féin can support the amendment to allow alcohol on buses travelling from matches. The GAA and all sports raised the issue of alcohol on buses going to matches. I have no difficulty with alcohol being banned on buses going to matches. The more that we encourage young families and people of all ages to travel to matches, that is all for the good. I forget the exact phrase that the GAA used: it was "party buses" or "booze buses", which is not helpful to anyone.

Another aspect that we will certainly not vote against but want to raise an air of concern about is banning orders. Banning orders are used in exceptional circumstances. They are to be used against people involved in serious assault and behaviour. I welcome the fact that they will also be used against those involved in sectarian activity. However, placing such rigid restrictions on the movements of an individual has to be a cause for concern. We seek assurances from the Minister that such orders will be used in only the most exceptional circumstances. It is not a question of banning people from only a sports ground; those orders can restrict people's movements in and out of their homes on the day of a match. We have to be very cautious about that.

As I said earlier, the IFA has shown that it can take stringent measures against anyone involved in unsavoury behaviour around its grounds, and it has done so. Although we will not be voting against banning orders, there has to be an air of caution about such legislation, and I would like clarification from the Minister about the circumstances in which those orders will be used.

Mr Elliott: I put on record, first, that I condemn all unruly behaviour at any sports event. I also put on record my membership of Ballinamallard United Football Club, which did so well last night and got through to the quarter finals of the Bass Irish Cup, although I think that the name has changed now. I am sure that all Members will welcome that win.

(Mr Speaker in the Chair)

I have concerns about these amendments and some of the clauses. I am also concerned, and other Members alluded to this, that some of the proposed legislation seems to have been just lifted from legislation in England and Wales and dumped into the Northern Ireland Bill. We need to see some effective legislation here. I want to see, and Mr O'Dowd referred to it, provisions that are practical and reasonable. This is about sports; it is about people enjoying themselves and doing what is right but leaving it so that it is enjoyable for those who want to go and enjoy it and dealing properly with thugs who are there to destroy it for everyone else.

Attendance at sports grounds in Northern Ireland is generally on a much smaller scale than that in other parts of the UK. We must recognise that and recognise the consequences for some of the smaller clubs. It is a huge financial burden and will just put some of them out of business, and we do not want to do that. We want to encourage sports facilities, events and structures in the community because that is good for everyone. The IFA, in particular, has made a commitment on ticketing. The Minister

agreed to that aspect of the Bill and I am pleased about that.

Clause 36 outlines what constitutes a regulated match. Amendment Nos 12 to 15 reduce the period before a match from two hours to one hour and the period after a match from one hour to 30 minutes. I sometimes question all those timescales, particularly the change from one hour to 30 minutes after a match because, and I commented on this last week, celebrations following a GAA match in Fermanagh went on for about three days, when people were still causing some disruption and difficulties in the local town. I appreciate that fans have a right to celebrate, but they do not have a right to create disturbance and annoyance for the people who live in those towns and villages.

We welcome the amendment, as the clause was particularly draconian.

Amendment Nos 16 and 17 attempt to improve clause 37, which deals with the throwing of missiles. Sometimes, when I watch sports matches, I wonder whether some of the players could be charged with that offence because some of their playmaking is not the best. We want to cut out the throwing of any dangerous missiles or the causing of injury or harm to anybody on a sports field.

Mr Weir: The Member mentioned the aim of some players. Does he take some comfort from the fact that he was not at the game between the Assembly and Belfast Deaf United? That match might have reinforced some of his concerns.

Mr Elliott: I am not sure whether the Member for North Down is declaring an interest as one of the leading players in that match.

Amendment Nos 18, 19 and 20 deal with the introduction of a definition of chanting of a sectarian nature. That gives the Ulster Unionist Party some serious concerns. Mr O'Dowd said that he is pleased that we are giving a definition of sectarian chanting, but giving a definition without it being properly thought out and worked through is a very dangerous precedent to set. The Ulster Unionist Party will not be supporting the measure, simply because it gives too wide a remit. I am happy to support looking at clearly defining chanting of a sectarian nature, but it must be much better regulated and much more clearly thought out and discussed.

The Minister of Justice: If the Member is suggesting that he has problems with the definition of sectarianism that is included in the Bill, he should give some thought as to how he would improve it.

Mr Elliott: We are quite happy to do what he suggests. However, to bring that in at this stage as an amendment to the Bill would be much too late. We need to have a much fuller discussion on the issue.

