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Contents

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Northern Ireland Assembly

Monday 7 March 2011

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

Members observed two minutes' silence.

Assembly Business

Mr Speaker: I wish to advise the House that a valid petition of concern was presented on Friday 4 March 2011 in relation to six amendments published for today's Further Consideration Stage of the Justice Bill. Those are amendment Nos 5, 6, 8, 9 and 10, which are in group 2 and are to do with chanting at regulated sports matches and banning orders, and amendment No 11, which is in group 3 and is to do with sex offender licensing provisions and legal aid. The votes on those amendments will be on a cross-community basis and may take place later today.

Suspension of Standing Orders

Mr Weir: I beg to move

> *That Standing Orders 10(2) to 10(4) be suspended for 7 March 2011.*

Mr Speaker: Before I proceed to the Question, I remind Members that the motion requires cross-community support.

Question put and agreed to.

Resolved (with cross-community support):

> *That Standing Orders 10(2) to 10(4) be suspended for 7 March 2011.*

Mr Speaker: As there are ayes from all sides of the House and no dissenting voices, I am satisfied that cross-community support has been demonstrated. As the motion has been agreed, today's sitting may go beyond 7.00 pm, if required.

Ministerial Statement

Higher Education: Participation

Mr Speaker: I have received notice from the Minister for Employment and Learning that he wishes to make a statement to the House.

The Minister for Employment and Learning (Mr Kennedy): I welcome this opportunity to update the Assembly on the latest developments in relation to our work on the future policy for widening participation in higher education. In particular, I want to advise Members of the launch of the consultation on the development of a regional strategy for widening participation. I will, shortly, make available a consultation document on the Department for Employment and Learning's website, and a copy has also been placed in the Assembly Library.

I will give a brief recap on the situation. Widening participation in higher education among students from under-represented groups, in particular, students from low-income backgrounds and those with learning or other difficulties, is one of my Department's key strategic goals. My Department's vision for widening participation is that any qualified individual in Northern Ireland should be able to gain access to higher education that is right for them, irrespective of their personal or social background.

My Department addresses the issue of fair access to higher education through a number of policy initiatives. Those include requiring higher education institutions to publish annual access agreements and widening participation outreach strategies that outline their range of outreach and bursary support to low income students and communities. My Department also provides widening participation premium funding through the teaching and learning block

grant to provide additional support to students while in college, as well as a range of specific funding mechanisms for widening participation such as Step-Up to Science at the University of Ulster and the Discovering Queen's outreach programme. Much of that special project work is undertaken in schools in areas with traditionally low levels of progression in education.

For the 2010-11 academic year, my Department allocated £2·5 million to promote widening participation in higher education. At almost 50%, Northern Ireland now has the highest participation rate of any area of the United Kingdom. Data for 2008-09 shows that almost 42% of Northern Ireland's young full-time first-degree entrants were from socio-economic classes 4 to 7, compared with only 32% in England and 28% in Scotland. We have, therefore, been quite successful in achieving our objectives of raising the motivation, aspirations and performance of students who, otherwise, may not have considered going into higher education. I would like to take the opportunity to congratulate our universities, further education colleges and schools on their work in this vitally important area.

Nevertheless, there remain stubborn pockets of under-representation, including of socio-economic classification groups 5 and 7 and of low participation and high deprivation areas. That is why my Department is leading the development of a new integrated regional strategy for widening participation in higher education in Northern Ireland. I am absolutely committed to developing a new approach to widening participation in Northern Ireland based on a future vision of the sector in which the people who are most able but least likely to participate in higher education are given every encouragement and support to achieve the necessary qualifications to apply to and benefit from the higher education that is right for them.

Let me be clear that my vision for widening participation does not include quotas for the lowering of academic standards. Such soft bigotry of low expectation patronises and demeans those who can excel in spite of a challenging social or family context. My vision of widening participation is about raising aspiration, challenging stereotypes and empowering those who are most able but least likely to enter our universities.

The development of a regional strategy for widening participation represents a major step forward in delivering the new approach. In March 2010, my Department established a higher education widening participation regional strategy group and four expert working groups — comprising relevant experts from the education sector, the public sector, the private sector and other Departments — to consider the issues involved and begin to outline a new approach.

The strategy group subsequently held a pre-consultation event for the public in May 2010 to ensure that as many views as possible were considered in the early stages of the development of the consultation document. The strategy, therefore, represents the first integrated approach to the issue. I would like to take this opportunity to thank everyone who contributed to the development of the document for their commitment and hard work on this extremely important and complex issue.

In April 2010, my Department commissioned a review of the financial support initiatives designed to encourage widening participation in higher education, in order to determine the extent to which the funding was being appropriately targeted, the impact on increasing participation and the overall value for money of the programme expenditure. The review report reached a number of positive conclusions and made a number of recommendations for improvements in funding that have been incorporated into the proposals contained in the consultation document.

The development of the consultation document has been conducted in tandem with the development of consultation documents on the development of a higher education strategy, on tuition fees and on student support arrangements, and care has been taken to ensure that the consultation document aligns with other departmental strategic approaches, such as Success through Skills, FE Means Business and the Executive's economic and social development strategies.

One of the key issues to be addressed in the consultation is the identification of all those groups that are under-represented in higher education and that may require additional support in a more strategically focused manner. The consultation addresses and puts forward proposals for how we might better target resources at each of the critical stages in the

student cycle. We need to raise aspirations among under-represented groups to participate in higher education and, in turn, to raise their education attainment levels to allow that participation. We also need to enhance the recruitment processes in order to ensure that students have the necessary information to apply for the right course and that their whole potential is recognised in the selection process. We also need to ensure the retention of students in higher education, once in the system, and their ultimate progression into employment.

The issue of drop-out rates in higher education has become a particular area of concern in recent years. The issue is a particularly complex one, and research has shown that many factors may impact on dropping out, including finance, gender, education background and, of course, the subject being studied.

It may be helpful at this stage if I give Members some sense of why I believe that widening participation is such a critical issue for Northern Ireland. First, there is the need to promote social mobility and extend opportunity. Too many families and individuals in Northern Ireland still regard higher education as somehow not for them. For example, the 2001 census showed that almost half of the Northern Ireland population came from the socioeconomic classifications 5 to 7, yet just a quarter of the student population came from those groups. I believe that the House is united in striving to ensure that people with the necessary qualifications, from all social backgrounds, should have the opportunity to access higher education. Raising education aspirations is fundamental to promoting such opportunities.

Secondly, there are benefits that graduates as individuals, and society generally, may derive from higher education. Research studies show that participation in higher education may lead not only to higher pay but to a wide range of personal benefits, including a higher sense of well-being and personal confidence. However, we are not doing this just because it is the right thing to do, but because it is crucial to the economy that we harness the talents of all our people. To achieve the very highest standards, our higher education institutions must have access to the very best pools of talent.

12.15 pm

For Northern Ireland to secure a sustainable, globally competitive economy and achieve growth in the number of people with high-level skills, which would make this country world-class, we must encourage participation from groups that have not traditionally benefited from higher education.

The challenge to develop a highly skilled workforce is not just about providing new, young graduates with the skills needed. Given that around 80% of the 2020 workforce has already completed formal education, a major focus has to be the upskilling of the existing workforce.

The consultation document recognises higher education as more than the traditional three- or four-year primary degree. Higher education includes all qualifications beyond level 4, including intermediate level qualifications, in which Northern Ireland currently has recognised skills shortages. I believe that the development of a new regional strategy will be critical to the achievement of the widening participation vision and our skills objectives.

The public consultation exercise that I am launching today is being carried out to ensure that as many views as possible on the widening participation strategy are considered. The consultation document sets out a series of proposals on the way forward. The key proposals include a new regional awareness campaign to improve the understanding of the relevance and benefits of higher education to the individual among adults and young people. It suggests ways of improving educational attainment to ensure a continued supply of high-quality applicants to all forms of higher education. It proposes better outreach from the higher education institutions to local communities, including employers, workers and adult returners, as well as young people from areas with traditionally low participation in higher education. Finally, it considers the methodologies that help to identify individuals in need of support during their course to better track their progress through higher education and help minimise the problems associated with non-progression.

The responses to the consultation document will inform the development of the regional strategy. It is likely that the regional strategy will be published in the summer.

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

As I have said on other occasions, it is my guiding principle that access to higher education

should be on the basis of the ability to learn, not the ability to pay. That is why upfront fees should have no place in our higher education system, and why tuition fees, necessary to sustain investment in Northern Ireland's world-class universities, should be less than those proposed by Browne for England. However, that debate is for another day. Today is about retaining Northern Ireland's commitment to widening participation in higher education, raising aspirations and promoting opportunity. I trust that the House will join me in this undertaking.

The Chairperson of the Committee for Employment and Learning (Mrs D Kelly): I thank the Minister for his statement. The Committee has considered widening participation in higher education on a number of occasions. The Committee believes in the importance of social inclusion, social mobility and widening access and participation. It has become clear that a strong economy needs a well-qualified workforce, and the Committee welcomes any and all efforts on the Minister's part to ensure that all our people have access to educational and skills opportunities.

I turn to the Minister's comment that a major focus has to be the upskilling of the existing workforce and his point about a number of young graduates, many of whom are in employment that is probably nothing to do with the degree that they studied. I know one young man in my own constituency who, two years after his degree, wanted to do a course. He had to pay an upfront fee of £400. He is 24 years of age and could not get a loan from any bank in the whole of Lurgan —

Mr Deputy Speaker: Could we have a question?

The Chairperson of the Committee for Employment and Learning: The question, Mr Deputy Speaker, relates to the Minister's commitment to upskilling. There are dangers around upfront fees. Will the Minister give a commitment to address that issue and look specifically at how the needs of young graduates can be assessed?

The Minister for Employment and Learning: I am grateful to the Chairperson of the Committee for Employment and Learning, not just for her comments, but for her question. I share her concern about the experience of that graduate and I want to assure her that that is not how we wish to proceed. Widening participation means widening participation in every true sense, and that is the commitment that I, as Minister, want to see brought forward. I believe that everyone shares that desire; the Member, members of the Employment and Learning Committee and Members of this House.

Mr Bell: Does the Minister share my concern that only one pupil in 10 in certain parts of the controlled sector is accessing further education compared with one in five in the maintained sector? Will the Minister confirm that he will not run away from his ministerial duties by playing resignation statements and joining the on-the-runs?

The Minister for Employment and Learning: I am grateful to the deputy Chairperson of the Employment and Learning Committee and thank him for his genuine concern for my personal well-being. *[Laughter.]* No doubt, he sees opportunity for himself, but at this stage I am not able to encourage him in any form.

It is important that we focus on the issue of widening participation. The Member rightly raised concern about what are described as young, Protestant, working-class males having proper opportunities to participate in higher education. That group, among others, has to be a matter of priority and concern for the House and my Department. I look forward to receiving valuable contributions to the consultation so that we can bring forward meaningful proposals that will be more inclusive and representative of wider society. That will lead to our universities not being places only for the select few, but, rather, places for all who want to avail themselves of higher education.

Ms S Ramsey: Go raibh maith agat, a LeasCheann Comhairle. Like other Members, I welcome the Minister's statement. It is important to highlight the potential impact of the suggested increase of student fees on people from socially disadvantaged areas. The Department is trying to widen participation, so it is a bit silly not to be factoring that in when looking at possibly increasing fees.

In his statement, the Minister highlighted that targeting is important. In some areas of social disadvantage, the first step to higher or further education is through the community and voluntary infrastructure, and there is —

Mr Deputy Speaker: Question.

Ms S Ramsey: I am coming to my question; I have to build a picture. There is evidence that people make that first step through the community and voluntary sector. Will the Minister indicate whether he has had any discussions with the Department for Social Development on its involvement in neighbourhood renewal and the European social fund, where money has been targeted but groups have failed to get funding through programmes such as the Training for Women Network?

The Minister for Employment and Learning: I am grateful to the Member for her question, and I understand her point. I have not had specific discussions with the Minister for Social Development on that matter. Nonetheless, the consultation affords everyone the opportunity to participate and make a meaningful contribution. I have no doubt that Ministers, Members of the House and members of political parties across the range of civic and social society will be interested in this.

The Member raised the issue of student fees. It is important to state that I reject the notion of up front fees, and I also reject the level of fees advocated by Browne for England.

The issues around tuition fees will be subject to the public consultation, which I hope will emerge very shortly. Opportunities can then be taken to explore those issues in more detail.

Rev Dr Robert Coulter: I thank the Minister and congratulate him and his Department on this initiative. Will the Minister outline what discussions have been held with the universities to ensure that the young people who are given the opportunity to go to university achieve the necessary qualifications to apply for and benefit from the higher education that is right for them?

The Minister for Employment and Learning: I am grateful to the Member for his question and for his long-time commitment to education in all its forms, including higher education and further education. He raised an important issue, and I am pleased that our local world-class universities are seized of the need to widen participation. As I said in my statement, they already have programmes in place in which that is their stated desire. Those programmes can be built upon, and I will watch with interest the options and actions that the universities take as we seek to open the doors even wider to all elements of society so that more can avail themselves of a higher education. That will provide considerable benefit to the wider public and society in general and, hopefully, will improve the necessary skills that Northern Ireland needs if it is to move forward in the economic times that we face. It is important work, and that is understood by the universities. I have no doubt that we will have their co-operation as we move forward.

Mr Lyttle: I welcome any strategy that delivers fair access to education that will improve high-value employment to local people. I share Members' concerns that an increase in student fees could undermine the good work that has been done in this area. On improving employment progression, what work does the Minister think needs to be done to improve career planning and the role of further education in providing a link to higher education pathways?

The Minister for Employment and Learning: I am grateful to the Member for his question. I strongly agree that it is important to take a co-ordinated approach to education, be it further education or higher education. I also take his point about the advice that students and young people receive, particularly on careers and pathways. That is increasingly important, and it is important that that be done in a co-ordinated and joined-up way that provides good, sensible and meaningful advice so that students can pursue careers through higher education or further education that will lead to meaningful opportunities, rather than just gaining qualifications and ending up working in supermarkets or doing more menial jobs. Through the consultation, I want to encourage people's ideas and innovations to generate that interest and restore opportunities for young people to avail themselves of a higher education place that enhances their life prospects and, ultimately, makes a positive contribution to society and life here.

12.30 pm

Mr Weir: I thank the Minister for his statement on what is an important subject. Although a lot of work has still to be done, he highlighted the relative success in our participation rates. However, the Minister's statement also acknowledged the fact that we are weaker on drop-out numbers. Will he expand on the strategy that the Department will pursue to avoid having a revolving-door approach to students from a lower economic background? Will he also expand on the Department's

strategy to retain students once they enter the system in the first place?

The Minister for Employment and Learning: I thank the Member for making that important point. At present, insufficient support is given to individuals who find themselves at university, perhaps as the first member of their family or their generation to avail themselves of the opportunity to go. It is important that colleges and universities adequately support and encourage them and that we do not lose people for the want of looking after them properly. I hope that the consultation document and the responses to it will lead to a careful assessment of how best we can help people for whom a university education is a new but good thing that is to be encouraged and that we strongly support.

Mr P Maskey: Go raibh maith agat, a LeasCheann Comhairle. I also thank the Minister for his statement. I want to stay on the subject of career paths. How joined up is the relationship between his Department and the Department of Education? Would earlier careers advice be more beneficial to our younger people to assist them in their higher education?

The Minister for Employment and Learning: I am grateful for the question. The Member, again, makes the valuable and important point that a career path is vital and that good, sound advice should be offered and given at the earliest opportunity. I am happy and willing to work with the Minister of Education to improve careers advice to all our students. Such advice and the opportunities that it should highlight are increasingly important to young people as they move forward in their overall education.

Mr McCallister: Does the Minister agree that the thought of Jonathan Bell taking up his role would be enough to make him stay on, possibly for many years or, indeed, maybe for ever? I thank the Minister for his statement. Will he confirm that the plans that he outlined will help Northern Ireland to stay at the top of the UK's widening participation league?

The Minister for Employment and Learning: I am grateful to the Member. I will carefully avoid his first assertion. *[Laughter.]*

Northern Ireland enjoys a particular United Kingdom status in widening participation, which it is important to maintain. How we continue to stay at the top of that league and encourage young people from all social backgrounds to avail themselves of a university or college education are key priorities of the consultation. We are finding the right balance, in that although tuition fees are levied, we still have the best record in participation.

So, it is not just about money and access, although it is important to stress and reiterate that university places must always be allocated on the basis of people's ability to learn rather than on their ability to pay. That remains our guiding principle.

Mr P Ramsey: I welcome the Minister's statement on widening participation, and I thank him for acknowledging the Step-Up programme, particularly at Magee campus in my constituency. Recently, as well as this issue, the Committee for Employment and Learning has been exercised by those not in education, employment or training, the education maintenance allowance and the strategy on further and higher education. One wonders how those matters might be brought together and into greater focus. Given that the Minister referred to social mobility, which is one of the most important areas, what could be done to maximise participation — and I say this deliberately — among the Protestant community in my constituency? Allowing the maximum student number (MaSN) cap has enabled the Magee campus to develop, and it could be one important way to widen participation across low-income families.

The Minister for Employment and Learning: I am grateful to the Member for his question, which coincides neatly with the fact that he represents that area. He has long championed that cause at Magee, for which I pay tribute to him. It is important to state that a number of consultations have begun; on the higher education strategy and today's widening participation strategy. I hope that the review of fees strategy will emerge in the coming days. Of course, although there are strong linkages among the three of them, they, nevertheless, represent distinct areas of higher education policy. Therefore, it is appropriate to consult on them separately. Of course, once those consultations are complete, we will seek to implement recommendations, taking care that they are consistent with the Department's approach on all those issues. I hear the case that the Member made again about student

numbers at Magee, and I confirm that the matter is subject to my ongoing consideration.

Mr K Robinson: I thank the Minister for his statement. He clearly stated his opposition to a quota system, and I thank him for that. Will he outline the important role of schools and parents in raising education attainment and aspiration levels in young people?

The Minister for Employment and Learning: I am grateful to the Member for his question. He raises a very important point, and we would do well to stress the important role that parents, guardians and families have in encouraging young people to avail of higher education to improve not only their quality of life but, in turn, the overall economic context in which we all live. I sense that, somewhere along the line, the ethos of reaching out for higher education has been lost in some communities, so I very much hope that we can reinvigorate, recharge and re-energise parents and guardians to be enthusiastic about allowing their children to consider university as a place from which they can benefit and use as a ladder to success.

Ms Lo: I very much welcome the Minister's statement. We should be justly proud of our participation rates, and we must do our utmost to continue reaching out to communities. Should the strategy cover the likes of foundation courses in further education colleges, because, given the potential hike in tuition fees, more students may move over to the further education sector to take up such courses?

The Minister for Employment and Learning: The Member raises yet another interesting point. It is increasingly important and evident that the linkage between further education colleges and higher education colleges — our universities — are important links and that we need to co-ordinate better the opportunities that exist for all our young people. I hope very much that we can bring that work forward, whether or not it is specific to the consultation announced today but certainly in the context of the already issued consultation on the future of higher education in Northern Ireland. The work undertaken by Sir Graeme Davies and others strikes at that, and those are important issues that we should all reflect on and bring forward in a positive manner.

Mr Beggs: The Minister has highlighted his departmental commitment to the widening participation strategy. Given his reduced budget allocations, will the Minister assure me that, in coming to any decision on the future of tuition fees, he will be shaped by the policies in the widening participation strategy?

The Minister for Employment and Learning: I am grateful to the Member for his question and am happy to confirm that my guiding principle as Minister and, indeed, that of my Department is that places at universities should be based purely on the ability to learn and not on the ability to pay. That is the guiding principle and will remain so even in the face of the difficult economic climate and the budgetary considerations that we have to deal with.

Mr Deputy Speaker: That concludes questions on the ministerial statement. I ask the House to take its ease until we change over.

Executive Committee Business

High Hedges Bill: Further Consideration Stage

Mr Deputy Speaker: I call the Minister of the Environment to move the Further Consideration Stage of the High Hedges Bill.

Moved. — [The Minister of the Environment (Mr Poots).]

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 provisional grouping of amendments selected list.

There are two groups of amendments, and we will debate the amendments in each group in turn. The first debate will be on amendment Nos 1, 2, 3 and 5, which deal with the powers of the Department to prescribe the maximum fee that councils can charge when receiving a complaint under the Bill. The second debate will be on amendment No 4, which proposes placing a duty on the Department to prepare a report on neighbour disputes associated with single trees.

I remind Members that, under Standing Order 37(2), the Further Consideration Stage of a Bill is restricted to debating any further amendments tabled to the Bill. Once the debate on each group has been completed, any further amendments in the group will be moved formally as we move through the Bill, and the Question on each will be put without further debate. Members should address all amendments in the group on which they wish to comment. If that is clear, we shall proceed.

Clause 3 (Procedure for dealing with complaints)

Mr Deputy Speaker: We now come to the first group of amendments for debate. With amendment No 1, it will be convenient to debate amendment Nos 2, 3 and 5. The amendments concern fees, and Members should note that amendment No 1 is a paving amendment to amendment No 2 and that amendment Nos 3 and 5 are consequential to amendment No 2.

The Minister of the Environment (Mr Poots): I beg to move amendment No 1: In page 3, line 27, leave out subsections (7) to (9).

The following amendments stood on the Marshalled List:

No 2: After clause 3, insert the following new clause:

"Fees

3A.—*(1) The Department shall by regulations prescribe the maximum fee which may be determined by a council under section 3(1)(b).*

(2) A fee received by a council under section 3(1)(b)—

(a) must be refunded by it where subsection (3) applies; and

(b) may be refunded by it in such other circumstances and to such extent as it may determine.

(3) This subsection applies where—

(a) a fee is paid to the council under section 3(1)(b) in connection with the making of a complaint to which this Act applies;

(b) a remedial notice is issued by, or on behalf of, the council in respect of the complaint; and

(c) the remedial notice takes effect.

(4) Regulations may make provision, in relation to a case where subsection (3) applies, for the payment to the council by any person who is an occupier or owner of the neighbouring land of a fee of such amount (if any) as the council may determine.

(5) Regulations under subsection (4) may in particular—

(a) provide for the fee not to exceed such amount as may be prescribed by the regulations;

(b) provide that, where two or more persons are liable to pay the fee, those persons are jointly and severally liable;

(c) provide for the fee to be refunded in such circumstances or to such extent as may be prescribed by, or determined in accordance with, the regulations." — [The Minister of the Environment (Mr Poots).]

No 3: In clause 14, page 11, line 42, after "(b)" insert

"fees payable under section (Fees)(4) of that Act and". — [The Minister of the Environment (Mr Poots).]

No 5: In clause 18, page 13, line, after "section" insert "(Fees)(4),". — *[The Minister of the Environment (Mr Poots).]*

12.45 pm

The Minister of the Environment: At Consideration Stage, the fee mechanism proposed by the Committee for the Environment was agreed to, although Members acknowledged my concerns about the removal of flexibility for councils, human rights, enforcement complications and the administrative burden on councils. Members indicated that there was a need for further amendments at Further Consideration Stage. As a consequence, I tabled amendments that seek to accommodate the Assembly's desire for fairness in the fees payable for the investigation of a complaint and to address the shortcomings that the Assembly recognised in the amendments that were agreed and voted to stand part at Consideration Stage.

They involve replacing clauses 3(7), 3(8) and 3(9) with a new clause 3A, which will deal specifically with fees issues. Subsection 1 of the new clause requires that my Department make regulations to limit the level of fee that can be levied by councils, effectively replicating the amendment made to clause 3(7). Subsections 2(a) and 3 provide for the mandatory refund of the complainant's fee when a remedial notice takes effect. That allows for the completion of any appeals process before any refund or transfer takes place.

Subsection 2(b) restores the discretionary power of a council to refund fees, which was inadvertently removed by the amendments voted to stand part at Consideration Stage. That provides flexibility for councils and means that fees can be refunded in other appropriate circumstances, for example, if a complaint is found to be outside the scope of the legislation.

Subsections 4 and 5 provide a regulation-making power to deal with the amount of fee payable by the hedge owner, the determination of who pays when there is more than one owner or occupier and the refunding of the hedge owner's fee in prescribed circumstances. Those amendments allow the fee transfer policy to be properly developed to take account of human rights and public consultation issues. That will also provide the opportunity to consider a range of issues, including the financial circumstances of the hedge owner in the same way that the financial circumstances of the complainant can be considered. The regulations will be subject to full public consultation and approval in draft by the Assembly, so MLAs will have the opportunity to scrutinise further any proposals before they are implemented.

The amendment to clause 14 makes provision for any fee levied on the hedge owner to be registered as a statutory charge, removing the potential legal costs associated with fee recovery if the hedge owners refuse to pay. The amendment to clause 18 means that the regulations dealing with the transfer of the fee to the hedge owner will be subject to approval in draft by the Assembly.

The Chairperson of the Committee for the Environment (Mr Boylan): Go raibh maith agat, a LeasCheann Comhairle. Ar son an Choiste Comhshaoil, cuirim fáilte roimh BhreisChéim an Bhreithnithe den Bhille um Fálta Arda.

On behalf of the Committee for the Environment, I welcome the Further Consideration Stage of the High Hedges Bill. The Bill was referred to the Committee on 10 May 2010, and, after conducting its scrutiny, the Committee recommended several amendments. One of those was to require the Department to place an upper limit on the level of fee that a council can charge someone for making a complaint about a high hedge. The Committee agreed that recommendation after researching the level of fees charged elsewhere. We were advised that, in England, where councils are given discretion to charge whatever fee they feel appropriate, there is not only a vast difference in the level of fee charged by different councils but that some councils charge as much as £650.

The Committee was content with the principle that councils should be allowed to charge a fee for providing the high hedge service. It recognised that that would help to deter vexatious complaints as well as protecting ratepayers from having to pay for a service from which they do not benefit. However, it was determined that councils should not be allowed to charge so much that it would be likely to make the service inaccessible to most, if not all, people who are unfortunate enough to find that their light is blocked by a high hedge.

The Bill includes a provision for the Department to limit the level of fees, but the Department told the Committee that it would not do that unless there was a clear need to do so after the legislation had been operational for some time. The Committee was pleased that the Assembly accepted its amendment at Consideration Stage to require the Department to place a

cap on fees. We welcome the fact that the first subsection of the new clause that is added by amendment No 2 will endorse that by requiring the Department to do so through regulations. The Committee also welcomes the Assembly's endorsement of its suggestion that a person paying to complain about a high hedge should have that fee refunded if the complaint is upheld by the council.

The Committee was also adamant that the refund should not come from the council, as it would place a burden on ratepayers. The Committee wanted to see the fee being recouped from the hedge owner. As Members will recall, the Minister was not keen to bring forward the Committee's requested amendments, and he warned that the Committee's amendment might be subject to human rights challenges. Nonetheless, the Assembly clearly recognised the fairness of the Committee's approach and supported its amendment.

On behalf of the Committee, I am delighted that the Minister's proposed new clause not only meets the Committee's requirements for the refunding of upheld complaint fees by the hedge owner, but takes account of human rights and public consultation requirements. In addition, amendment No 3 makes a provision for any fee levied on the hedge owner to be registered as a statutory charge. That removes any potential legal costs associated with fee recovery if the hedge owner refuses to pay. I know that councils will welcome that approach.

Finally, amendment No 5 makes the new regulations subject to draft affirmative procedure, so they will come before the Assembly for approval before being made law. That is also to be welcomed.

On behalf of the Committee, I welcome and support amendment No 2 and amendment No 1, which is the paving amendment for amendment No 2, and the detail and security provided by amendment Nos 3 and 5.

Mr Weir: I will be brief. There should be reasonable consensus around the House for the Minister's proposed amendments. As the Chairperson indicated, when the Committee brought forward a range of amendments at Consideration Stage in respect of fee levels and the polluter pays principle, which related to where costs should lie, it was indicated that there needed to be further refinement of the Bill and that consequential amendments would have to be brought.

The Minister has put forward a very sensible set of amendments. It is right that people should have some certainty regarding the likely level of fee. One of the advantages that we have is that we have been able to look at how the legislation has been brought in and operated in England and Wales. There is no doubt that some mistakes were made there. We have not simply a bespoke piece of legislation but one that tries to avoid some of the mistakes that have been made there. One of the mistakes that is further refined by this is the idea that there was an open-ended situation regarding fees, which has meant that there has been a very wide disparity. It is important that regulations are put in place to deal with the fees issue. As the Minister indicated, when looking at those regulations, a wide range of considerations need to be taken into account, for example, the ability of either party to pay.

It is important, as a consequential amendment, that if we are to have remedial notices, the person who is deemed to be at fault has to pay and it should not get tied up with legal charges or additional cost. It should be relatively straightforward and should be done in as cost-effective way as possible. I believe that the amendments cover that point and ensure that the detailed regulations that will need to flow from the legislation are not simply produced by the Department but that they are given that democratic scrutiny, which was indicated by the Minister. Therefore, I believe that the amendments are very sensible. They add to the progress that we have made on the Bill at Second Stage and at Consideration Stage. The Further Consideration Stage refines the Bill into something that will be of benefit to the people of Northern Ireland. I commend the Minister's four amendments to the House.

Mr Kinahan: I, too, will be brief. I welcome the Bill and the Minister's amendments, with one slight proviso. Before I go into that, I think that it is especially good that we are now making it a statutory charge, so there will be no legal fees. It is also especially good that the regulations will be subject to draft affirmative resolution. We need to make sure that, regardless of whose hands the Department will be in, they should look at the cost to councils, so that whatever figure is chosen as a fee will allow the councils to get back their costs. Obviously, that is a question of

judgement, but I think that the amendments are very sensible, and we support them.

Mr Savage: I thank the Minister for his comments. This is an important Bill, which has attracted the interest of many people in my constituency on whom it would have an impact, particularly those who have issues with their neighbours' high hedges. The Bill introduces a system whereby difficulties and disagreements about hedges between neighbours can be resolved through discussion and mediation. Should that fail, there remains the facility to lodge a formal complaint with the local council, which, effectively, will act as an independent third party. It will make a decision based on the merits of the case that is presented to it. The Bill represents real progress on a troublesome issue and it will, I believe, be welcomed by householders throughout Northern Ireland. For too long, the matter has been ignored. Now is the perfect opportunity for the House to progress legislation that will have meaningful impact and actually make a difference.

I turn to the first group of amendments before the House. I am content with amendment No 1, which removes subsections 3(7) to 3(9). I welcome their replacement by a new clause in amendment No 2. That clause makes provisions for fees that local councils can charge for the provision of that relate to disputes about high hedges. Although I accept that a fee must be levied, everything must be done to ensure that it is reasonable and provides value for money to those who have paid the council to perform a service. I accept amendment No 3 as an administrative and appropriate amendment to schedule 11 to the Land Registration Act (Northern Ireland) 1970. Amendment No 5 is another minor administrative amendment. Those amendments are common sense.

I am broadly supportive of the Bill and the first group of amendments. I will finish by making a brief general comment. A number of Bills are coming through the House that involve either the transfer of a function to or increased functions for local councils. The House ought to be mindful and careful not to give increased responsibilities and functions to local administrations with one hand, while taking away their financial resources with the other. At present, councils have powers to persuade. The Bill will give them real power and real teeth.

The Minister of the Environment: I thank Members for their support. No specific questions were raised during the debate so I do not have to respond to any particular issues. A number of Members indicated that the Bill would benefit their electorate. That is why my Department brought it forward. There has been a gap in legislation for many years. We have seen many hedges spring up and grow completely out of control. Trees are allowed to grow 30 ft or 40 ft high and are built up as a dense hedge. That has a huge impact on individuals. The Bill will help us to deal with an anomaly that has existed for some time. I ask the House to support amendment Nos 1, 2, 3 and 5.

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

New Clause

Amendment No 2 made: After clause 3, insert the following new clause:

"Fees

3A.*—(1) The Department shall by regulations prescribe the maximum fee which may be determined by a council under section 3(1)(b).*

(2) A fee received by a council under section 3(1)(b)—

(a)must be refunded by it where subsection (3) applies; and

(b) may be refunded by it in such other circumstances and to such extent as it may determine.

(3) This subsection applies where—

(a) a fee is paid to the council under section 3(1)(b) in connection with the making of a complaint to which this Act applies;

(b) a remedial notice is issued by, or on behalf of, the council in respect of the complaint; and

(c) the remedial notice takes effect.

(4) Regulations may make provision, in relation to a case where subsection (3) applies, for the payment to the council by any person who is an occupier or owner of the neighbouring land of a fee of such amount (if any) as the council may determine.

(5) Regulations under subsection (4) may in particular0151

(a) provide for the fee not to exceed such amount as may be prescribed by the regulations;

(b) provide that, where two or more persons are liable to pay the fee, those persons are jointly and severally liable;

(c) provide for the fee to be refunded in such circumstances or to such extent as may be prescribed by, or determined in accordance with, the regulations." — [The Minister of the Environment (Mr Poots).]

New clause ordered to stand part of the Bill.

Clause 14 (Statutory charges)

Amendment No 3 made: In page 11, line 42, after "(b)" insert

"fees payable under section (Fees)(4) of that Act and". — [The Minister of the Environment (Mr Poots).]

New Clause

Mr Deputy Speaker: We now come to the second group of amendments for debate, which contains only one amendment. Amendment No 4 proposes placing a duty on the Department to prepare a report on neighbour disputes associated with single trees.

Mr Lyttle: I beg to move amendment No 4: After clause 16, insert the following new clause:

"Duty to report on single trees

16A.—*(1) The Department must prepare a report on the nature and extent of neighbour disputes associated with single trees not forming part of a high hedge including an assessment of the potential for legislation to address the issues.*

(2) The report shall be laid before the Assembly before the end of the period of 18 months from the time this Act receives Royal Assent."

I regard the amendment as a straightforward and reasonable amendment that will place a duty on the Department to investigate the nature and extent of the impact of tall and overgrown single trees on people's quality of life. A report of the findings of that investigation should include an assessment of the potential for legislation to address the issue, and it should be produced within 18 months of Royal Assent to the Bill.

1.00 pm

I welcome the elements of the Bill that will introduce long overdue provisions to tackle the problem of high leylandii hedges. I have seen at first hand the negative impact that vast hedges have on people's quality of life and enjoyment of property. However, I have also seen at first hand how excessively tall trees, some over 50 ft tall, can have a negative impact on people's quality of life, enjoyment of property, and health and safety. It is also my understanding that a significant number of consultation responses to the Bill raised that concern.

I recognise the difficulties with defining what classifies a tall tree and the concerns, which I share, about the protection of single trees of historical significance or local character and amenity. I consulted the Woodland Trust and local authority tree officers, who are confident that it should be possible to deal with the enforced maintenance of certain single trees through legislation. For those reasons, I propose amendment No 4 to ensure that the Department monitors the operation of the High Hedges Bill and investigates whether comparable legislation could tackle the similar issue of tall trees.

It is my understanding that the amendment has the general support of the House; indeed, some Members feel that it does not go far enough. It is for that reason that I ask all Members and the Minister to give serious consideration to supporting what I deem to be a fair and reasonable amendment.

The Chairperson of the Committee for the Environment: Go raibh maith agat, a LeasCheann Comhairle. As we heard, amendment No 4, which is in the name of Mr Lyttle, will introduce a new clause that will require the Department to prepare a report on the nature and extent of neighbourhood disputes associated with single trees that do not form part of a high hedge. The Committee was also concerned about single trees. Submissions to the Committee's call for evidence showed that several organisations, particularly councils, were disappointed that the Bill would not cover single trees and other problems that are associated with hedges and trees, such as roots, overhanging branches and fallen leaves. It was suggested that the lack of inclusion of single trees may lead to many of the problems that are brought to councils not being resolved.

The Committee requested research on the number of complaints that councils receive that relate to single trees rather than to hedges. The research found that only rough estimates could be ascertained because councils do

not consistently record all complaints of that kind. It appears that many councils do not differentiate between complaints relating to hedges and those to single trees, and a number of complaints that they receive are not solely related to the impact of the tree or hedge on light. However, it was still apparent that a significant proportion of complaints that councils receive relate to single trees rather than to hedges. The Committee felt that that needed to be addressed in the Bill.

The Bill might be called the High Hedges Bill, but it is about light and about how access to light affects enjoyment of one's property. The Committee, therefore, looked not at whether a single tree constituted a hedge but at whether one big evergreen tree could block out as much light as two or three trees, which is the Bill's definition of the term "hedge". Clearly, it could, and I am sure that we could all think of examples of places where that happens.

I should stress that, before going down the route of tabling an amendment, the Committee sought reassurance that including single trees in the Bill would not lead to conflict with planning provision, such as tree preservation orders, or would not jeopardise ancient or historically significant trees. The Department responded that guidance would be produced in association with the Local Government Association to accompany the legislation and would specifically address the issue of tree preservation orders. However, it was noted that tree preservation orders do not usually apply to evergreen or semi-evergreen trees. Once certain that single ancient or deciduous trees would not be affected, the Committee asked the Department to reconsider the inclusion of single evergreen and semi-evergreen trees in the Bill.

The Department stated that the inclusion of single-tree problems would change the scope of the Bill and would require a full public consultation before an amendment to that effect could be made. However, the Committee noted that a significant number of responses to the Department's consultation made it clear, without being prompted, that they wanted and expected the Bill to deal with problems caused by single trees. Members agreed to a Committee amendment to include single evergreen and semi-evergreen trees in the Bill. However, several members still had some misgivings about the pressure that the inclusion of single trees in the Bill might put on single historic or characteristic trees and, on being advised that another Member was considering tabling a revised amendment at Further Consideration Stage, I agreed with members not to move the Committee's amendment at Consideration Stage.

On receiving notification of the amendment, most members of the Committee who were contacted in the short time available were content with it, but, because some felt that the clause was not sufficiently strong, I agreed to table the Committee's original amendment to extend the Bill to include single evergreen or semi-evergreen trees. However, it did not appear on the Marshalled List of amendments. That eventuality had been allowed for by the Committee, which agreed that, if the amendment was not allowed, it would recommend that the Department must recognise the need for legislation to address the detrimental impact on reasonable enjoyment of properties caused by single evergreen or semi-evergreen trees and would like to hear a commitment to see that addressed in the new mandate.