Mr McDevitt: Will Mr Elliott acknowledge that the issue of defining sectarianism in the Bill has been raised at every stage since its Second Stage? It has been raised at every Question Time with the Minister of Justice since the Bill's Second Stage. The issue was debated at some length in Committee. The amendment with the definition is far from a knee-jerk reaction. In fact, it is one of the longest-fermenting amendments before us today.

Mr Elliott: There is an amendment that we are not supporting. That amendment has come at a very late stage. I am quite happy to negotiate and discuss the definition with the Member and his party, and other Members, to see if we can get a proper resolution to the matter.

This is a similar problem to the one that arose during the debates on the then Racial and Religious Hatred Bill, which passed through Westminster in 2005. We want to ensure that we do not create an animal that we find difficult to control down the line. If we set the precedent now, it will be used in legal terms for many other activities and in many other pieces of legislation and in the courts for many years to come. So, we need to make sure that, whatever we do, we get it right at this stage. We need to ensure that we do a proper analysis and have greater discussion on the issue.

Mr McCartney: Does the Member not highlight the need for a definition by saying that the issue has been around since at least 2005? It is now 2011. As has been pointed out, throughout the Committee Stage every option was discussed. The Committee wanted a definition of sectarianism included to ensure that the legislation has some teeth and some strength.

Mr Elliott: What we were talking about in 2005 at Westminster was the Racial and Religious Hatred Bill. I am happy to say that we need to define sectarian hatred, but this is not the proper Bill to do that in, particularly in clauses

that affect sports clubs and sports events. We need to get a definition that applies on a much wider basis.

It is probably such a serious matter that it needs a separate piece of legislation. We failed on this issue by lumping it in with the Justice Bill, and in doing so, we went outside the remit of the Bill.

The Ulster Unionist Party will support the opposition to clauses 41, 42 and 43. The party is happy to give credence to the thought processes of the sports bodies that made representations on the Bill, to see whether we can make the legislation better.

7.30 pm

Mr McDevitt: On the third group of amendments, we welcome the tidying up of clause 36. The amendments that were tabled arise from practical and positive engagement with the sporting bodies and the other feedback that the Committee received during its consultation. Those amendments reflect a common-sense approach to the timescales in particular, such as when it would be right to start regulated periods and so forth.

As colleagues from other parties have already noted, the Committee was exercised about the definition of the term "missile". Committee members felt that for the legislation to have meaning, the term "missile" needed to be more properly defined, to allow people to understand exactly what would constitute an offence. To that extent, the Committee welcomed the amendment to clause 37.

Clause 38 deals with the potential offence of chanting. As drafted, that clause did what legislation has done for a good few years in this part of the world: it talked about the elephant without mentioning it. Clause 38(3)(b), in defining the type of chanting that would constitute an offence, states that:

> *"it consists of or includes matter which is threatening, abusive or insulting to a person by reason of that person's colour, race, nationality (including citizenship), ethnic or national origins, religious belief, sexual orientation or disability."*

That is the old section 75 list, as we now call it in the post-Good Friday Agreement North. Why could we not just call a spade a spade?

Mr McCartney made a fair point. For a long time, we have known that there is a type of behaviour that all Members find highly objectionable. It is a type of behaviour that, unfortunately, is pretty unique to here and a few other parts of the world. It is sectarian behaviour, and it is corrosive, pervasive and highly damaging. We have the opportunity to legislate to make sectarian behaviour wrong, and I think that there is a great duty on us to take that opportunity. I welcome the fact that when I first raised the matter during the Bill's Second Stage, the Minister was open-minded about the possibility of looking at how that issue could be addressed. From my membership of the Committee and from answers that were provided to me on the Floor of the House over the past seven or so months, I know that there has been a concerted effort in the Department and across the parties to try to understand what we mean by sectarian behaviour.

Mr Elliott: Will the Member give way?

Mr K Robinson: Will the Member give way?

Mr McDevitt: I will give way to Mr Elliott.

Mr K Robinson: I will pull rank on the leader of the party if he does not mind. *[Laughter.]* It is OK Tom; you will be back later.

What the Member is saying concerns me. We seem to be straying away from dealing with offences in sports grounds and moving towards some form of social engineering. I thought that we were dealing with offences and alleged offences, some of which are overemphasised. For example, I believe that only one person is currently suffering from a football banning order here, yet we are discussing legislating on such orders. I am concerned that we are engaging in a process of social engineering, rather than addressing problems that may affect different sports.