Having consulted a majority of the Committee members — we have not had a formal meeting since the Marshalled List was issued — I am confident that Mr Lyttle's amendment sufficiently meets the recommendations of the Committee to warrant its support. Therefore, on behalf of the Committee —

Mr Ross: I thank the Member for giving way. Perhaps it would be useful if he would inform the House why the Committee amendment was not accepted at this stage. Was it because the Speaker felt that it would dramatically change the Bill, or was it for another reason?

The Chairperson of the Committee for the Environment: I cannot clarify that; I just know that it did not appear on the Marshalled List. The Committee voted to table the amendment. I voted against it on the day, but I was happy to move it on behalf of the Committee. We were given an assurance that an amendment coming forward would address the issues on behalf of the Committee, but it seems that that has not appeared. On behalf of the Committee, I am disappointed that the amendment has not been accepted by the Speaker. That is perhaps something that we should have been dealing with today. I share the concerns of some members of the Committee who were clearly in favour of moving that amendment.

There was a phone-round of members of the Committee by the staff to get a clear line on whether people would agree with Mr Lyttle's amendment, and there has been a clear indication from a majority of the members. On behalf of the Committee, I support amendment No 4, and I know that members will have a chance to speak when I have finished.

I will now speak on behalf of Sinn Féin. I am disappointed that we did not get an opportunity to discuss the amendment that went through on behalf of the Committee. In the absence of anything in the Bill, Mr Lyttle's amendment may go some way to looking at the issue, and I believe that it is something that may be brought back in the next mandate. Perhaps the Minister will respond to that. I think it is a common-sense approach. After all, it is only a report. There may be consequences for local councils, but, on behalf of Sinn Féin, I do not see any problem in supporting the amendment proposed by Mr Lyttle.

Mr T Clarke: I am disappointed that the Committee amendment did not come today. I was one of those who would have preferred it to come the last day and, after conversation with the mover of this amendment, I was happy that it was not moved because we were coming up with something that was possibly stronger and tied down much better. However, I was disappointed when I read it on Thursday, as I believe that it is much weaker. Those who, from the outset, were sceptical about including single trees will have a weaker position than ever if they support this amendment. It talks about single trees, not blocking out light, so could include roots, leaves or any species of tree. We debated all those issues in the High Hedges Bill when we had concerns about specific trees. However, the amendment opens up the gamut to include every tree under the canopy of heaven. So, I have concerns about that.

I was disappointed because I had a conversation with Mr Lyttle about the amendment and there was a suggestion that we were going to focus primarily on leylandii, which are the biggest problem in residential developments in which gardens are maybe not as big as that of my colleague in front of me from North Down. They do not enjoy the small gardens that we have in South Antrim, where single trees can be a nuisance and block out light. If the original amendment had come forward today, we could have had a conversation about including it in the Bill.

The other problem I have with the amendment is that it states:

> *"The Department must prepare a report on the nature and extent of neighbour disputes".*

I am puzzled as to how the Department will do that, short of going round every home in Northern Ireland, rapping the door and asking people whether they have a problem with a hedge, and given that, when Royal Assent is granted, it will be for local councils to look after the High Hedges Act. The Bill does not compel a council to record incidence of single or nuisance trees. The only issues that councils will be focusing on are those relating to hedges. That is the only reason why the Bill came about.

So, as regards the amendment, I struggle to see how the Department will get the information that Mr Lyttle hopes it will get, because that will put a greater burden on the Department and councils. Given that the Bill does not include that requirement, the amendment is suggesting that the Department and councils will have to collate that information at a later date.

Mr Weir: Perhaps one solution would be to include it as part of the census.

Mr T Clarke: Yes, given that this is possibly the last opportunity to do so. Maybe it would have been better than what Mr Lyttle is suggesting today.

The Department was resisting the opportunity to move away, and the Chairperson made remarks about that. However, those who took part in the consultation referred to single trees. It would be unfair to use a figure, but a high proportion felt it worthwhile putting it into the consultation process that those trees caused a nuisance. It is disappointing that we are pushing the issue away for 18 months and asking for a report that could raise all sorts of questions. We are giving the general public false expectations about single trees. I will not support the amendment.

Mr Kinahan: I congratulate Mr Lyttle on getting involved when he is not on the Committee and for tabling this amendment. There was some dispute on the Committee about the matter. I welcome the amendment, although much more work needs to be done. We need to talk to many more people before we tackle single trees.

I have great concern that, had we included single trees, although they were only the evergreens or semi-evergreens, there was much more behind it. I want to tell you a story, although it relates less to light and more to leaves. When I was a councillor, someone asked me who was responsible for the leaves on a road because they had slipped the other day. I told them that they should have worn better shoes and walked more carefully. They asked me whether that was my position as a councillor. Both positions are right. We need to get the control of trees, leaves, light and everything that comes with them.

This amendment goes only part of the way, but at least it acknowledges that we need to think about the issue properly, and I hope that we bring it back to the next Assembly and have proper legislation regarding trees. There is a need to have something done for those who suffer from light, leaves, berries or everything else that comes with trees. However, one does not have to cut a tree down. One can pollard it, take all the branches off and get it back to a main torso. It can then grow again, and one can pollard it many years later.

I welcome amendment No 4, but there is much further to go. I hope that the Minister will try to find some way to make councils keep a record so that they do not have to knock on every door to get proper accounts, which is what Mr Clarke suggested they might have to do. The amendment caught us slightly unawares towards the end of Committee Stage, and we did not consult on it properly. However, I support it.

1.15 pm

Mr McGlone: Go raibh maith agat, a LeasCheann Comhairle. I thank Chris Lyttle for tabling the amendment.

As Members said, the amendment was discussed in the Environment Committee. I hear entirely what Mr Clarke said. We all know the problems associated with high hedges and, in this case, high trees. High trees can lead to problems not only with amenity and light but with cabling, be that TV, telephone or electricity cabling. In fact, high trees can interfere with the signal and reception for digital TV. Those issues need to be dealt with.

The counter-argument asks how we can protect the integrity of some trees, which have, for want of a better phrase, embedded roots in the heritage of a particular area. There are trees that have been in those areas for many years and form part of their culture and heritage. So, a balance has to be struck. However, from looking at it again, I am not sure whether producing a report with findings within 18 months will tell us an awful lot more than we know already. If it is to establish the type and nature of disputes or difficulties that have arisen as a result of high trees, the Department will have to go to the courts, and it may have to go to councils. It may also have to go to the Housing Executive, for example, which has its own mediation role to play in a lot of the problems and disputes between neighbours. It also has a role to play in dealing with issues in some of the less well-laid-out estates, where problems were caused by trees planted many years ago. Nobody anticipated that those trees would become a problem, because they were just regarded as a beautiful attraction that would enhance an estate.

On the one hand, therefore, I see a lot of merit in exploring the matter further to establish what the issues are and the effect that they may have. I am not sure whether that will realise an awful lot more.

Mr T Clarke: The Member is right. Will he accept that the original intention of the Bill was to address a lack of enjoyment and lack of light due to high trees, whereas the amendment opens up opportunities to deal with all single trees? We will build up expectations if we agree to the amendment. If that route is explored and the trees in question are deemed to be problem trees, every single tree will be cut down, which is exactly what the Committee did not want. Under the Bill, we tried to address a lack of enjoyment due to a loss of light, whereas the amendment will include all other things, such as problems caused by leaves, as mentioned by Mr Kinahan, a South Antrim colleague of mine.

Mr McGlone: I thank Mr Clarke for his intervention. Indeed, many other issues are associated with high trees and how they intrude upon amenity. The definition of the amenity as somebody's property will probably need to be dealt with by legal-minded people elsewhere.

I emphasise the point again: the amendment widens the range of issues that need to be looked at. However, that is not to say that those issues are any less important. Having TV reception or telephone reception affected by high trees could be a bigger problem than

having light blocked out if, for example, they need to use the phone in an emergency.

If the Department is going down the route of accepting the amendment, there is a lot of merit in it —

Mr Weir: The root?

Mr McGlone: The r-o-u-t-e, Peter.

If the Department goes down the route of accepting the amendment, what it is looking for to help with the report and to establish its findings will have to be clearly defined. A multiplicity of issues that result from high trees affects people's homes. Perhaps Mr Lyttle could add to that by providing some clarity on his amendment. I look forward to hearing Mr Lyttle elaborate on his amendment in respect of that.

I approach the amendment like many others in the Chamber. I support it in principle, but the more I think it through, the more I realise that, if reports are to be commissioned, they will need to include a great deal of detail and have quite a bit of spec attached to them. That will be needed if we are to avoid a situation like we had in Committee, where we received inconclusive findings that did not strengthen the case for the inclusion of single trees, despite Committee members knowing that that case had to be made. Mr Deputy Speaker, I thank you for your time.

Mr Ross: There are two important issues when considering amendment No 4 in the name of Chris Lyttle. When we consider those issues it will explain why the DUP is unable to support that amendment.

Earlier, I asked the Chairperson of the Committee for the Environment why the Committee's amendment did not appear on the Marshalled List of amendments. I remember the discussion that the Committee had on single trees, and, at that time, I made the point that the issue was relevant and merited further discussion. I also said that I did not think that it could be included in the Bill, as it would have changed the Bill dramatically. Therefore, I wonder whether the Speaker also came to that conclusion and whether that is why it could not be included in the Bill.

The first important question when considering the amendment is whether it is relevant to the Bill. Mr Lyttle does not sit on the Committee for the Environment, and, had he been a Committee member, he would have been aware of the discussions that took place on single trees. All Committee members recognised that it is an issue. However, departmental officials advised the Committee that the issue of single trees could not be included in the Bill, as the Bill was not primarily about that issue and its inclusion would dramatically change the Bill's meaning.

It is also important to say that there was no consultation on the issue of single trees. When the Bill was originally consulted on, it was not about single trees, and the public were not given the opportunity to comment specifically on that issue. My colleague Mr Clarke referred to the number of responses that mentioned single trees, and I think that the figures that he referred to were from the responses from district councils. Quite a few of them raised it as an issue. However, if we look at the responses from individual members of the public, we find something different, with only two or three of the approximately 100 responses mentioning that issue. Therefore, because the issue was not included in the Bill, the public were not given an adequate opportunity to discuss it or to give their opinions on it. Previous contributors to the debate, including Mr McGlone, have said that including the issue of single trees in any way would widen the scope of the Bill. We must be aware of that.

The second reason why I am unable to support the amendment is the requirement on the Department to make reports. As my colleague Mr Clarke said, that, in itself, could prove to be difficult. If agreed, the amendment would require the Department to make reports:

> *"on the nature and extent of neighbour disputes associated with single trees".*

However, given that that is not actually part of the Bill and not something that councils could enforce, I wonder whether, as Mr Clarke asked, councils actually collate that type of information. I suspect that they do not, because they do not have the time or resources to do so. It would be asking dramatically more of councils to look at the issue of single trees. Therefore, I am unsure how the report would be compiled and whether councils would be able to collate the information required by the amendment.

Mr T Clarke: I thank the Member for giving way. He will know that, when the Committee discussed the issue of disputes, a great deal of emphasis was put on disputes being resolved locally and through mediation before councils

became involved. Therefore, if someone were to approach a council, it would be in relation to the original purpose of the Bill, which is to deal with high hedges. The Committee also recommended that guidance should be given to the general public on how the process should work, and that guidance will not include reference to single trees. Why would someone go to the council to tell them that they have a problem with a single tree, if it is not in the guidance?

Mr Ross: I totally concur with that. Most Members would hope that a complaint would never reach the stage where councils become involved. The focus has always been on individuals settling their differences without getting to the stage where an official complaint is made. In such circumstances, the complaint, even if it were not about a single tree, would never have been made to the council, and, therefore, the council would not be able to record it as an incident or an issue. The Member makes a good point. There are issues about how the report will be done and, as Mr McGlone said, whether it will tell us anything that we do not already know. There is also the issue of whether it could be included in the Bill. I am not sure whether the issue of single trees is entirely relevant to the main focus of the Bill. For those reasons, I will vote against amendment No 4.

The Chairperson of the Committee for the Environment: On a point of order, Mr Deputy Speaker. I am seeking clarity on the amendment not being accepted. I know that you cannot speak on behalf of the Speaker, but can I have some clarity on what the ruling would be?

Mr Deputy Speaker: Members will be aware that the Speaker considers the admissibility of amendments at any stage. If an amendment does not appear on the Marshalled List, it is clear that it has not been selected.

Mr W Clarke: Go raibh maith agat, a LeasCheann Comhairle. I fully understand Members' concerns about single trees. This weekend, I was dealing with a dispute about a single tree and trying to mediate on the issue.

Amendment No 4 is a sensible approach, given that we have no other amendments to deal with the issue, and it will allow us to gather evidence. I came slightly late to the Committee for the Environment when it was dealing with the High Hedges Bill, but the main issue was that the Committee could not get clear data on how big the issue was. For the amendment to be included in the Bill, the Committee would need to know how big the problem is. Councils will start to implement the high hedges legislation while the report is being carried out, and other issues outside the scope of the Bill will become apparent as councils go through the process and explain to people who are making complaints that they do not fulfil the criteria of the legislation. Even after six months, councils and the Department will have a good idea of what issues will need to be included in further legislation. This is a good opportunity, and this is a good amendment.

The biggest issue is a single evergreen or semi-evergreen blocking out light and the detrimental impact that that has on a person's reasonable enjoyment of property, versus the owner of such a tree on the other side of a hedge. Such trees have been laid out in a certain manner, benefit a garden visually and may have been there for a considerable time. All those arguments must be taken into account. Some of the trees may have been planted by a relative — a father, mother or grandparent — and those emotional issues must be taken on board.

As other Members said, the report would have to investigate the staffing implications for local authorities. George Savage —

Mr Ross: Will the Member give way?

Mr W Clarke: Yes, certainly.

Mr Ross: Does the Member agree that, should the amendment be successful and we ask local councils to collate the information, which could be quite difficult in itself, local councils would have to spend significantly more time, resources and money trying to collate the information for the Department? Does he share my concern that local councils might not want the amendment to be made, as it would place an additional burden on them?

Mr W Clarke: I do not agree. If we have to identify a problem and some of us are aware that it is a problem, there must be information to back that up. I do not think that that will create a great additional burden on councils, as enforcement officers will be dealing with issues that cannot be resolved through the High Hedges Bill.

So I do not think that it is a problem. If enforcement officers —

1.30 pm

Mr T Clarke: Will the Member give way?

Mr W Clarke: I will give way when I have finished this point.

If enforcement officers or council officials with responsibility go out and look at every single tree, a considerable amount of work will be involved, even if the complaint does not turn out to be genuine. At the very least, it has to be investigated. If an investigation is carried out for every complaint about single trees in the North of Ireland, it will be a considerable amount of work.

Mr T Clarke: I thank the Member for giving way. My colleague has already spoken about resources and consultation. The amendment would place an additional burden on local government. At Committee Stage, members were careful about trying to get full cost recovery, or as much cost recovery as possible, so that councils would not have to bear costs. Has the Member any concerns that local government was not consulted on the issue?

Mr W Clarke: The issue was raised. The Member speaks about full cost recovery. Single trees may involve a considerable outlay of resources to people who would have to prune such trees. Obviously, they will have to do so without killing the tree. There is a possibility that a 20 ft tree being cut down to 6 ft may not survive. An owner would have to bring in a tree surgeon, at considerable cost. There are a number of issues. The owner must ensure that the tree keeps its shape and that the job is done properly. The report can deal with some of those issues. Mediation will still be a key requirement to deal with such concerns, given the sensitivities that can arise. Trees may have emotional impacts on people because they may view a tree that was planted by a relative as that relative living on. That is a serious issue that has to be seriously considered.

Councils receive many different types of complaint from the public about trees and high hedges. Trevor Clarke touched on the issue when he spoke about moss on patios and lawns and foundations being damaged by single trees and high hedges. People could incur considerable costs that could run into thousands of pounds, through no fault of their own, in having to underpin foundations. That is now being addressed though legal avenues. Roots are another issue that must be investigated in the report. Under the current law, residents can remove roots on their side of a boundary. Again, considerable costs could be involved.

Amendment No 4 calls for a report to be carried out to collate evidence and provide it to the Department and the new Minister in the next mandate. That is a sensible approach. We do not have an alternative, and I see no reason for not backing the amendment. Members who oppose the amendment will simply let the matter sit and take no further action to progress the issue.

Mr T Clarke: It is unfair to say that my party just wants to sit back and take no further action about single trees. If we accept amendment No 4, and it forms a part of the Bill, no action will be taken except the production of a new report. It will do nothing about single trees.

Mr W Clarke: The report will provide the new Minister in the new mandate with information about how big the issue is and where new legislation should be framed to deal with it. That is better than sitting on our hands and doing nothing until the next mandate. For that reason, I support the amendment.

Mr Weir: I will take up where Mr Willie Clarke left off. The sentiments behind amendment No 4 are perfectly reasonable, but it is ill-judged. I agree with Patsy McGlone: the more we delve into the detail, the more it does not stack up as the proper way to proceed.

The last Member who spoke essentially offered us two alternatives, which were to accept the amendment or to sit on our hands. I do not think that those are the proper choices. I think that there is a better and more productive way to go forward without the amendment. The reason I say —

Mr Ross: Will the Member give way?

Mr Weir: OK. I will give way.

Mr Ross: The Member quoted the previous Member as saying that we cannot just sit on our hands and do nothing. Does the Member agree that this Assembly needs to be a bit more mature and recognise that sometimes doing nothing is the right approach, particularly if it is going to make an amendment to legislation that will have an effect on the public that is worse than doing nothing? It is sometimes appropriate for the Assembly to do nothing.

Mr Weir: I appreciate the Member's point. That is sometimes the case, although I am not going to advocate doing nothing in this case.

When I look at the proposal, although I admire the sentiments behind it, I wonder whether the Alliance Party has moved from its traditional reputation of being tree-huggers to being tree killers. I appreciate that that may also apply to others in the House. I do not know whether it is trying to create a bit of clean, green water between itself and the Green Party, which I suspect may not be just as enthusiastic about the proposal. We wait to hear the words of Mr Wilson at the next stage.

There are a number of points to be made about the proposed amendment. First, the requirement to produce a report seems to be very unusual in respect of legislation. That is not normally the way in which it happens. I appreciate that the Member has not been here for a long time. The normal process is that Departments produce reports that produce reviews. It is very rare for that to be straitjacketed in a particular way in legislation. If the amendment is not passed, I would like to see — I suspect that it will have to happen anyway — a wider review of the legislation once it has been implemented and has had time to bed in. Simply not having the provision in place will not mean that the Department will be sitting on its hands or doing nothing. It will give the Department greater scope to look at what needs to be done.

This legislation was somewhat controversial for some people because it was implemented a few years ago in England and, as I understand it, there were a lot of problems with that. That is one of the reasons why the Department and the Committee have striven to ensure that we get what we have right. It is fairly clear that, at some time down the line, there will have to be a review of the legislation to ensure that we have got it right, not simply on the matter of single trees but on a wider range of topics, and that we have something that is bespoke to Northern Ireland. That will have to happen, and I am sure that the Department would see that as a progressive route — no pun intended.

What we have in the proposed amendment is something that straitjackets us in a number of ways. First, mention was made of the Committee's amendment. I am relatively agnostic about whether single trees ultimately do or do not form part of the proposals. I took the view that they should not be part of this legislation because that was not part of the consultation, and I think that it would be wrong to insert it into the legislation. As Mr Clarke indicated, the Committee's amendment at least limited the single tree issue to where it saw the problem as being, whereas the scope of this proposal is too wide. It covers anything to do with single trees.

Secondly, if we are to get a report on the nature and extent, it means that we have legislation that does not cover single trees. If it is known that that is not, therefore, a valid complaint, will someone in the community put in a complaint to their local council about single trees when they know that that is outside the scope of the legislation? If they do not put in a complaint, how do we get a clear-cut view of the impact of single trees? Why would someone complain about something that they know will not only cost them a certain amount to lodge but will have no chance of success? How will get a particularly accurate picture of that?

Any review needs to go beyond simply single trees and, consequently, the proposal is flawed in that respect as well. The point that Mr McGlone made is also valid. If we are to have a proper review, I question what is proposed under new clause 16A(2), which would mean that a report would be produced within 18 months. In practice, if the report is laid before the Assembly within 18 months, drafting will probably start within a year of the legislation coming into effect.

Mr McGlone: Does the Member accept that if any review is to be conducted, the Department's criteria for such a review will be key? In other words, how wide-ranging or narrow would the review be — whether, dare I say it, it would be a root and branch review — and what specific areas would it go into?

Mr Weir: That is a valid point. I hear heckling from the Back Benches that no leaf should be left unturned. We need to have an opportunity to have a review. A review after 18 months, however, is far too soon, and if we the amendment is made, we will be specifically tied to a particular report on a particular issue in a time frame that may not produce the answers that we require.

Mr McGlone is right: it is important to have a degree of discussion and consultation among the Department, the Assembly and the

Committee for the Environment in the next term on what the scope of a review should be.

If we accept the amendment, and I have no doubt that there are good intentions behind it, we straitjacket that review to one particular issue and one particular time frame in one particular way. There is, however, an opportunity to have a wider review. We have done some educated guesswork, and it is only sensible in mapping a way forward that we have talked about fees. Perhaps the fees regime will not work out particularly well. Is that covered by the amendment? No. It is limited to a report on single trees. What is the overall impact on the environment? Again, that is outside the scope of the amendment.

I want to see a commitment to a wider review that will be carried out in a more timely fashion. I suspect that we will require a minimum of at least two or three years of implementation before we will be in a position to have a proper assessment of the overall impact of the legislation. I would prefer not to tie our hands at this stage with what is an unnecessary amendment. The requirement to produce a report or undertake a review does not need to be in the Bill. We have seen that happen with a number of pieces of legislation. In addition, the idea of a review has been got wrong from the start. I would much rather see the Department conduct a review in a more realistic time frame, in which it can have discussions with the Committee for the Environment.

However well-motivated, the amendment is ill-judged. I urge the House not to accept it today, and instead, in an almost Blairite fashion, find a third way. It is not a question of the amendment itself or of sitting on our hands but of finding something that is of much more productive use by way of support for some sort of report, ultimately from the Department, on a wider review of the implementation of the legislation. That is a much more sensible way forward, and I urge the proposer of the amendment to consider that and not press his amendment. If he does, however, I urge to House to take a wider view on a better way forward for the implementation of the legislation and vote against the amendment.

Mr B Wilson: I welcome the amendment. High hedges and trees have been a major issue in my constituency. As a member of North Down Borough Council, I have dealt with many such cases over the past 30 years. Indeed, I was involved in drawing up a number of my constituents' responses to Lord Rooker's consultation, and I know for a fact that some of the respondents were referring to high trees rather than hedges.

Mr Weir: I am not in any way questioning the fact that single trees need to be discussed. However, does the Member not accept that, if made, the amendment will limit the scope of any report and that we should instead be looking at the implementation of the entire Bill? Would that not be a better way forward than simply having a single report that deals with one specific issue relatively soon in the term of a new Assembly? We should try to get it right for all constituents.

Mr B Wilson: I accept the Member's point, but I do not agree with it.

1.45 pm

The Assembly is giving a lot of time to discussion of this legislation. I doubt whether the next Assembly will revisit the issue unless there is an obligation in existing legislation. I am not sure where we are going. I would prefer to deal with the issues of light and the amenity of a garden. Discussing roots and so on makes it a totally different issue that has no place in the Bill.

Many of my constituents have been unable to enjoy their gardens because of inconsiderate neighbours who are unwilling to reduce their hedges. People have become aware of this legislation in recent months. People have asked me about the precise detail of the legislation and when it will be implemented, yet it is clear that the legislation will not cover those people's cases. The legislation does not go far enough. Most people expected the legislation to resolve issues that have been around for 20 years; they thought that the High Hedges Bill would resolve problems that they have with their neighbours. In fact, it will not resolve problems in most cases, and those people will be very disappointed. We are building up expectations.

High hedges are not the only issue, as they often incorporate high trees as well. Many people's problems relate to individual trees and their impact on light. Therefore, it is important that we look at the question of individual trees and groups of trees in respect of light and amenity but not in respect of the wider issues that other Members raised. I certainly do not approve of felling trees in normal circumstances. However, there are certain

circumstances in which individual trees, such as leylandii, can be removed without causing environmental damage. In other cases, trees are protected by tree preservation orders or by being an integral part of an area of townscape character or a conservation area. Nothing should be done to those trees.

We have to look at the problems; for example, councils should monitor complaints. One of the things that came out of the report is that most councils have no idea of the number of complaints because they do not keep a record of them. Councils do not distinguish between trees and high hedges. The amendment asks that we find out the extent of the problem.

Mr Ross: How does the Member expect that information to be collated? I am still unsure about that.

Mr B Wilson: If people tell a council that they have a problem, the council should keep a record of it.

Mr Weir: Given that single trees are outside the scope of the legislation, a complaint about a single tree will not be acted on. Why would someone ask a council to do something that they know to be outside the scope of what a council can take action on? We would not get a full picture.

Mr B Wilson: People go to councils already. I am aware of people coming to North Down Borough Council with a problem and the council saying that it can do nothing about it. With the passing of the High Hedges Bill, people will become much more aware of the legislation. They will ask a council whether a particular problem is covered by the high hedges legislation, and the council will have a record. There is no intention of going out and doing a census that looks at every tree. Basically, if constituents have a problem with a particular tree, they would approach the council.

There are a number of other issues around high trees. Obviously, a blanket view on cutting down trees is absurd and totally unacceptable. It is important that we consider the issue further and support this amendment. That will help us revisit the issue, because, if we have no obligation to follow this up, the next Assembly will probably let the matter go.

The Minister of the Environment: When I took office some two years ago, I decided within weeks that I would move high hedges legislation forward. As a constituency representative, I knew that that issue required some remediation, because there was no possible means of dealing with it under existing legislation. Quite quickly, I proceeded to put out to consultation high hedges legislation. I repeat: high hedges legislation; legislation not about trees, but about hedges.

The major problem identified is that Castlewellan Gold leylandii-type trees that have been allowed to grow without control cause huge damage to other people's property and their enjoyment of the property, due to loss of light and other issues.

Today, we are in danger of throwing the baby out with the bath water. This Assembly seems to have the capacity to see something coming from stage left, and, without having given it due consideration, to walk through the Lobbies and support it, even though it has not been properly thought through.

This matter went to the Committee in May 2010, and was discussed by the Committee until December 2010. That was seven months in which to deal with a 20-clause Bill. Today, something has come forward that fundamentally changes the Bill, and, all of a sudden, Members are prepared to go through the Lobbies and support it, without it having had due consideration, consultation or anything else. That is not a good way to legislate. Had the Committee come up with the idea during the process, we could have given it due consideration and made an appropriate response. If we want to carry out a tree survey, that is not something that needs to be legislated for.

Should the High Hedges Bill go forward unamended, I anticipate that, when the responsibility is given to councils to take forward, they will quite quickly identify where there are other problems outstanding. If a large-scale problem exists, of course we will respond. That is what this House is about. We are debating the issue because we responded to the existing problem in the first instance.

I do not know about the rest of the House, but, as I go through life, I discover that there is not a solution to every problem that I come across. I discover that, on occasion, there are solutions that are disproportionate to the scale of the problem, and, therefore, those solutions are not carried through. We have identified that

there is a significant problem. We are going to deal with that in a significant way. However, to go down the route that is being proposed by Mr Lyttle today would open the door for a cranks charter. As public representatives, we know that people do not always come to us with the best of intentions. People get involved in disputes with neighbours over a range of issues, and this will be an opportune time for people who have other problems with their neighbours to create real problems. Councils, public representatives and everyone else will get drawn into that. Huge costs will be incurred by the councils as a consequence, and we do not know what the resolution will be. I ask Members to think again about this particular issue.

If the amendment is agreed today, Chris Lyttle may become known as "Chopper" Lyttle as a consequence. I do not know whether Brian Wilson is still a member of the Green Party. I know he is not standing for the Green Party after this mandate concludes, but I am stunned that he wants to include something on the removal of deciduous trees. It is quite shocking that the Members to my right, including Mr Wilson and Mr Lyttle, want to take us down a route that would ultimately lead to the removal of deciduous trees in urban settings.

Trees add to the value of life. There are many fine chestnut trees and oak trees in urban settings that have a wonderful canopy. That may affect the light in someone's garden or leaves may land on other people's properties, and so forth. That, in turn, may lead to those people getting involved in this report, which may ultimately lead to a situation in which such trees would have to be removed. I am opposed to that. I am wholly opposed to removing quality trees in urban settings. I regret the fact that Mr Wilson and Mr Lyttle seem to be going down a route in which they support the removal of quality trees from urban settings, undermining wildlife and the environment. It is a shocking day when the Green Party supports the undermining of the environment to this extent.

Mr Wilson seemed to think that there would be some great resistance to this, but there is no unwillingness in my Department whatsoever to carry out an early assessment of the effectiveness of high hedges legislation. I have seen the ginormous single tree referred to in the 'Belfast Telegraph', and have great sympathies with the individual who is involved in that situation, which involves a leylandii that has grown completely out of control. However, if there is something more that the Department can do to respond to that situation that is practical and sensible and that will not lead to a situation in which high-quality deciduous trees would be removed from urban settings, it will be quite happy to look at those issues again irrespective of who the Minister may be, because those are sensible and rational ways of going about things. However, the Members are trying to force us to spend an unknown sum of money pursuing the issue. In these straitened times, when my Department, unlike some others, is suffering a significant reduction in funding because of the planning downturn and other issues over the past two years, where would we find the money to do this? Are the Members proposing —

The Chairperson of the Committee for the Environment: Will the Minister give way?

The Minister of the Environment: Yes.

The Chairperson of the Committee for the Environment: I thank the Minister for giving way. I listened to the comments from the other side of the House, and some common-sense points have been made. However, if the amendment is not made, and Mr Weir clearly outlined his views, will the Minister commit to a review of high hedges legislation around single trees and the roles and responsibilities of councils in how they would address the issue?

The Minister of the Environment: I thank the Member for that. I am in office for a few more weeks, so it is difficult for me to make a commitment about what others might do thereafter.

Were I in office, I would absolutely give a commitment to the House to review the effectiveness of the high hedges legislation, and if it is deemed not to be effective and where there are reasonable solutions, I would be very happy to look at those issues. I would be totally up for a review. If the Member's party happened to hold the Environment Minister's portfolio, I suspect that it would be up for review. I suspect that the other parties that currently make up the Executive would also support that. That can be done without legislation.

2.00 pm

The system allows the Minister of the day, whoever that happens to be, to identify how to

fit measures into their priorities. At the moment, with the departmental budget set for four years, it would mean cutting something else. It may mean cutting the local government grant or the grants that we give to NGOs. Mr Wilson and Mr Lyttle could be supporting cuts to the RSPB, the National Trust and many of the other organisations, such as the World Wide Fund for Nature, that do a very fine job in supporting the Executive in delivering their biodiversity strategy and all the other strategies that we need to ensure that Northern Ireland's environmental position continues to get better. Perhaps we could just abandon a few more area plans and put them back for another few years. If we proceeded with the proposal, those are the sorts of decisions that the Minister would have to take.

I am quite happy and willing to go down the route that was suggested by Mr Boylan. However, the sooner we enact the legislation, the better. It will have a significant beneficial impact on hundreds if not thousands of our constituents. We can deal with the issue that Mr Lyttle has raised in a rational way that is measured and responsive to our needs. I urge Mr Lyttle not to press the amendment to a vote in the first instance. We have taken account of his desires; I have made that very clear. Should he wish to proceed, I urge the House not to support the amendment.

Mr Lyttle: My only regret is that it seems to have taken a newcomer, in the words of Peter Weir, and a non-member of the Environment Committee to raise this issue in any detailed fashion. I tabled the amendment because Members, including those who sit on the Environment Committee, advised me at Consideration Stage that provision for single trees would not be included in the Bill. Having consulted with the Woodland Trust and local authority tree officers, I was reluctant to let that pass without putting forward proposals that could find a way, on behalf of local people, for us to include in the Bill some form of consideration on single trees.

I thank Mr Boylan, the Chairperson of the Environment Committee, for his support for the amendment and for highlighting councils' disappointment at the lack of provision in the Bill on single trees. I also thank Trevor Clarke for his interventions. I particularly regret that he was not able to find his voice before today. I am not too sure why that was.

Mr T Clarke: I resent the claim that I lost my voice because, if I remember correctly, when the Bill was last debated in the House, I was one of the Members who urged the Chairman to move the amendment. I want provision for single trees to be included, so the Member's accusation is unfair and unjust. I had a conversation with Mr Lyttle, so to suggest that I lost my voice is unfair.

Mr Lyttle: If that is the level of conversation that Mr Clarke has with people, we may need to get him some help in developing that. I fear for his constituents if that is the extent to which he lobbies on issues about which he feels strongly.

To speak substantively to some of Mr Clarke's concerns: I fail to see how the Department could not find a way to require a council to focus information-gathering on this issue. Indeed, it is important to emphasise that amendment No 4 requires the Department to conduct a review outwith the council, at this stage.

I thank Mr Kinahan for his contribution. He recognised that I was not a Committee member, and I welcome his support for my contribution to the debate regardless of that. He also re-emphasised disappointment that single trees had not been included in the Bill.

Mr McGlone raised issues around concerns for heritage. As I said in my opening remarks, I share those concerns, which is why the amendment proposes to review this issue as opposed to making concrete provision in the legislation. Mr McGlone also raised concerns about the timescale of the report. I am not sure that the public would grace the Department with much longer than 18 months to try to find a way of tackling what every Member who spoke acknowledged to be a serious problem in their constituency.

Alistair Ross also recognised the issue but said that it would not be possible to include provision for single trees in the Bill. He said that consultation responses had raised significant concerns, but that that had come from councils. Well, obviously, councils represent local people, and I argue that there is significant concern out there. He also questioned the Department's ability to collate the information in a detailed manner. I am not sure that the public would grace the Department with that excuse; they would expect us to review this situation in detail.

Mr Clarke also understood the concerns —

Mr Ross: I am looking for more clarification on that issue. Members have outlined genuine concerns about how such information would be collated, not least because the issue of single trees is not in the scope of the Bill. Therefore, when an issue is raised with a local council, it will inform the individual concerned that single trees are not included in the legislation and may not collect that information. The Member is now saying that it will be up to the Department rather than local councils to collate that information. Will he tell us how he envisages that happening?

Mr Lyttle: I find it hard to see how there is an issue about a Department and a local council working together to appropriately collate information. The issue has already been raised. We are saying that it is outwith the Bill, but that issue has been raised with councils for many years. People already contact councils about single trees and will continue to do so. On the ground, they have not disassociated single trees from high hedges, and they expect delivery on that issue.

The Minister of the Environment: Has the Member given any thought or consideration to how much it will cost to implement this? I do not think anybody knows. If it is identified as a six-figure sum, and I expect that it will be, where should that funding come from? Where does the Member propose that the DOE should cut? Should it be the NGOs? Should it be the Planning Service? Should it be NIEA? Should it be from the next Assembly's legislative programme? Should it be from waste management? Where does the Member propose that we cut to enable us to do this? There will be potential opportunities to address this in a way that is not legislated for.

Mr Lyttle: I thank the Minister. As was said by a colleague, the need to know the scale of this problem and the significant number of times that it has been raised with Members suggests that it is something that we try to find resources for. The Minister knows clearly my position and that of my party on the need for an independent Environment Agency and our record on biodiversity. Therefore, to suggest otherwise is extremely misleading and disingenuous, but that has already been done. As was said by colleagues, the amendment provides a reasonable timescale for the Department to fulfil the duty of preparing a report.

I also thank Mr Weir for his contribution. Despite saying that the amendment was ill-judged, he recognised the sentiment behind it.

He suggested a wider review of the legislation. I do not see how amendment No 4 would preclude such a review. Indeed, given —

Mr Weir: Will the Member give way?

Mr Lyttle: Let me finish the point quickly. Given the length of time taken to introduce the high hedges legislation, I am sure that the public would shudder at the thought of another review of legislation before we get anywhere near to dealing with the single-trees issue.

Mr Weir: I thank the Member for giving way. The point is not about the wider review. If the Member's amendment was to go through, we would, in effect, need to have two reviews. As well as the wider review, we would have a review on that specific aspect. Surely, if there is to be a review, it makes more sense for it to encompass all the issues. Surely that would be a more sensible way forward. It would certainly be a much more cost-effective way forward.

Mr Lyttle: I thank the Member for his intervention. As I stated, my concern is that, two or three years down the line, the High Hedges Bill will have failed to tackle the single-trees issue. I propose, therefore, before getting anywhere near to considering the issue in detail, that we have an additional review now. Nevertheless, I take the Member's point on board.

Mr Wilson spoke eloquently about the nature of the problem and about the fact that the High Hedges Bill would let down many local people who raised the issue. I fear that, in the absence of amendment No 4, those people will feel that we have failed to deliver for them.

I also thank the Minister for the points that he raised. As he rightly said, in his time in office, he has put high hedges in focus. As I said in my opening remarks, my only regret is the time that it has taken him to do that. He also suggested that the amendment would fundamentally change the Bill. However, as I said, I do not think that the people for whom tall trees and high hedges are an issue disconnect the two. The Minister also said that we do not need legislation to review tall trees. Unfortunately, the length of time that has passed suggests otherwise. The Minister raised concerns about the cost of dealing with the issue. As I

mentioned, people feel that the extent of the problem means that we must find ways, albeit cost-efficient ways, to explore the scale of the problem, with a view to introducing concrete proposals.

I thank the Chairperson of the Committee for the Environment for his support for the Bill and for his intervention, during which he said that there are common-sense motives behind the proposed amendment.

In conclusion, I fear that, should we not move today, the Department of the Environment will be abdicating its responsibility to help local people affected by excessively tall trees. I also fail to understand how a Department cannot work in co-operation with local councils to gather information that is already being submitted by local people affected by the problem. In addition, given how long it has taken us to introduce high hedges legislation, we need a concrete proposal for the Assembly to review the issue.

Question, That amendment No 4 be made, put and negatived.

Clause 18 (Regulations and orders)

Amendment No 5 made: In page 13, line 4, after "section" insert "(Fees)(4),". — *[The Minister of the Environment (Mr Poots).]*

Mr Deputy Speaker: That concludes Further Consideration Stage of the High Hedges Bill. The Bill stands referred to the Speaker. As Question Time is coming up at 2.30 pm, I ask the House to suspend until that time.