I want to be sure that I am not helping to criminalise a young person who, in the heat, excitement and emotion of a football, Gaelic or rugby game, gets carried away and finds himself falling foul in one of the ways that we are discussing today.

Mr McDevitt: I appreciate the intervention. The Member raises two issues. The first is the question of social engineering. However this is conceived, I do not see how it could constitute social engineering. On a more substantial point,

what is the point of law? Why do we make law? What is it for? In my mind and, I expect, in the mind of colleagues, part of what we try to do when we legislate is to set norms for society. Yes, we can create offences. We can say that if people cross the line, there will be a penalty and that they can expect to suffer the consequences of crossing that line. However, we do not do so in the expectation that many hundreds of thousands of people will want to cross that line. We do it in the expectation that crossing that line will be seen as outside the norm and as a form of behaviour that is not acceptable not only in a statutory sense but in a societal and cultural sense.

Sectarianism in sport is unacceptable in this society, and I want to acknowledge the huge efforts made by the GAA and Ulster Rugby to tackle sectarianism within their codes. However, I particularly want to acknowledge the work that has gone on at leadership level in the Irish Football Association. It is absolutely the case that, throughout our history, there has been —

Mr Humphrey: I thank the Member for giving way. He raises the issue of the Irish Football Association. Mr Robinson referred to the fact that one Northern Ireland supporter was banned for his behaviour at the recent game in Dublin, and correctly so. Unlike the Chairperson of the Committee for Culture, Arts and Leisure who took a cheap shot at Northern Ireland supporters, does the Member agree that Northern Ireland supporters are officially recognised as the best-behaved supporters in Europe by UEFA, the governing body of European football?

Mr McDevitt: I am happy to acknowledge Mr Humphrey's very good point. Irrespective of what constitutional allegiance we choose to hold, all of us, if we are genuine football men and women, will acknowledge that nothing makes football more beautiful than a wonderful crowd and a passionate support. However, we also need to accept that people can be passionate about their football and true in their support while staying within some basic parameters.

Dr Farry: Does the Member agree that the fundamental issue is not so much whether we seek to extend the provision to sectarianism, but simply the fact that, in other jurisdictions, including England and Wales, racial chanting is clearly seen as unacceptable? The issue at stake here is not one of social engineering, but one of extending the notion of what racist behaviour is deemed unacceptable to other situations that reflect our circumstances. We still have problems with sectarianism, and we need to find a way of codifying that rather than stretching out into any new territory.

Mr McDevitt: I entirely agree with Mr Farry. The point is that sectarianism is present in sport, and there is a statutory duty on us to support all the efforts that are going on at club level, no matter what the code, and at association level to codify — set down in law — what we believe to be acceptable or not.

Mr B McCrea: The Member is generous in giving way. He will notice that I wear with pride my 'Unite against Hate' badge. He knows the issues that have been raised. We want to deal with codifying. When I read the amendment, I cannot believe that the definition will include "or political opinion". If what the Member is talking about becomes the norm and becomes pervasive in our society, many Members will not be able to make a speech — Alex Maskey will be the first. We must be careful about the norms that we set. We are absolutely against sectarianism and we want to codify it, but we are unhappy with the amendment as currently set out, because we think that it will be pervasive.

I am curious: I have not yet heard the Member state whether he will support or reject amendment No 20.

Mr McDevitt: I will stand corrected if I am wrong, but the only occasion in which players make speeches in sport in our region is at Ulster GAA championships. So, unless Mr McCrea has found himself a position on the Down team, and hopes very much to lift the Ulster Championship cup next summer, I cannot see how he can ever find himself in a situation where he has to make a speech that could find him on the wrong side of this law.

Mr McFarland: Will the Member give way?

Mr McDevitt: I will in a second.

I do not expect him, or any Member, to go into a sporting ground as a spectator and engage in something that would constitute sectarian chanting. That would be a great discredit to the House, to all of us and to our society.

Mr McFarland: I thank the Member for giving way and I am sorry for further taking up his

time. Does he recall Mr O'Dowd's earlier remarks? He said that the great benefit of this definition is that it replicated one that was in the Draft Public Assemblies, Parades and Protests Bill that fell, and that the benefit is that this will now put on the statute book a definition of sectarianism that can be taken into other fields.