The sitting was suspended at 2.14 pm.

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

2.30 pm

Oral Answers to Questions

Office of the First Minister and deputy First Minister

Victims: 'Dealing with the Past'

1. **Mr O'Loan** asked the First Minister and deputy First Minister how they are taking forward the recommendations in the Victims' Commission report, 'Dealing with the Past'. (AQO 1195/11)

The deputy First Minister (Mr M McGuinness): Dealing with the past is a highly sensitive matter. However, it is an issue that we need to resolve. It is an issue for all the parties in the Assembly, the community at large and the two Governments. We have received a paper from the Commission for Victims and Survivors that contains its views on dealing with the past. We thank the commission and all involved for their hard work in producing that paper. Junior Ministers and officials have met the commission to discuss the contents of the report and to seek clarity on some of its recommendations.

When we published our strategy for victims and survivors in November 2009, we outlined our commitment to taking forward a range of issues in a comprehensive and coherent manner. We identified that a comprehensive assessment of the needs of victims and survivors was required to inform the development of the new service, and OFMDFM's immediate priority is the design and establishment of that service. Since the commission was established, we have made it clear to the commissioners that the delivery of the comprehensive needs assessment is a responsibility that rests clearly with them and that its timely delivery is crucial to informing the development of the service to meet the needs of all victims and survivors.

Mr O'Loan: One recommendation from the victims' commissioners was that OFMDFM's policy on cohesion, sharing and integration should include a commitment to dealing with the past as one of its core themes. As the draft

proposals on cohesion, sharing and integration, conspicuously, did not deal with that matter, will the deputy First Minister ensure that when a final cohesion, sharing and integration policy is produced, it will, effectively, do so?

The deputy First Minister: The Member will be aware that the cohesion, sharing and integration consultation has ended and that officials and, indeed, the First Minister and I are presently engaged in work to consider the outcome of that consultation. In the course of that consultation, many people commented and put forward ideas and suggestions, all of which will be considered seriously as we go forward. The Member knows as well as anybody else in the House that the issue involves more than the Office of the First Minister and deputy First Minister or, indeed, the Executive or the Assembly. It exercises the two Governments and, indeed, many people in the community. If a solution is to be found to resolve that issue, that is where it is to be found.

Mr Campbell: In trying to progress the issue of innocent victims and dealing with the past, does the deputy First Minister not think that the long, slow process of building his credibility in that regard would be enhanced by a clear, unambiguous statement of his involvement?

The deputy First Minister: The Member is, probably, the person in the House who is most embedded in the past. The contribution that he has just made in no way lends itself to this afternoon's discussion.

Mr Molloy: Go raibh maith agat, a LeasCheann Comhairle. Dealing with the past is a sensitive issue, and the role of victims of the past conflict is important. Will the deputy First Minister tell the House whether views expressed by the commission are consistent with those expressed by the victims' forum?

The deputy First Minister: The commission's views are not consistent with those expressed by the pilot victims' forum. The forum gave the commission important critical scrutiny and provided advice on dealing with the past. The pilot forum retains divergent views on the definition of victims. However, it reached consensus on the principle that all victims who are in need should receive support and assistance regardless of the circumstances that caused their need.

Ms Purvis: Does the Minister agree that the issue of dealing with the past is too huge a burden to be placed solely on society's victims? Does he agree that the current piecemeal approach to dealing with the past is not sufficient, nor is it fully joined-up or co-ordinated? Does he agree that a wider societal debate on how to deal with the past is needed?

The deputy First Minister: I am firmly in the camp of people who believe that the needs of victims have to be considered first and foremost in how we deal with that issue. We all understand that, due to the nature of the conflict, there are many victims of different political allegiances and many with none. To be honest, and as I have said publicly in recent times, the way in which governments have dealt with the past has been all over the place. I get no sense from anybody that governments have even the remotest clue about how to set about dealing with the past. I do not speak for the First Minister on this issue, but my party has stated its position. However, I am conscious of the fact that our position is different from the position of many others in the House and outside the House.

I have often described the issue of how we deal with the past as one of the great failures of the peace process. I believe that to be true. However, a solution for that has to be found, and that can only be found when we have a comprehensive and joined-up approach in which everybody recognises their responsibilities in contributing to that.

Maze/Long Kesh: Delisting

2. **Mr McNarry** asked the First Minister and deputy First Minister whether they would support the delisting of buildings on the Maze/Long Kesh site. (AQO 1196/11)

The deputy First Minister: Delisting is a matter for the Department of the Environment. That Department included a review of the listing decision in respect of the relevant buildings at MLK (Maze/Long Kesh) in September 2009. The original listing decision taken in 2004 by direct rule Ministers remains unchanged.

Mr McNarry: Do the facts that the buildings on the site did not qualify to be listed on the basis of their architectural interest or age, and that the original listings that he mentioned were not equality proofed deter the Minister from supporting a shrine to terrorists under the guise of a conflict transformation centre?

The deputy First Minister: I do not know how many times I have answered questions about that. It has never been the intention of anyone involved in the project to have a shrine at the Maze/Long Kesh site. What we are attempting to do has been widely acclaimed by all those who have looked at the site. In 2004, for example, the NIEA listed buildings at MLK, following detailed research and recommendations from the CGMS historic buildings team and recommendations of the MLK cross-party consultation panel. CGMS is an English archaeology firm that won the contract to identify heritage at MLK in line with the Historic Monuments and Archaeological Objects Order 1995 and the 1991 Planning Order. The following buildings have been listed: H-Block 6; the multidenominational chapel; specific lengths of perimeter walls and watch towers; the prison hospital; and the administration block. The hangars at the site have been given scheduled building status. Several other buildings, such as the main gate building, the visit block, the kitchen and the prison laundry have been retained. In 2005, the DOE confirmed that cage compound 19 would be listed when it is moved to its final position on the site.

Listed buildings can be delisted. However, given the detailed consideration and consultation that took place at the time and the recent examination of the issue, the Department of the Environment has ruled that the buildings at Maze/Long Kesh will not be delisted. The 1991 Planning Order details the policy on listing.

It is important to stress that all of the fairly eminent developers who have come to look at the site have looked at the tremendous advantage that the site gives us. I have outlined the detail of the buildings that are being retained. I suppose that the people who kept intact the prison at Robben Island —

Mr Deputy Speaker: The deputy First Minister's time is up.

The deputy First Minister: — where Nelson Mandela was held would appreciate the importance and the significance of this.

Mr McCartney: Go raibh maith agat, a LeasCheann Comhairle. Gabhaim buíochas leis an Aire as a fhreagra. I thank the Minister for his answer. I welcome the fact that there are no stated intentions to delist the buildings. Does the Minister agree that the listed buildings, including the prison buildings, in conjunction with the conflict transformation centre, will be a key component in the overall development of the site?

The deputy First Minister: The peace building and conflict transformation centre is of immense importance. That is accepted internationally. That is why we have the full support of President Barroso and the European Union. We have made our application to the European Union and fully expect to be successful in achieving something in the region of £18 million over the course of the next short while to enable us to have this project up and running by 2015. We believe that it will be a very important part of what is one of the most significant development sites in the whole of the North.

Others have shown an interest in the site. For example, the Royal Ulster Agricultural Society (RUAS) is currently involved in detailed negotiations with officials. If that move can be made, there is no doubt that we will effectively have a site that will be a major focus, not just for the North but the whole of the island. As we know, many people in the farming institutions, North and South, regularly attend the Balmoral Show. For it to be sited at the Maze/Long Kesh site would be of huge economic advantage to us. It is a site of great economic significance.

There should be sensible and common-sense development of the listed buildings in a way that offends no one, because Members will remember that many people were on the site, not just the ex-prisoners. People worked there. There is a military installation that was used during the Second World War. Many prison officers are supportive of the project, and there are many others, including people in the British Army who guarded the prisoners there, who accept the enormous significance of the site. In economic terms, it is very important for us to develop it.

Mr Lunn: Does the deputy First Minister agree that the Maze/Long Kesh is at least relevant to all traditions in our society, and the retention of the buildings in question is important to our shared history and shared future?

The deputy First Minister: Yes; I believe that that has been widely recognised. I hope that the recent conversations that have taken place have brought about an increased realisation that nobody is looking to use the site for political advantage. What we are trying to do is use the site as part of an arena to which people from the international community can

come and where there can be an educational facility for those looking to learn about how conflict is resolved. We can use the enormous benefits that will flow from that for the economic prosperity of our people.

As I said, the RUAS has indicated its desire to move to the site, and discussions are ongoing. I have no doubt whatsoever that the site will attract many developments in the coming years. Many people recognise that, if we properly develop it, the peace-building and conflict transformation centre will probably be the centrepiece of the whole site, which is one of the largest sites on the island of Ireland. It is about economics and jobs. We all know that if the site is properly utilised, thousands and thousands of new jobs will be provided. I cannot see the argument against that.

Mr Bell: Many people will be interested in the commitment to the Royal Ulster Agricultural Society. When can we see progress on that commitment and the interest shown materialising into the Royal Ulster Agricultural Society having a quality facility and a quality show on the premises?

The deputy First Minister: I was privileged to meet the RUAS when we attended the Department of Agriculture and Rural Development's breakfast at the Balmoral Show last year. It was obvious to me that the authorities were very anxious to move to the site. Now and over the coming period, very sensitive negotiations are taking place between officials and the RUAS. The RUAS is very anxious to move to the site, and we are anxious to make that happen as quickly as possible. If it can happen next year, that will be grand, but if we have to wait for a year after that, that will also be grand. It is a massive project to move, but it is fair to say that we and the Royal Ulster Agricultural Society are very anxious to make it happen.

HM Coastguard

3. **Mr Gibson** asked the First Minister and deputy First Minister whether they responded formally to Her Majesty's Government's consultation on the relocation of coastguard facilities. (AQO 1197/11)

The deputy First Minister: Our officials have drafted a response to the consultation, which we are currently considering. We intend to submit that response to the Department for Transport by the 24 March deadline. We are also writing to the Minister for Shipping, Mike Penning, setting out our significant concerns about the potential closure of the only coastguard rescue centre here, as it will leave us as the only Administration without a coastguard presence.

2.45 pm

Furthermore, it would also affect the South and the arrangements between both jurisdictions because Belfast coastguard is the Maritime and Coastguard Agency's official liaison point with the Irish coastguard. We asked the Minister for Regional Development to consider submitting a response to the consultation together with our civil contingencies group. The issue is also to be included on the agenda of the next British-Irish Council meeting in June.

The First Minister and I had a positive meeting at Bregenz House with Sir Alan Massey, chief executive of the Maritime and Coastguard Agency, and his staff on 17 February 2011 to discuss the draft proposals. We made clear our concerns about the impact that those proposals might have on the safety of people on our coast and at sea, and the impact on potential job losses. A coastguard service here that is fit for purpose for the twenty-first century should mean that the Belfast maritime rescue co-ordination centre is retained on a 24/7 basis. Our consultation response reflects that view.

Mr Gibson: We appreciate the response. This is a matter of considerable public concern. Many people do not appreciate that the responsibilities of the coastguard station are much more than simply for our coastal seas; the coastguard is also responsible for the waters of Lough Neagh and Lough Erne. Given that an emergency involving the coastguard invariably requires the co-operation of all emergency services —

Mr Deputy Speaker: Question, Mr Gibson, question.

Mr Gibson: Does the deputy First Minister agree that that co-operation is likely to be more effective through having a local coastguard station?

The deputy First Minister: I absolutely 100% agree. The First Minister and I, when we met Lady Sylvia Hermon and Sir Alan Massey at the coastguard station, made the point forcibly that the case for retaining the centre on a 24/7 basis is already made. From our perspective, given that we have a view that the waters on the

north-eastern coast of this island are probably some of the most dangerous in these islands, it is important that we co-ordinate with not just the authorities in the South but with those in Scotland and England. The case is compelling, and we will continue to make it forcibly that the coastguard centre should be retained, not on a piecemeal basis but a 24/7 basis.

Mr Dallat: The Minister will be aware of the successful campaign to save the coastguard station at Malin Head, with which I had the privilege of being involved. Does he agree that our coastguards pre-date partition? Does he also agree that this is an all-island service that depends entirely on the integration between the Irish coastguards and those in the North? Does he agree that the same arguments are as valid for this coastguard station as they are for the one at Malin Head?

The deputy First Minister: Coming from the traditions that I come from, I could make all sorts of arguments in favour of that, but this is about life and death. It is about how we save lives and have the most effective service possible. The relationships between Malin Head and Bangor have been powerful and strong over many years.

The work at Dublin and Valentia also has to be co-ordinated. Unless there is a co-ordinated approach, we endanger people's lives, and not just at sea. A Member mentioned the availability of the facility for people who may get into difficulties in places such as Lough Erne or Lough Neagh. That is important to a fly fisher-man such as me, because I would not know when I would have to avail of some support.

The approach needs to be joined up. Any attempt to remove the Bangor/Belfast coastguard would be a major break in the chain of what has been a very effective service for many decades.

Ms Ní Chuilín: Go raibh maith agat, a LeasCheann Comhairle. Given what the deputy First Minister has said, particularly in his last answer, about the impact of the Belfast coastguard around this island and on other coastlines, will he advise us on what else we can do to ensure that that vital service is protected?

The deputy First Minister: We have to continue to lobby people and to support all who are involved in this very important campaign. There is no disagreement in the House about supporting the retention of the coastguard station. So, we have to intensify our efforts. The First Minister and I are very much involved as a result of the discussions that we had at the coastguard station with the representatives from England and Lady Sylvia Hermon to ensure that the service is retained.

Mr Cree: I thank the deputy First Minister for his response so far.

When he and the First Minister speak to those who will make the decision, will he emphasise, apart from the normal commercial operations, the importance of the coastguard service to the leisure and tourism industry from Foyle all the way round to Carlingford and inland as well?

The deputy First Minister: That case has been made. We live on an island, and, as a result, people are attracted to the ocean. That results in all sorts of leisure activities, such as sailing. When we go to Bangor and see the amount of boats that are in the marina, it is obvious that sailing is a very popular activity for many of our citizens. Also, many people fish in such places as Lough Neagh and the Erne lakes. All of those are important recreational activities for our people.

Unfortunately, as we have seen in the past, people have lost their lives at sea in various tragedies. I had a friend who lost his life in a river while fly-fishing. We all know somebody or some family who have been affected by such tragedy. Fishing communities along the County Down coast have suffered awful tragedies in recent years, so the coastguard service is important. There is no political argument about that. This is about life and death and how we can protect our citizens, not just when they are working but also when they are involved in leisure activities.

Childcare Strategy

4. **Mr McKay** asked the First Minister and deputy First Minister for an update on the development of a childcare strategy. (AQO 1198/11)

The deputy First Minister: Mr Speaker, with your permission, I will ask junior Minister Kelly to answer that question.

The junior Minister (Office of the First Minister and deputy First Minister) (Mr G Kelly): We hope to bring a paper relating to the policy and economic appraisal report on childcare to the Executive in the next few weeks. That paper will outline the report's key findings. Once a way

forward is agreed, the next phase of the work on the development of a childcare strategy will begin. It is our intention that a lead Department, or Departments, for that policy area will be identified and that the childcare strategy will be developed with a lead from that Department, or Departments, in collaboration with the relevant ministerial subcommittee and the child poverty subgroup.

In advance of a lead Department being identified, OFMDFM ensured that the budget included an additional £12 million for the childcare strategy.

Mr McKay: Go raibh maith agat, a LeasCheann Comhairle. I thank the Minister for his answer. I welcome the news that an additional £12 million has been found to implement the childcare strategy.

Will the Minister outline who has provided funding for PlayBoard projects over the past few years? Will he also reassure after-school clubs, which are quite concerned about funding at the moment, that funding will continue seamlessly from this financial year to the next one?

The junior Minister (Mr G Kelly): Funding for PlayBoard was covered by DHSSPS from the end of June 2008 until December 2008. From January to March 2009, OFMDFM provided the necessary £250,000. During 2009-2010, OFMDFM provided £786,000, with an additional £80,000 from DHSSPS and £60,000 from DETI. From April 2010 to March of this year, OFMDFM has provided £577,000 with the additional £100,000 coming from the Department of Education and £60,000 coming from DETI.

Mr Spratt: I thank the Minister for his answer. Does he recognise that there is a specific need for childminders, given the decline in their numbers over the past 10 years? Will he assure the House that the new childcare package will go some way to address the need in that area?

The junior Minister (Mr G Kelly): The Member identified a difficulty that we are keen to look at, and that will form part of the strategy as we move forward.

Mrs D Kelly: What evidence can the junior Minister provide that the childcare strategy will be co-ordinated with the child poverty strategy and with the Executive's decision to make the economy the number one priority in the provision of affordable childcare?

The junior Minister (Mr G Kelly): The evidence is that the ministerial subcommittee on children and young people, which the other junior Minister and I chair, asked the child poverty subgroup to become involved. Therefore, we have a very co-ordinated approach. The Member will know that the reason why the ministerial subcommittee on children and young people was included was to ensure that all Departments are involved. It is also a priority to appoint a lead Department or Departments to take the strategy forward.

Arm's-length Bodies

5. **Mr I McCrea** asked the First Minister and deputy First Minister what actions they will take to ensure that arm's-length bodies deliver value for money. (AQO 1199/11)

10. **Mr Beggs** asked the First Minister and deputy First Minister to what extent they will reduce the number of their Department's arm's-length bodies. (AQO 1204/11)

The deputy First Minister: With your permission, Mr Deputy Speaker, I will answer questions 5 and 10 together.

The Executive agreed criteria and arrangements for the review of arm's-length bodies. Those were announced when the statement on the draft Budget was made in December. The Budget review group, supported by officials from OFMDFM and DFP, is reviewing arm's-length bodies against those criteria on the basis of information that Departments supplied. That group will bring recommendations to the Executive.

OFMDFM has departmental responsibility for a number of arm's-length bodies that fall within the scope of the review. In the context of the Budget plans for 2011-15, we expect each of the Departments' arm's-length bodies to deliver savings of 3% per annum in their administration and operating costs. That will deliver accumulative savings of £4·9 million by March 2015. OFMDFM is examining the potential to deliver savings in its arm's-length bodies through a rationalisation of their structures and functions. That will include an examination of the potential for greater sharing of accommodation and back office functions. Consistent with the work that the Budget review group is taking forward, we will critically examine the current and future role of each of the bodies for which OFMDFM is responsible. We will also

consider the potential for greater efficiency and effectiveness in the delivery of the services that they provide.

Mr I McCrea: I welcome the review. Will the deputy First Minister assure the House and the public that, as part of that review, if any of those arm's-length bodies is underperforming or not providing value for money, they will be got rid of or amalgamated with another body, if necessary?

The deputy First Minister: I made it clear that we are looking closely at all this. That obviously includes the performance of the arm's-length bodies. If they are not performing or delivering in the way entrusted to them by the Executive, we have a responsibility to deal with that in a manner that ensures that the public purse, which is very stretched at the minute, is protected.

Mr Sheehan: Go raibh maith agat, a LeasCheann Comhairle. Gabhaim buíochas leis an Aire as a fhreagra.

I thank the Minister for his answer. What criteria are being used to carry out the review of arm's-length bodies?

The deputy First Minister: We are looking at a range of arm's-length bodies, with the aim of assessing which might be abolished, merged or integrated into Departments.

Culture, Arts and Leisure

Creative Industries

1. **Lord Empey** asked the Minister of Culture, Arts and Leisure what action he has taken to develop export markets for creative industries. (AQO 1209/11)

11. **Mr McCallister** asked the Minister of Culture, Arts and Leisure, given that March has been designated "Creativity Month", how he is using his budget creatively to promote job creation. (AQO 1219/11)

The Minister of Culture, Arts and Leisure (Mr McCausland): With your permission, Mr Deputy Speaker, I will answer questions 1 and 11 together.

My Department supports job creation and innovation as investment in culture, arts and leisure. That fuels the emergence of creative people and creative enterprises. The creative industries are recognised across the world for their potential for job and wealth creation, and the sector can help to grow a dynamic and innovative economy in Northern Ireland.

3.00 pm

In 2008, my Department launched the creative industries innovation fund to help the sector to compete and succeed on the world stage, and 134 businesses and 22 sectoral development bodies have been supported to promote innovation in business through people and sectoral development. Evaluation of the programme is ongoing, but emerging findings indicate that many businesses have significantly increased their innovation and international activity.

The digital contents sector, which includes Internet games and mobile applications, is a massive global growth area. Later this month, my Department will help to support one of the largest ever overseas trade missions for a specific business sector. Around 40 business delegates from Northern Ireland's interactive media and music sectors will attend the South by Southwest conference in Austin, Texas, which will showcase our creative enterprises and support access to export markets.

The Department is working across the region to raise the profile of creative industries and enhance their contribution to rebuilding and rebalancing our economy. I am pleased that the Executive have assigned an additional £4 million in the draft Budget to help to develop the skills and capacity to grow the sector even further.

"Creativity Month" during March this year is also important in promoting a range of events across Northern Ireland to raise the profile of the creative industries.

Lord Empey: I thank the Minister for his reply. I am sure that we all agree that the sector has huge potential. Will the Minister tell us whether he has an estimate of the export earnings that have been generated by creative industries here in the past four years and what role our investment ambassador, who was appointed last August, is playing in boosting those earnings?

The Minister of Culture, Arts and Leisure: I am quite clear about the amount that we have invested in the sector. However, to carry out an assessment of the total benefit to our economy would require a piece of work. I do not have that information to hand, but I will certainly consider

it. With regard to promoting the sector, we want to use every opportunity, every mechanism and every individual to best effect.

Mr Deputy Speaker: John McCallister is not in his place to ask a supplementary question.

Mr Humphrey: The Minister has outlined the importance of creative industries to the Northern Ireland economy. Will he provide an update on the creative industry's innovation fund, and will he confirm whether the fund will be in place next year?

The Minister of Culture, Arts and Leisure: In 2008, the Department secured funding from the Northern Ireland innovation fund to undertake a three-year programme to boost local creative industries. That included the provision of a creative industries innovation fund and a range of related initiatives to support innovation in business by people and through sectoral knowledge and development. The fund, which is administered by the Arts Council, has made awards to date totalling £3·62 million to 133 individuals and 23 sectoral bodies. The sectors that have been supported include film, digital media, music, craft and the performing arts. Moving forward, my Department is evaluating the impact of the fund and will consider how best to build on its success. As I indicated already, £4 million has been assigned in the draft Budget to provide similar and prioritised support to further help our creative industries on the world stage.

Dr Farry: Does the Minister agree that investment in arts at grass-roots level, including community level, is critical to ensuring that we remain competitive in the creative industries and in indentifying and nurturing new talent?

The Minister of Culture, Arts and Leisure: The Member rightly identifies the link between the creative industries and all the other creative activities and industries in Northern Ireland. In the current financial situation, it is important that, as the Arts Council allocates resources, it ensures that we get the maximum value for money and that we direct money as far as possible to front line services.

Dr McDonnell: Will the Minister tell us whether he or his Department had any discussions with the Department for Employment and Learning or its Minister with regard to improving training opportunities for people in the creative industries?

The Minister of Culture, Arts and Leisure: The creative sector spans different Departments, including DCAL, DETI and DEL.

It is important that we have a joined-up approach. I welcome the suggestion. I am not aware of discussions, but it is a matter worth considering. We need to have all the skills in place. I have met a number of folk in the universities. I was with some of them the other day and I asked how they would identify their needs.

One of the important things is that in 2008 the Department launched a strategic action plan for the creative industries. That was primarily with DETI and Invest NI, but DEL has a role to play as well.

Motorsport: Safety

2. **Miss McIlveen** asked the Minister of Culture, Arts and Leisure how much funding both he and his Department have invested in motorsport safety over the past two years. (AQO 1210/11)

The Minister of Culture, Arts and Leisure: Responsibility for funding and investing in motorsports safety in Northern Ireland rests in the first instance with the organisers of those events and the governing bodies of the sport. However, over the past two years, my Department, through Sport NI, has committed up to £2 million to motorsport to help it bring about health and safety improvements at a number of motorsport venues across Northern Ireland.

That funding has been made available through the 2&4 Wheel Motor Sport Steering Group (2&4 Wheel MSG), which is the umbrella body for the four governing bodies of motorsport in Northern Ireland. I recently attended a press conference organised by 2&4 Wheel MSG to announce the works that had been assisted through this funding. It was well-attended by representatives of all the motorsport interests, governing bodies and circuit owners. The course changes that have been carried out at various venues across Northern Ireland, together with the safety equipment which has been purchased, received a very positive reaction from within the sport and was recognised as an important safety improvement for motorsport.

Miss McIlveen: I thank the Minister for his response. It would be remiss of me not to ask a supplementary pertaining to my own constituency. In that vein, I ask the Minister to

confirm how much funding Kirkistown motor racing circuit has achieved through the fund.

The Minister of Culture, Arts and Leisure: The circuit at Kirkistown received £435,500 to assist with major upgrading works. Those included the erection of a new marshals' suite, a new scrutineering building and six pit-lane garages. A new tarmac run-off area and gravel trap were also constructed at the hairpin section of that track.

Mr K Robinson: I thank the Minister for his comments regarding motorsport in general and in particular his £2 million investment to help improve the health and safety aspect of that exciting sport. Can he tell me, in similar vein, how much he is spending on the promotion of motorsport and to help attract more tourists and visitors to watch and participate in it?

The Minister of Culture, Arts and Leisure: The Member touches on areas of responsibility. The marketing of the sport is an issue for DETI and the Tourist Board, and they recognise that as a priority. My Department's role is to support the sport to be effective, safe and successful on the ground.

Northern Ireland Environment Agency: Enforcement

3. **Mr Burns** asked the Minister of Culture, Arts and Leisure, given the recent fish kill in the Sixmilewater River, what steps his Department is taking to ensure that the Northern Ireland Environment Agency is pursuing enforcement. (AQO 1211/11)

The Minister of Culture, Arts and Leisure: With regard to the incident on the Sixmilewater river on 23 January, DCAL fisheries officers responded immediately to a call from the Northern Ireland Environment Agency (NIEA) for assistance. Over the following days, they carried out a detailed count and classification of the dead fish at the scene of the incident. DCAL fisheries staff continue to work with NIEA staff on the ongoing investigation of this case. DCAL will assist NIEA in providing a specific fish mortality assessment indicating the abundance, age class and species as supplementary evidence to progress a possible prosecution.

The NIEA is an agency of the Department of the Environment, and it is therefore the responsibility of the DOE to ensure that NIEA is pursuing enforcement.

Mr T Burns: I thank the Minister for his detailed answer. I recognise that it is the Northern Ireland Environment Agency that will take the prosecution. However, I urge the Minister to put, and keep, tremendous pressure on it to come up with a result. This was a great river, full of fish, and it has been polluted twice. That is having an impact on all those anglers who regularly fish that river.

The Minister of Culture, Arts and Leisure: I agree that the recent incident on the Sixmilewater resulted in the death of significant numbers of fish. However, the matter is under investigation by the NIEA and, therefore, I cannot make any further comment on it at this time. I assure the Member that both I and the Minister of the Environment realise the importance of this matter. Fishing is a very popular sport in Northern Ireland and an important part of our tourism offer.

Mr Girvan: What support does DCAL provide to angling clubs that suffer fish kills in waters under their management?

The Minister of Culture, Arts and Leisure: DCAL fisheries staff are happy to work closely with angling clubs that suffer fish kills in waters under their management. Fisheries staff are able to provide detailed technical advice and guidance on all aspects of the reinstatement of fisheries affected by pollution. Those include the monitoring of water quality, habitat improvement works and the restocking of native fish species.

Mr Kinahan: I, too, am very concerned about the Sixmilewater. Has the Minister looked at giving local fishermen or other people who know the river the power to take their own samples and help the environment into the future?

The Minister of Culture, Arts and Leisure: The implementation of the sort of work that the Member speaks about brings us into the area of responsibilities of the Environment Agency. That is, of course, a matter for DOE rather than DCAL.

Cultural Awareness Strategy

4. **Ms Lo** asked the Minister of Culture, Arts and Leisure on which groups the cultural awareness strategy will focus. (AQO 1212/11)

The Minister of Culture, Arts and Leisure: Historically, there has been a lack of tolerance, understanding and respect for aspects of the indigenous cultural traditions in Northern Ireland. On occasion, that has led to tensions between the two main communities, which resulted in street unrest and criminal harm to people and properties linked to them. The aim of the cultural awareness strategy is to address those historical tensions in the context of a shared and better future to develop greater tolerance, understanding and respect for our indigenous cultural traditions. Therefore, it is proposed that the cultural awareness strategy will focus on the two main communities in Northern Ireland, supporting one significant project from each. Pre-consultation has taken place with several organisations, including the Grand Orange Lodge of Ireland and the GAA.

Ms Lo: I thank the Minister for his answer. I understand what he says, but, given the fact that we now have so many new cultures, which are lesser known to the general public, and the fact that we have the CSI document, which aims to promote cohesion, sharing and integration, why have we deliberately excluded those new cultures?

The Minister of Culture, Arts and Leisure: The primary objective of the strategy is to address the historical tensions that exist between the two main communities in Northern Ireland. The aim is to develop greater tolerance, understanding and respect for indigenous cultural traditions. I believe that that is a valid and laudable objective; one that will have to be addressed successfully if we are to create the society in Northern Ireland that is envisaged by the Executive and the Assembly. I appreciate that there are concerns about the proposals, and those are reflected in the responses that my Department received to the consultation. I take this opportunity to reassure Members that the Department will consider and address all the comments received during the public consultation before the strategy is finalised and implemented.

Mr McElduff: Go raibh maith agat, a LeasCheann Comhairle. In support of comments made by Anna Lo, I ask the Minister whether "cultural awareness strategy" is not now an absolute misnomer in that it does, indeed, exclude ethnic minorities. Secondly, does the Minister accept that it is widely perceived that the criteria for funding associated with the strategy is so prescriptive and so specific that people feel that the Minister wants to use it to direct funding to pet projects of his liking?

The Minister of Culture, Arts and Leisure: I have already answered the first part of the Member's question. Again, I reject the suggestion made in the second part. The fact that I have had pre-consultation discussions with the Gaelic Athletic Association indicates that it is not a case of directing funding to projects that are particularly identified with my cultural background.

Lord Browne: Will the Minister tell the House how much funding his Department will allocate through this policy in future years?

3.15 pm

The Minister of Culture, Arts and Leisure: The Member makes an important point. It is a small pot of money, and it is important that it is directed strategically. Based on the Department's current spending plans, it is estimated that the cultural awareness strategy budget will be £75,000 a year for the next four years of the current CSR period.

Football: Attendances

5. **Mr Hilditch** asked the Minister of Culture, Arts and Leisure for his assessment of the difficulties facing Irish League soccer clubs due to reduced attendances brought about by health and safety regulations. (AQO 1213/11)

The Minister of Culture, Arts and Leisure: I understand the concerns that have been raised with me by some Irish League football clubs about the impact that the new health and safety regulations appear to be having on attendances at certain Irish League football club games. In response to those concerns, I have asked my officials, in conjunction with Sport Northern Ireland, to look at those concerns in order to see how they might be addressed in the absence, at the moment, of further funding opportunities. I will, of course, wish to be satisfied that any proposed changes will continue to make reasonable provision for the safety of spectators. In the meantime, I am continuing to look at ways of identifying where and how further support to clubs may be provided that would assist them in complying with the regulations.

Mr Hilditch: I thank the Minister for his answer and declare an interest as a stadium operator.

Does he agree that the new health and safety regulations have contributed significantly to reduced attendances at Irish League games and other sports in Northern Ireland?

The Minister of Culture, Arts and Leisure: I have listened to the concerns of the IFA and the Premier League football clubs and the GAA. The fact is that, since the councils started to issue safety certificates, concerns have been expressed by clubs across the different sports. It is also clear that issues remain to be resolved — safety first, certainly. However, we need to bear in mind that there may be some sort of managed risk. I recognise that the regulations have created difficulties at some games, and that is why I have asked my officials to look into the matter in conjunction with Sport NI. It was put to me by one individual that it looks as though we may have a Rolls-Royce model in Northern Ireland when, in fact, a Mondeo would be adequate and fit for purpose.

Mr Sheehan: Go raibh maith agat, a LeasCheann Comhairle. Gabhaim buíochas leis an Aire as a fhreagra. I thank the Minister for his answer. Will he comment on the viability of professional soccer in the Six Counties, as it is threatened at the moment because of falling attendances and other related factors? Is he aware that discussions over recent years have been aimed at securing the viability of professional soccer on this island?

Mr Deputy Speaker: Order. The Member's question has no relevance whatsoever to the question in hand. I call Mr Tom Elliott.

Mr Elliott: The Minister said that he has asked his officials and Sport NI to look at the issue of health and safety that has been raised by clubs. Will that include a financial assessment of the downturn in the market in that regard and what finance would be required to bring clubs up to spec?

The Minister of Culture, Arts and Leisure: I have had conversations with a number of clubs directly and have met with representatives of all the Premier League clubs in Northern Ireland. We have a verbal indication from them of the sort of impact that they feel the matter is having on gates. In some weeks, it has no impact at all, and in others, for some clubs in particular, it is definitely an issue. On the basis of the attendance figures, we can work out what the financial implications are for the clubs. In some cases it would be true to say that it would require substantial work at a ground, but in other cases a very modest commitment is all that is required. For example, at one club, it was simply a matter of having the funding to acquire radios and put some training in place, amounting to a modest outlay of a few tens of thousands of pounds. For some clubs, a comparatively small amount of money makes a very large difference, but in others the cost would be more substantial.

Mr McDevitt: I am sure that the Minister will agree that the IFA has taken considerable steps to address some of the other barriers that existed towards good attendances at Irish Football Association games, particularly the Football for All programme, which has played a huge part.

Will the Minister continue to support improving the environment at football matches by supporting the banning of sectarian chanting at football games in Northern Ireland once and for all?

The Minister of Culture, Arts and Leisure: Again, I fail to see the connection between that question and health and safety regulations, which is what the original question was about. I believe very much in a shared and better future. I want to see an environment in which all sports are open and inclusive. Therefore, problems with things that people say, and rules that exclude people from a particular political tradition from being a member of a club and participating in those sports, all need to be addressed in a holistic way.

Sports Stadia

6. **Mr Butler** asked the Minister of Culture, Arts and Leisure for an update on the provision of new stadia for the Gaelic Athletic Association, Ulster Rugby and the Irish Football Association and when the associated funding will be made available. (AQO 1214/11)

7. **Mr A Maskey** asked the Minister of Culture, Arts and Leisure to outline the funding arrangements for the development of Casement Park, Ravenhill and Windsor Park. (AQO 1215/11)

The Minister of Culture, Arts and Leisure: With your permission, Mr Deputy Speaker, I will take questions and 6 and 7 together.

Providing fit-for-purpose stadiums for football, Gaelic games and rugby remains one of my key priorities. Funding to take forward stadium

development was always subject to normal budgetary processes. I am delighted that, in announcing the 2011-2015 draft Budget, the Executive have included £110 million for that purpose. That is a significant outcome given the present financial constraints. However, I will need to have regard to the Executive debate on the Budget.

I also advise that the outline business case, which was undertaken to examine the preferred option that the sports identified for their long-term regional stadium needs, including variations of those options and two sport options, has been completed, fully considered in my Department and is being assessed by the Department of Finance and Personnel. I anticipate that I will shortly be in a position to move forward confidently to resolve the long-standing issue of providing fit-for-purpose stadiums for the three main ball sports in Northern Ireland.

Mr Butler: I thank the Minister for his answer. The model for the three sports stadiums will now be undertaken over a six-year period, which will take it beyond even the life of the next Assembly. Does the Minister agree that it was a huge mistake and a missed opportunity to not go ahead with the original proposal to have a shared stadium on the Maze/Long Kesh site? That would probably have been completed at the end of this year, and people who are coming to these islands for the Olympic Games could have used those facilities. Does he agree that that was a huge missed opportunity?

The Minister of Culture, Arts and Leisure: The decision to move forward on a three-stadium model was taken before I came into office. My understanding — the Member may wish to correct me — is that that position was agreed by all the political parties in the Executive at that time.

Mr A Maskey: I was going to ask question 7. Thank you for inviting me in, a LeasCheann Comhairle. What does the Minister expect each of the three sports governing bodies to contribute, in percentage terms, to each of the major stadia?

The Minister of Culture, Arts and Leisure: That matter is being looked at in the business case as it is developed. Each sport is very different as regards the end result, ground capacity, and so on. When the business case is completed, I will be in a better position to respond to that point. The work is ongoing and is yet to be fully finalised.

Mr Frew: Will funding be conditional on all three sporting bodies moving forward together, or will they be able to move forward at different speeds?

The Minister of Culture, Arts and Leisure: We need to look at how the money will be profiled over the years. We need to look at planning issues, because some projects will have more issues to address to get full planning permission for what they will then proceed to do. Rugby, for example, already has some planning permission in place. Each sport is at a different stage. I anticipate that it will be a matter of matching the funding profiles and the rates at which the sports can move forward.

Mrs D Kelly: Will the Minister acknowledge that all parties signed up to the working group and to the Maze as the site for the stadium many years ago? We are all still very disappointed that that never happened. Will the Minister assure the House that there will be no political interference in the timing or scheduling of the stadia?

The Minister of Culture, Arts and Leisure: As soon as I came into office, I met the three main sporting bodies, and made sure that I met them together, so that each of them got exactly the same message at exactly the same time and no one got preferential treatment. I said to the sporting bodies then, and have maintained ever since, that each of them would be treated fairly, equitably and appropriately. That has been the policy all along.

Film and Television Production

8. **Mrs M Bradley** asked the Minister of Culture, Arts and Leisure, in light of the recent successes in Belfast, whether he will work with his Executive colleagues to attract more television industry and film-makers to Londonderry. (AQO 1216/11)

The Minister of Culture, Arts and Leisure: DCAL is the sponsor Department for Northern Ireland Screen, which contributes to the television and film industry in Londonderry in several ways. Northern Ireland Screen works with a number of production companies based in Londonderry to support their production, and has just closed the finance on an independent feature film written by Lisa McGee from Londonderry. Northern Ireland Screen is strongly involved in securing television involvement

in the Londonderry UK City of Culture 2013. Northern Ireland Screen supported the production company 360 Production to set up in Londonderry, and that company has gone on to supply television content for the BBC and the Discovery Channel from its base in Londonderry. Northern Ireland Screen also delivers educational activities and provides funding for organisations such as the creative learning centres, including the Nerve Centre, which is based in Londonderry, and Cinemagic, which is concerned with inspiring young people to take up careers in film and television.