Mr McCrea has an issue here. I have no problem with the religious element of it, but if this is to be used as a template, and it includes "political opinion", then there are issues that the Committee for Justice needs to re-examine.

Mr McDevitt: I thank the Member for his intervention. Maybe I could get to make a couple of points now?

I did not hear Mr O'Dowd reference his definition back to the Draft Public Assemblies, Parades and Protests Bill, but the Member is correct. This is a definition that appeared in that draft Bill. For the record, and I hope that I do not accidentally insult colleagues in the DUP or Sinn Féin, that definition was not the product of some partisan negotiation but had been worked up through official channels and had been considered and thought about for some time. If Members refer to the academic work done in the past decade on the definition of sectarianism in the Northern Irish context, they will come to the fact that sectarianism is a dangerous cocktail of religious and political prejudice. That theme emerges again and again.

Mr B McCrea: Will the Member give way?

Mr McDevitt: This is the last time I will give way to Mr McCrea. He had better use his time well.

Mr B McCrea: I am grateful to the Member. The point, as Mr McFarland so eloquently put it, is that we are setting precedent here. You are defining sectarianism as someone who holds political opinion. This is a political Chamber and a political society. Is the Member aware that when the Racial and Religious Hatred Bill hit the buffers in 2005, it was beaten by 260 votes to 211? MPs replaced the text put forward, severely limited its scope and added safeguards for free speech. The most fundamental thing that we are defending here is free speech. I cannot believe that we can contemplate something that will restrict the ability of people to express a legitimate opinion and I do not think that doing so is sectarian. I will not agree to a template that will become pervasive. It is that point that we wish to address.

Mr McDevitt: This is fundamentally about addressing a societal norm. When racism, sexism or, in recent times, ageism, or any other potential prejudice, is first defined we always come across having to shift what is acceptable or considered OK at a certain point in social history to being unacceptable. The amendment does not in any way fetter freedom of speech. It puts certain rights and duties on the individual in the exercise of freedom of speech.

Mr O'Dowd: Will the Member give way?

Mr McDevitt: I will in a second Mr O'Dowd.

It says that if you wish to exercise freedom of speech and to express your opinions with pride and power, do so in a way that is not, and I quote:

> *"threatening, abusive or insulting…by reason of that person's religious belief or political opinion or to an individual as a member of such a group."*

It is simply not the case. If we wanted, we could spend all night debating this subject, but ample precedents that use similar templates to create norms have been set all over the world. I will give way to Mr O'Dowd shortly, but, in the specific context of chanting at sports grounds, which is all that we are debating, I think that the big decision that we have to make tonight is whether we want to set a standard that will send out what I think will be one of the most positive signals that we could send in this Assembly mandate.

7.45 pm

Mr O'Dowd: I thank the Member for giving way, and I want to intervene on that point. We have spent a long time debating the definition of the word "sectarianism". However, we need to debate the definition of the word "chanting". That definition is set out in the explanatory and financial memorandum, which states:

> *"Chanting is defined as the repeated uttering of any words or sounds (whether alone or in concert with one or more others)."*

Mr Ken Robinson described how young people could witness a bad foul or what was, in their opinion, a poor refereeing decision, and they could shout something that they would not normally shout. They should not do that, but, in that circumstance, they would not be creating an offence. However, they certainly would be offending if they started to chant or became involved in an offensive crowd chant.

I made some remarks about the parades Bill. Each piece of legislation has to be taken on its own merits, and where it will be used has to be considered. People certainly have the right to freedom of speech, and we should protect that.

Mr McDevitt: I thank Mr O'Dowd for that intervention. His point about chanting is important. The point is that chanting is the aggressive repetition of a word, and that is the difference between a chant and an utterance.

Mr Elliott: Will the Member give way?

Dr Farry: Will the Member give way?

Mr McDevitt: Two Members would like to intervene, but I will give way to Mr Elliott first, because he was not given a chance to intervene earlier.

Mr Elliott: I thank the Member for being so generous again. Given what he said, does that mean that if I were to watch him play his football, Gaelic or rugby match, and I — *[Interruption.]*

Mr Speaker: Order.

Mr B McCrea: On a point of order, Mr Speaker. I want to know whether that was sectarian chanting coming from the Front Bench.

Mr Speaker: Order.

Mr Elliott: If I were to watch Mr McDevitt play his soccer, rugby or Gaelic match, and I continually shouted, "SDLP fool! SDLP fool!" — *[Interruption.]*

Mr Speaker: Allow the Member to be heard.