In addition, the Irish Language Broadcast Fund commissions projects from Londonderry, and it is expected that the Ulster-Scots Broadcast Fund will do the same.

Film post-production, in areas such as visual effects and sound editing, offers lucrative opportunities for companies across Northern Ireland.

Although DCAL is the sponsor Department for Northern Ireland Screen, support for film and television production is an activity that is funded by Invest NI. I will continue to work with the Minister of Enterprise, Trade and Investment to try to attract more television and film to the whole of Northern Ireland.

I welcome the Member's question. She identifies the issue of film production in Londonderry. However, I take this opportunity to suggest that Londonderry should not only be a place for production but a location and theme for film-making. I am sure that the Member will join me in identifying and highlighting the opportunity that there is to have Londonderry at the heart and as the theme of a major television production — no, film production — about one of the greatest events that ever took place there, which was, of course, the siege of Derry. What better theme could there be for a major film? As the old song says, which I am sure Mrs Bradley knows well:

> *"With heart and hand and sword and shield, we'll guard old Derry's walls."*

[Interruption.]

Mr Deputy Speaker: Order. Time is up. I am glad that you did not sing it, Minister.

Mrs M Bradley: I thank the Minister for referring to 'Derry's Walls'. Considering that the focus of the year of culture will be on the city in 2013, what steps has the Department taken to make sure that everything is being done to promote our city, the city of Derry, as a base for creative industry?

The Minister of Culture, Arts and Leisure: I recently noted the high level of investment that my Department has made in the Maiden City of Londonderry, a city that has a wide range of first-class cultural locations and a fine cultural infrastructure. Members have only to look at the investment that there has been in the Verbal Arts Centre, the Playhouse and the Millennium Theatre. In those and other locations, not only has there been investment in the capital infrastructure, but there is ongoing investment in all those organisations through the Arts Council.

Mr Deputy Speaker: That concludes questions to the Minister of Culture, Arts and Leisure. The House should take its ease for a minute.

3.30 pm

Executive Committee Business

Justice Bill: Further Consideration Stage

Mr Deputy Speaker: I call the Minister of Justice, Mr David Ford, to move the Further 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 provisional grouping of amendments selected list.

I inform Members that a valid petition of concern was presented on Friday 4 March on amendment Nos 5, 6, 8, 9, 10 and 11. I remind Members that the effect of the petition is that votes on those amendments will require cross-community support.

There are four groups of amendments, and we will debate the amendments in each group in turn. The first debate will be on amendment Nos 1 to 3 and 16 to 31, which deal with policing and community safety partnerships. The second debate will be on amendment Nos 4 to 10, which deal with chanting at regulated sports matches and with banning orders. The third debate will be on amendment Nos 11, 12 and 32, which deal with sex offender licensing provisions and legal aid. The fourth debate will be on amendment Nos 13, 14 and 15, which deal with access to firearms and firearms certificates.

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. If that is clear, we shall proceed.

Clause 22 (Functions of DPCSP)

Mr Deputy Speaker: We now come to the first group of amendments for debate, which deal with the roles and duties of policing and community safety partnerships. With amendment No 1, it will be convenient to debate amendment Nos 2, 3 and 16 to 31.

Mr McCartney: I beg to move amendment No 1: In page 18, line 11, after "shall be" insert

"in effect that of a PCSP".

The following amendments stood on the Marshalled List:

No 2: In page 19, line 7, leave out subsection (6) and insert

"(6) The principal PCSP shall have a role of co-ordinating functions and activities which pertain to the district of Belfast and with the agreement of the DPCSPs." — [Mr McCartney.]

No 3: After clause 33, insert the following new clause:

*"**Duty on prescribed public bodies to consider crime and anti-social behaviour implications in exercising functions***

33A.—(1) A prescribed public body must exercise its functions in relation to any locality with due regard to the likely effect of the exercise of those functions on crime and other anti-social behaviour in that locality.

(2) The Department must, with the approval of the Attorney General, issue guidance to prescribed public bodies as to their compliance with the duty in subsection (1).

(3) Legal proceedings calling into question the compliance by a public body with the duty in subsection (1) shall not be entertained by any court or tribunal unless the proceedings are initiated by, or with the consent of, the Attorney General.

(4) In any legal proceedings calling into question the compliance by a public body with the duty in subsection (1) in relation to any matter, it is a defence for the body to show that it had due regard to the guidance under subsection (2) in relation to that matter.

(5) In this section—

'legal proceedings' means proceedings in any court or tribunal whether for judicial review or otherwise;

'prescribed' means prescribed by regulations made by the Department;

'public body' means—

(a) a Northern Ireland department; and

(b) a body listed in Schedule 2 to the Commissioner for Complaints (Northern Ireland) Order 1996 (NI 7).

(6) The Department must consult the other Northern Ireland departments before it—

(a) issues any guidance under subsection (2); or

(b) makes any regulations under subsection (5).

(7) No regulations shall be made under subsection (5) unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly." — [The Minister of Justice (Mr Ford).]

No 16: In clause 103, page 63, line 21, at beginning insert

"Except as provided by section (Duty on prescribed public bodies to consider crime and anti-social behaviour implications in exercising functions)(7),". — [The Minister of Justice (Mr Ford).]

No 17: In clause 103, page 63, line 21, after "Regulations" insert "made by the Department". — *[The Minister of Justice (Mr Ford).]*

No 18: In clause 103, page 63, line 25, at end insert

", paragraph 7(3) of Schedule 1 or paragraph 7(3) of Schedule 2;". — [The Minister of Justice (Mr Ford).]

No 19: In schedule 1, page 69, line 40, leave out from "a chair" to end of line 7 on page 70. — *[The Minister of Justice (Mr Ford).]*

No 20: In schedule 1, page 70, line 17, at end insert

"(5A) Subject to the following provisions of this paragraph, a person shall hold and vacate office as chair or vice-chair in accordance with such terms as the council may determine." — [The Minister of Justice (Mr Ford).]

No 21: In schedule 1, page 70, leave out line 38 and insert

"(a) a chair who shall be the person who is for the time being chair of the PCSP; and". — [The Minister of Justice (Mr Ford).]

No 22: In schedule 1, page 71, line 1, leave out sub-paragraph (3). — *[The Minister of Justice (Mr Ford).]*

No 23: In schedule 1, page 71, leave out line 12. — *[The Minister of Justice (Mr Ford).]*

No 24: In schedule 1, page 71, leave out line 21. — *[The Minister of Justice (Mr Ford).]*

No 25: In schedule 2, page 74, line 14, leave out "a DPCSP—" and insert

"the DPCSP in each police district of Belfast—". — [Mr McCartney.]

No 26: In schedule 2, page 79, line 9, leave out from "a chair" to end of line 16. — *[The Minister of Justice (Mr Ford).]*

No 27: In schedule 2, page 79, line 26, at end insert

"(5A) Subject to the following provisions of this paragraph, a person shall hold and vacate office as chair or vice-chair in accordance with such terms as the council may determine." — [The Minister of Justice (Mr Ford).]

No 28: In schedule 2, page 80, leave out line 6 and insert

"(a) a chair who shall be the person who is for the time being chair of the DPCSP; and". — [The Minister of Justice (Mr Ford).]

No 29: In schedule 2, page 80, line 9, leave out sub-paragraph (3). — *[The Minister of Justice (Mr Ford).]*

No 30: In schedule 2, page 80, leave out line 20. — *[The Minister of Justice (Mr Ford).]*

No 31: In schedule 2, page 80, leave out line 29. — *[The Minister of Justice (Mr Ford).]*

Mr McCartney: Go raibh maith agat, a LeasCheann Comhairle. Beidh mé ag labhairt ar leasuithe 20 agus 27.

As well as moving amendment No 1, I will speak to amendment No 2. I will also comment on amendment Nos 20 and 27. Those deal particularly with district policing and community safety partnerships (DPCSPs) in Belfast.

At Committee Stage, we raised concerns about the feeling in Belfast on district policing and community safety partnerships. People feel that those four partnerships do not have or are perceived not to have the same autonomy or functions as the 25 policing and community safety partnerships across the North. The amendments that we tabled mean to ensure that the legislation reads clearly and that the district policing and community safety partnerships have the same functions and operational status as the 25 policing and community safety partnerships.

Amendment No 2 deals with what is called the principal policing and community safety partnership as it pertains to Belfast. During the Long Gallery event that the Committee hosted, people from Belfast outlined to us the sense that the principal partnership is seen as a form of super-body and that the four district partnerships are somehow subsidiary or only part of or subgroups of the principal partnership. Our amendment is designed to

ensure that those who operate the policing and community safety partnerships in Belfast will know that their operational autonomy and constitution is exactly the same as those of the 25 that stretch across the North.

We have raised concerns about amendment Nos 20 and 27 and have spoken recently to officials about them. Amendment No 20 inserts new paragraph (5A):

> *"Subject to the following provisions of this paragraph, a person shall hold and vacate office as chair or vice-chair in accordance with such terms as the council may determine."*

That leaves some room for misinterpretation. In the past, the roles and functions of the district policing partnerships and the idea of removal from or vacating office were clearly linked to the Police Act. Amendment No 27 to schedule 2 is a repeat to cover the district policing partnerships in Belfast. We are not sure whether those provisions read as they should. They give rise to the possibility of a council in a different location having a different interpretation of how a chair or vice-chair can be asked to vacate office. We wish for that to be made clearer.

The Minister of Justice (Mr Ford): I am grateful to the Member for giving way. The issue of the precise detail of amendment Nos 20 and 27 was raised with me earlier today. Having consulted, I certainly accept that there is an issue that the phraseology may not be entirely appropriate. Therefore, if it is of any assistance to Mr McCartney and his colleagues, I do not propose to move the amendments.

Mr McCartney: I note and welcome the Minister's comments. They were in the spirit of the way in which the Bill has progressed. Now that the Minister has stated his intention not to move the amendments, I have nothing further to add.

The Chairperson of the Committee for Justice (Lord Morrow): I did not know that I was down to speak on this group of amendments. We understood that there was some confusion around what the Member mentioned. Having listened to the Minister say that it is not his intention to move his amendments, we are reasonably content. I do not want to add to anything that has been said at this stage.

Lord Empey: In view of what has just transpired, I will not comment at this stage.

Mr A Maginness: I will comment on amendment Nos 1 and 2, which have been tabled by Mr McCartney. He also proposes amendment No 25 to schedule 2. I accept the position of the Minister of Justice.

It seems that the Sinn Féin amendment, probably unintentionally, would weaken the principal policing and community safety partnership and devolve to the district partnerships some of the power of the central partnership. That is not helpful. I say that for two reasons, the first of which is that it weakens the backbone of the partnership in Belfast, namely its central functioning aspect. Secondly, when issues start to be devolved to local districts, that weakens the main thrust of the partnership. I understand what my friend is trying to get at, but it takes away from the centrality of the partnership.

As Mr McCartney correctly pointed out, Belfast is unique because of its rather elaborate structure and the fact that four districts will shadow, as it were, the present DPPs. That adds more elaboration to the architecture that we are discussing, which is not helpful as far as the partnership in Belfast is concerned. Therefore, if we want an effective and proper partnership in Belfast, rather than adding to the intricacy of the architecture, let us simplify it. The Sinn Féin amendments make it much more elaborate, and Sinn Féin Members should think carefully about that. The amendments do not really assist.

The Bill provides the power for the central partnership to ask district partnerships to deal with local matters, which is a better compromise. The Sinn Féin amendments do it back to front, and it is better to keep the provision as laid out by the Department and the Minister. We also need uniformity in partnerships across the North. The amendments take away from that uniformity, despite Belfast being unique and needing some flexibility of approach.

The origin of all this, of course, is in the DPPs established under Patten. The whole idea of DPPs was to bring policing closer to people and communities. However, a central body in Belfast was necessary to allow that to happen. Adoption of the Sinn Féin amendments in the present circumstances would damage that basic concept of Patten. Sufficient flexibility is established in the Bill to allow for local activities by the partnership, and that is the best way to go.

For those reasons, the amendments should not be supported. I say that with some regret because the amendments are well intended. However, ultimately, they would weaken the proper functioning of the policing and community safety partnership in Belfast, and it is important to preserve its strength.

3.45 pm

Dr Farry: I want to refer to two aspects of the first group of amendments. First, on the policing and community safety partnership arrangements pertaining to Belfast, I follow on largely from Mr Maginness. It is important that we recognise that a balance has to be found among the four subpartnerships to reflect the different parts of the city, which is big and diverse. Local circumstances must be properly reflected, alongside ensuring that there is a degree of cohesion to an overarching policing and community safety strategy for the whole city. I certainly think that the current balance in the legislation reflects both those objectives.

The other aspect that I wanted to comment on — I am somewhat surprised that it has not come up so far, because it has been such a contentious part of the process — is the new clause relating to the duty on public bodies to consider crime and antisocial behaviour implications when exercising their functions. I spoke at length on this at Consideration Stage, when I set out my personal view based on examples from elsewhere in these islands. In England and Wales, a strong duty has been viewed as central to the cohesion of what are, in effect, crime reduction partnerships. In addition, there has been strong support from the Police Service of Northern Ireland for such arrangements here, in part to reflect the need for other agencies to buy in to partnership working to the same degree as the police and to reflect the fact that dealing with community safety and crime is not solely a responsibility for the police but is a responsibility for all in society.

That having been said, I recognise that, particularly through the Committee, a lot of concern has been expressed about potential implications. Indeed, the Attorney General gave advice on potential implications. I think that those fears have been slightly exaggerated. On the basis of the example of cases taken in places with similar duties, those fears are not justified. However, bearing in mind that, at times, Northern Ireland can be a peculiar place and that things that apply elsewhere do not necessarily apply here, I am certainly prepared, as, I know, the Minister is, to respect the concerns that have been raised.

Amendment No 3 is a well-reasoned way to navigate through those competing agendas and to ensure that, at the very least, we are able to commence the process of proper community planning in and around community safety issues. Indeed, in due course — hopefully in a few years — it may plug in to wider community planning aspects under the review of public administration. Although I would like us to go faster, if people think that we need to learn to walk before we run, I am happy to respect that approach. If we want to start slowly, this is the way to go. If the Assembly adopts the proposal that is before us but it is later seen to be insufficient, perhaps we can look at things again on the Floor of the Assembly. In the meantime, amendment No 3 reflects the importance of certain bodies engaging around the crime and antisocial behaviour agenda. Given that quite high bars are in place to protect those bodies from vexatious claims, it is probably the right way to go for now.

Mr Givan: I shall also speak about amendment No 3, relating to the duty on public bodies, which is something that we considered at length. Quite a number of changes have been proposed, so this is clearly not the Minister's preferred option for taking things forward. I am concerned about it on a number of fronts. First, the role and power that would be granted to the Attorney General would mean that any claims that public bodies are not carrying out their duty would have to come through the Attorney General. On the basis of other legislation on this type of issue that I have seen, that would be unique.

Also, public bodies have to be able to consider all issues within their remit. The placing in legislation of a specific duty in relation to one particular issue concerns me. The legal basis for one particular element means that they may not be able to take a comprehensive view of all matters. The consideration of crime is an important element and one that all public bodies will have to consider in the exercise of their work, but the placing of that duty on them causes me concern. Those who pushed most for this new clause work in the field of community safety and, quite rightly, want the legislation to be as tough as possible on antisocial behaviour. However, public bodies must be able to govern

and to take into consideration all matters, not just the one specified in legislation. Therefore, we will oppose amendment No 3.

Mr A Maginness: The consensus in the Committee was strongly against the clause. Does the Member agree that, although the rephrasing of that clause represents an advance, it is still not satisfactory? First, it imposes a further burden and duty on public bodies and, secondly, it is as though we are giving the Attorney General a blank cheque and asking him to provide the guidance. That guidance should be a matter for the House, and it should outline the issues that are important in carrying out that duty. Therefore, the legislation, as it is now reconfigured, is still unsatisfactory.

Mr Givan: The Member makes a valid point, and I thank him for that intervention. I made the point in Committee that the Attorney General's decision that a case should proceed to court would add a great deal of weight to its proceeding. Yes, it is intended as a filter, and, if the exercise of that filter were to ensure that vexatious proceedings did not happen, I would welcome the inclusion of the Attorney General —

Dr Farry: Will the Member give way?

Mr Givan: Yes, I will give way.

Dr Farry: I want the Member to clarify two points. First, he refers to the matter being pushed by people who work in the community safety sector. Does he also recognise that the Police Service of Northern Ireland is one of the organisations pushing most strongly for this? Secondly, both he and Mr Maginness expressed concerns about the implications of the clause. I ask Mr Givan to look to the future. Given his former role in the Department of the Environment, Mr Givan will be particularly well placed to look to the future responsibility for community planning and all that that entails for councils and other public bodies that work at a local level. If the Member foresees difficulties at this stage with a responsibility to co-operate on community safety, what problems does he foresee for the community planning duty that is supposed to follow in due course and is to be backed up by legislation in the House?

Mr Givan: I thank the Member for the intervention. Obviously, community planning will be based in legislation when it comes through the House, and we will decide what duties to put in place for that. However, community planning involves much more than one issue; it involves a spectrum of issues. I agree that the prevention of crime and antisocial behaviour is a critical role for public bodies. However, basing that duty in legislation elevates it above all other issues that such bodies must consider, and that concerns me.

The Committee had a discussion about the Attorney General's role, which is referenced in the amendment. I am concerned about the phrasing used and about the extra bureaucracy and burden the duty will place on public bodies. The Member referred to my previous role. I can recall a planning policy statement and arguments being made that we needed to use material to help to prevent flooding. That argument was made with reference to the statement, but it was not given considerable weight when decisions were being taken. However, it is a very important issue, as is this one. Placing that as a legislative duty on public bodies causes me concern, and that is why we will oppose amendment No 3.

Mr O'Dowd: Go raibh maith agat, a LeasCheann Comhairle. My remarks will also be on amendment No 3. The principle of the proposed new clause is very good, in that, as legislators, we would bring forward a clause that would hold public bodies to account in designing out antisocial behaviour or and ensure that, in making decisions about citizens' lives, they take into account how that could have an impact on how crime and antisocial behaviour affect the quality of people's lives. However, I share the concerns that have been expressed around the Chamber on the quality of the clause. That is no indictment of the Minister or his officials, but it has proven to be a difficult clause to get right.

First, it has been difficult to ensure that it will be effective. There is no point passing Acts if citizens cannot use them. I fear that that is where the clause falls down. The draft legislation holds the Departments to account through a number of safety mechanisms, one of which is the Attorney General. Other such mechanisms are guidance and the agreement of Departments on that guidance. A convoluted process is involved, and, to get us where we want to be, I understand why that is the case.