Mr Elliott: Even though those words may be correct, could I be described as causing an offence by stating my political opinion?

Mr McDevitt: I am happy to give way to Dr Farry before I respond to Mr Elliott.

Dr Farry: I thank Mr McDevitt for giving way. I also acknowledge the fact that Mr Elliott is at least contemplating watching a Gaelic match, so progress is being made. Mr McDevitt's initial comments and then Mr O'Dowd's made me think that we are beginning to crystallise this issue. Will Mr McDevitt confirm that it is not about trying to re-engineer massively society's views on sectarianism or to outlaw people's opinions or expressions? Will he also confirm that we are instead talking about how we deal with spectator control at regulated sporting events and that we are discussing a very narrow issue?

Further to Mr O'Dowd's point about the definition of the word "chanting", is it also right that we acknowledge that the reason why we are creating this offence is to ensure that there is proper crowd control at regulated matches, which, in themselves, are narrowly defined? Should we not prevent a situation in which we either have to consider the potential need for crowd control or, more importantly, the potential that a chill factor might emerge in shared sporting events, thereby discouraging certain sections of the community from going to events and enjoying sport?

Mr McDevitt: As far as I am aware, we are debating the Justice Bill, and the Part that we are discussing deals with —

Mr Speaker: I remind the Member who is on his feet, as I do all Members, that this sitting will be suspended at 8.00 pm.

Mr McDevitt: Is it in order for me to draw the attention of the House to the fact that I, apparently, gave way too often last week? Therefore, Mr Speaker, I am not going to incur your wrath for a second time in a week by giving way too often again.

The question is whether the House wants to make sectarian chanting at sports grounds wrong. My mind is absolutely clear on that issue. I believe that it is high time that we did that. By doing so, we would set a very important precedent in this specific area of law. Let the conversations continue on their merits in the future about other pieces of law. Those conversations are not for tonight, Mr Speaker. Tonight is about asking the basic question of whether it is time for us to call the elephant by its name at a sports ground. I believe that it is, and, for that reason, we will support the amendments to clause 38.

The Chairperson of the Committee for Justice: I thank the Member for giving way, even at this late hour, knowing that time is not on our side this evening. I suspect that if he is not finished this evening, he will get finishing tomorrow some time, and rightly so.

I have not heard anyone in the debate say that they believe in the merits of sectarianism. Not one Member has said that. I have, however, heard Members ask about the wording of the definition of sectarianism. I suspect that the

Member will be equally concerned that, in fact, that aspect of it is right. It is not that anyone in the House has intimated that they believe that sectarianism is a good thing; nobody is saying that. What we are saying, however, is, let us get it right, and not have something that comes back to bite us somewhere down the road.

Mr McDevitt: Lord Morrow, as an MLA and as Chairperson of the Justice Committee, makes a very important point. However, the time has come for us to take our first step on this issue, and we should do that during the passage of this Bill. If we do not do that, it will become the type of issue that, all too often in this part of the world, gets parked in a siding, never to be dealt with. For that reason, from my personal perspective, the definition that is in front of us is as good a start as any.

Like colleagues, I will not spend too long rehearsing the arguments about clauses 41 to 43. We do not feel that they provide practical solutions to problems that, to the absolute credit of all the major sporting organisations, are being managed within the law as it stands today. If those associations returned to us with an absolute plea, saying that there were major legal gaps, I for one would be open-minded, and I am sure that the SDLP would be too.

I will make a specific comment about clause 44, which concerns drinking in vehicles on the way to or from matches. I am all for our making it improper and wrong to drink on the way to a game, no matter what the game. I do not believe that people can enjoy a sporting game if they arrive tanked up. However, as a long-frustrated Dublin fan living in this part of Ireland, who often faces a long journey home after a very depressing result at some stage in the summer at the hands of a team representing one of the great counties that elects this House, I reserve my right to have a couple of beers and to be driven home in consolation and depression. The amendment will allow us all to be able to continue to do that, which is proper order. On that note, I will conclude for now.

Mr Speaker: Order. It is obvious that the business on the Order Paper has not been disposed of by 8.00 pm. In line with the arrangement that was agreed by the Business Committee, the sitting is, by leave, suspended until 10.30 am tomorrow, when we will return to the third group of amendments to the Justice Bill.

The sitting was suspended at 7.54 pm.

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