My main concern is that we will put a citizen who wishes to bring a Department to the judiciary before the Attorney General first. That citizen will almost have to make a prima

facie case to the Attorney General to say that a Department has not lived up to its statutory obligations under the clause and that the Department's actions in the community have meant that there has been a rise in criminal activity or antisocial behaviour. If we are to legislate to protect citizens, we should do so. We should not place another barrier in front of them by saying that they have to go through the Attorney General before they exercise that right, simply because we do not want too many frivolous claims.

The reality is that anyone who wishes to bring a court action based on the clause will most likely have to go down the route of a judicial review. That is not cheap, and it will certainly turn off many individuals, community groups and community associations. Many aspects of our policy-making and policies could be held to account by judicial reviews, and the courts are not full of challenges by judicial review that have been brought by citizens or groups of citizens against government.

We have to get the balance right by ascertaining the duties that are placed on each Department. We also have to get it right by not overprotecting Departments to such a degree that no one can use the clause, which was designed to improve people's lives in the first place. In an earlier debate, comments were made that the Assembly sometimes has to take time to get legislation right. This is one of those pieces of legislation, and we need more time to get it right. The Department and the Committee made a genuine effort to introduce workable legislation, but we are not there yet. We need a bit more time to get it right.

Mr Cree: Amendment Nos 1, 2 and 25, tabled by Sinn Féin Members, have the intention of highlighting the independence of DPCSPs by taking away from the role and function of the principal PCSP in Belfast. I still believe that that is unacceptable, because it gives too much power to the DPCSPs at the expense of the principal PCSP. Those subgroups in Belfast must be subject to adequate scrutiny, and the current set up in the Justice Bill does that effectively. Therefore, the Ulster Unionist Party opposes the three amendments on that area that Sinn Féin tabled.

Amendment No 3 causes us most concern. I did not think that I would ever agree with John O'Dowd, and maybe that is why he has left the House. He is right in what he said on that amendment.

The Minister has been trying to get this done too quickly, and there is not sufficient time in which to do it.

Amendment No 3 is a new clause, and it brings back the duty on public bodies to consider crime and antisocial behaviour implications in exercising their functions. The Ulster Unionist Party could not support that clause at Consideration Stage due to reasons relating to the wide scope of the clause and the potential for costly legal challenges that that brings. However, given that the rationale behind the clause is to be positive and that the police support the proposal to make other bodies, aside from themselves, more responsible when it comes to crime and antisocial behaviour, the Minister's latest amendment in that area is welcome. However, we still have some concerns with the amendment, particularly with respect to the role and power of the Attorney General. Therefore, we will not be supporting it.

4.00 pm

Amendment Nos 19 to 24 and 26 to 31, excluding amendment Nos 20 and 27, which I understand will not be moved, relate to the chairpersons and vice-chairpersons of PCSPs and DPCSPs. Those amendments seem to have the effect of tidying up the appointments of chairpersons and vice-chairpersons of the partnerships. They also ensure that chairpersons and vice-chairpersons hold office in accordance with the terms that councils may determine. The Ulster Unionist Party supports those amendments.

The Minister of Justice (Mr Ford): I begin by speaking to the amendments that Mr McCartney and his colleagues brought forward regarding the specific arrangements for the principal PCSP and the four district policing and community safety partnerships for each area command in Belfast.

Two aspects of the amendments simply provide clarification. The clarification provided in clause 22(1) ensures that all DPCSPs have the same status as the PCSPs in other council areas, and the detail provided in schedule 2 highlights the facts that there will be a DPCSP for each police district in the city. I believe that that is already implicit in the legislation, and it does not require any further clarification. Therefore, I

do not view the proposed amendment of clause 22(6) as being necessary or desirable. The subsection, as introduced, aims to ensure that the principal PCSP can act on a city-wide basis where necessary. It recognises the likelihood of the existence of a number of issues in which co-ordination and co-operation across all areas of the city is vital, particularly in relation to the delivery of initiatives. At the same time, it preserves the roles of the subgroups — the DPCSPs — in identifying and responding to local problems in a way that is flexible and responsive to the needs of that particular district.

Although the amendment acknowledges the need for a co-ordinating role for the principal PCSP, I do not believe that it adds to the existing provision. In referring to the need for agreement from the DPCSPs in every action of the principal body, it will potentially prevent the principal PCSP from carrying out its role effectively. I believe that that will be a step backwards in respect of a vision for a city.

Much has already been outlined by Mr Maginness in the concerns that he expressed. I believe that the arrangements for the effective working of the PCSP and the four district partnerships will be set out in guidance, and it is my Department's intention to work closely with Belfast City Council and the Policing Board in drawing up that guidance. Therefore, I am confident that the most effective arrangements for Belfast are provided for in the existing clauses, and I will be opposing the amendments that Mr McCartney has put forward in that respect.

A large number of amendments tidy up arrangements for the chairperson and vice-chairperson of the partnerships. At Consideration Stage, the Justice Committee tabled amendments, which aimed to ensure that the chairperson of a PCSP or DPCSP is always an elected member, as is the chairperson and vice-chairperson of the Policing Committee. The amendment was made, but it had an impact on the workability of the clause. As Members know, I opposed that amendment but accepted that it was the will of the House. Therefore, I am bringing forward a number of amendments to rectify that, while ensuring that the Committee's intention is preserved. The amendments are largely technical.

I propose that the chairperson of the partnership should also be the chairperson of the Policing Committee, which I believe was the intention of the original Committee amendment. It will enhance the Committee amendment and, ultimately, will provide for maximum consistency and unity in the partnership as a whole.

I have removed a requirement for the chairperson of the PCSP to be an elected member for the first 12 months of the partnership's existence, as an elected member will now always hold the position of chairperson.

I am also not making an amendment to reinsert the reference to the holding and vacating of the chairperson and vice-chairperson positions as being in accordance with the terms that are set out by the council, as I outlined to Mr McCartney during his speech. Therefore, I will not move amendment Nos 20 and 27.

Let me now turn to the proposed clause 33A, which deals with the duty on public bodies. That issue is fundamental to the promotion of full working of community safety partnerships. In putting forward the proposal, and in making the amendments that currently stand, my hope is that the Justice Bill will go forward with a real duty. It is an opportunity to make a difference, in which everyone plays their part to create and sustain communities and we work in a joined-up manner to achieve that.

It is testament to that careful consideration that we have, at least, produced an amendment, although I fear that it does not attract full support from around the House at this stage. Interestingly, the concerns that have been raised from different sides of the House appear to come from different directions as we look at how to ensure that there is a proper duty on public bodies and that those obligations can be delivered in a real way.

We need to ensure that we get a big picture and address the real issues, and that we do not get stuck in the minutiae. That is why, at Consideration Stage, I did not support the Question that clause 34 stand part. The clause was removed to allow for further fine-tuning. I am grateful that the Committee for Justice gave it considerable consideration and, indeed, that Executive colleagues who had previously expressed reservations had the opportunity to make their comments. In particular, when John O'Dowd says that we should not overprotect Departments, I say to him that in order to get Executive agreement to amendments, Departments' interests are taken on board.

Lord Empey: I am grateful to the Minister for giving way. He is actually going with the grain with regard to how most Members of the House and, indeed, the Committee feel about things. Nobody is arguing that there should not be a duty on public bodies. However, where I agree with John O'Dowd and others is that in all of these things, it is a question of balance: in other words, to give a push to public bodies to pay attention to those issues while, at the same time, to try to protect those bodies, which, probably, have limited experience and realisation of what their obligations are, from vexatious claimants and so on.

Consequently, in order to fix that particular hole in the bucket, we have come up with the model in which the Attorney General has to be the gate-keeper. Somehow or other, that grated against Members' sense that if an ordinary citizen had an issue, it could only be raised with the agreement of the Attorney General. There is a generally good idea in the middle of all of this. However, we have not quite got the balance right between, on one hand, putting pressure and obligation on public bodies and, on the other hand, opening the door to all sorts of vexatious claims.

The Minister has indicated that he proposes to bring further justice legislation forward in the new mandate. That would be the time to tidy this up. We have a generally good idea; I just do not think that the balance is right. That is why Members have expressed themselves in the way that they have; it is not hostility towards what the Minister is trying to achieve.

The Minister of Justice: I certainly thank Lord Empey for that contribution, which recognises that we are working in the same general grain. However, as ever — if it is not a dreadfully overused cliché — the devil is in the detail. It seems to me that different Members from different sides of the House are finding difficulties with certain aspects of the detail. I should make it clear that, as the Bill was originally proposed, there was no issue of a filtering mechanism from the Attorney General.

Members will know that I do not like to ape the legislation of England and Wales. However, we can, at least, learn from experience in other jurisdictions. Based on the experience of England and Wales, there is, I believe, little to fear from vexatious litigation. However, Executive colleagues, in consideration of the impact on their Departments, took a different view. That is why the proposed new clause that stands before the House is that which was approved by the Executive.

The Chairperson of the Committee for Justice: I thank the Minister for giving way. As has been said in the House today, that is a matter that exercised the minds of the Committee considerably, to the extent that I wrote to the Minister on the issue on 21 February. I would like the Minister to comment on that. In my correspondence to the Minister, I said:

> *"Given the importance of the guidance, the Committee also believes that it should be laid in draft form in the Assembly for approval."*

That has not happened. I would like to hear the Minister comment on that during his discourse.

The Minister of Justice: I will respond to that in a moment, as I look at some of the proposals that we are putting forward as we stand.

Mr Givan said that this was not my preferred option. It is not. My preferred option would have been a simpler clause. It is an attempt to take on board the comments that were made from a number of quarters. The revised version of the clause that is before the House this afternoon aims to narrow the scope of the duty to those bodies where it is most relevant, because I hope that by focusing on those with a key role, a firm foundation for community safety will be laid.

The revised version aims to focus the duty on definable issues relating to crime and antisocial behaviour. It aims to ensure that legal action could be taken only by or with the consent of the Attorney General, because there was a concern about what Lord Empey has just described as "vexatious" litigation.

I want to respond to Lord Morrow and Alban Maginness's point about guidance being laid before the House. It would certainly be the case that any guidance would have to be drawn up in consultation with the Justice Committee, as with the Executive. That matter would, therefore, not involve the whole House, but it would involve the House's representatives in the Justice Committee. The agreement to ensure full consultation with Departments before guidance is issued has resulted in initial discussions to see how that might operate, because there is a need to ensure the fullest buy-in from across the range of government. The Executive requested that subsection 3 be included to

provide for the filtered detail in the comments that I have just made.

I want to respond to a point that was made by Stephen Farry. This legislation is largely seen as parallel to legislation that operates in England and Wales and a forerunner for what the House will be seeking to introduce in the way of community planning. If we cannot find a mechanism for ensuring that we deal with community safety as an overarching issue, I believe that we will have grave problems as we seek to move forward on the wider issues of community planning. That is why I believe that the Executive have agreed to this proposed amendment in the form in which the clause is now drafted. Although there are criticisms from one side and the other, it represents a proper balance between the needs of the citizen and ensuring that public bodies can proceed to act in a proper way, while encouraging the necessary engagement in community safety by other Departments and by a range of public agencies proportionate to their particular responsibilities. In doing so, and in acceding to the requests from the Justice Committee that the clause should be commenced by affirmative resolution procedure in the House, it is a matter on which the Department has taken on board a variety of competing concerns. It has produced a valid and workable compromise, and I believe that the amendment should stand.

Mr McCartney: Go raibh maith agat, a LeasCheann Comhairle. I have a number of points to make. Alban Maginness talked about the unintended consequence. The original idea of Patten was to ensure that policing was as accountable as possible and that the process would be as democratic as possible. We feel that this opportunity to make the DPCSPs stand alone is in line with that. We do not deny or negate the need for a principal PCSP for co-ordination, partnership and cohesion, but the issues that the district partnerships would be dealing with are similar to, if not the exact same as, those being dealt with by the other partnerships across the North. When we look at the volume of numbers, we see that the partnerships in Belfast would have more people and issues to deal with.

The Minister talked about the legislation being implicit in laying out the guidance. Stephen Farry referred to subgroups. Perhaps he did so inadvertently or unintentionally. However, that is one of the issues that people have raised in the past. There is an idea that there is a principal body and subgroups, and that, sometimes, those in the principal body feel that the subgroups are subservient to them and the decisions that they make are, therefore, handed down and have to be implemented by the subgroups.

That is not the way that it should be. I accept that that is not the way the legislation is framed, but the reason why we have proposed the amendments is to ensure that it is implicit —

Mr McDevitt: Will the Member give way?

Mr McCartney: I will indeed.

4.15 pm

Mr McDevitt: I apologise that Mr Maginness had to leave to attend a meeting, but I am sure that he would have wanted to make this point. Those of us who live in Belfast would agree that a perception has grown up around the city that there was a two-tier system at play, that the principal body was the only show in town, and that the district partnerships were in fact subgroups.

Although we do not believe that a legislative amendment is needed to dispel the myth, I join Mr McCartney in putting it firmly on the record of the House that the new bodies must not grow up with the perception of a two-tier system, and it must be absolutely crystal clear that the legislative will of the House at this stage of the Bill is to create an accountable, devolved system of policing partnership that works for the citizens at the most local level possible. The only point of difference between us and Mr McCartney and his colleagues in Sinn Féin at this point is whether or not we need a legislative amendment to achieve that.

Mr McCartney: I accept the points that the Member made. He is nearly right, but our amendments will make it more right. Forgive me for saying that. When Leslie Cree made his observations, he referred to them as subgroups. Sometimes the perception is a bit more than that and, if we do not make it very clear, the reference point may go back to that perception of the principal group as the deciding body.

In relation to the observation that the Member made about scrutiny — that somehow the district partnerships would not be subject to the same scrutiny — if he reads the amendment and the Bill he will see that the

scrutiny mechanisms for the district policing and community safety partnerships will be the exact same as for the other 25. There will be no difference. If that is the fear, if he reads the Bill he will see that that is not the case.

The Minister addressed the idea of the principal partnership. Again, we know that it will have a role in co-ordination. There are activities that happen in the city of Belfast that require some partnership and need a degree of cohesion, but it should not be the case that the principal partnership is allowed to strike the priority for each of the four districts, because we know from practical experience that the needs of Belfast as a whole may not impact in the same way as the needs in east Belfast, south Belfast, north or west Belfast. There has to be some mechanism that allows the autonomy and stand-alone nature of the district partnerships to come through.

The way it has been spoken about today, it is as if the principal partnerships decide what the priority for Belfast will be and the other four district partnerships have to follow suit. I do not think that that should be the case; indeed, I do not think that the legislation says that. The idea is that agreement will come about when the principal partnership is performing its task in relation to cohesion, promoting partnership and getting agreement. When a priority for the city is required, getting the buy-in from the four district partnerships will obviously make it more effective.

Our amendments are designed to make it clear that although people sometimes unintentionally slip into the language of subgroups, and whatever the perception is, the district policing and community safety partnerships have the same rights, constitution and operational integrity as all the others. We just feel that the role of the principal partnership in that particular instance needs to be clear. I stand by the amendments.

Question put, That amendment No 1 be made.

The Assembly divided: Ayes 26; Noes 69.

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, Ms J McCann, Mr McCartney, Mr McElduff, Mrs McGill, Mr M McGuinness, Mr McKay, Mr McLaughlin, Mr Molloy, Mr Murphy, Ms Ní Chuilín, Mr O'Dowd, Mrs O'Neill, Ms S Ramsey, Ms Ruane, Mr Sheehan.

Tellers for the Ayes: Mr McLaughlin and Ms Ní Chuilín.

NOES

Mr S Anderson, Mr Beggs, Mr Bell, Mr D Bradley, Mrs M Bradley, Mr PJ Bradley, Mr Bresland, Lord Browne, Mr Buchanan, Mr Burns, Mr Callaghan, Mr Campbell, Mr T Clarke, Mr Cobain, 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 Girvan, 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 McCausland, Mr B McCrea, Mr I McCrea, Mr McDevitt, Dr McDonnell, Mr McFarland, Mr McGlone, Miss McIlveen, Mr McNarry, Mr McQuillan, Lord Morrow, Mr Moutray, Mr Neeson, Mr Newton, Mr O'Loan, Mr Poots, Ms Purvis, Mr P Ramsey, 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: Dr Farry and Mr McCarthy.

Question accordingly negatived.

Amendment No 2 proposed: In page 19, line 7, leave out subsection (6) and insert

> *"(6) The principal PCSP shall have a role of co-ordinating functions and activities which pertain to the district of Belfast and with the agreement of the DPCSPs." — [Mr McCartney.]*

Question put and negatived.

New Clause

Amendment No 3 proposed: After clause 33, insert the following new clause:

> **"*Duty on prescribed public bodies to consider crime and anti-social behaviour implications in exercising functions***
>
> *33A.—(1) A prescribed public body must exercise its functions in relation to any locality with due regard to the likely effect of the exercise of those functions on crime and other anti-social behaviour in that locality.*
>
> *(2) The Department must, with the approval of the Attorney General, issue guidance to prescribed*

public bodies as to their compliance with the duty in subsection (1).

(3) Legal proceedings calling into question the compliance by a public body with the duty in subsection (1) shall not be entertained by any court or tribunal unless the proceedings are initiated by, or with the consent of, the Attorney General.

(4) In any legal proceedings calling into question the compliance by a public body with the duty in subsection (1) in relation to any matter, it is a defence for the body to show that it had due regard to the guidance under subsection (2) in relation to that matter.

(5) In this section—

'legal proceedings' means proceedings in any court or tribunal whether for judicial review or otherwise;

'prescribed' means prescribed by regulations made by the Department;

'public body' means—

(a) a Northern Ireland department; and

(b) a body listed in Schedule 2 to the Commissioner for Complaints (Northern Ireland) Order 1996 (NI 7).

(6) The Department must consult the other Northern Ireland departments before it—

(a) issues any guidance under subsection (2); or

(b) makes any regulations under subsection (5).

(7) No regulations shall be made under subsection (5) unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly." — [The Minister of Justice (Mr Ford).]

Question put and negatived.

Clause 37 (Chanting)

Mr Deputy Speaker: We now come to the second group of amendments, which deal with the offence of chanting at a regulated match. With amendment No 4, it will be convenient to debate amendments Nos 5 to 10. Amendment No 7 is consequential to amendment No 6, and amendment No 8 is mutually exclusive with amendment No 7.

I remind Members that, as I have received a valid petition of concern on amendment Nos 5, 6, 8, 9, 10 and 11, the votes on those amendments will be on a cross-community basis.

Mr McDevitt: I beg to move amendment No 4: In page 26, line 10, at end insert

"(aa) it is of an indecent nature; or".

The following amendments stood on the Marshalled List:

No 5: In page 26, line 10, at end insert

"(ab) 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, political opinion, sexual orientation or disability; or". — [Mr McDevitt.]

No 6: In page 26, line 11, leave out "or indecent nature; or" and insert

"nature and 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 , political opinion, sexual orientation or disability." — [Mr McDevitt.]

No 7: In page 26, line 12, leave out sub-paragraph (3)(b). — *[Mr McDevitt.]*

No 8: In page 26, line 14, after "religious belief," insert "political opinion,". — *[The Minister of Justice (Mr Ford.)]*

No 9: In page 26, line 15, 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.

(3B) Nothing in this section shall be used to curtail legitimate or recognised political expression or debate." — [Mr McCartney.]

No 10: In clause 44, page 30, line 37, after "religious belief," insert "political opinion,". — *[The Minister of Justice (Mr Ford.)]*

Mr McDevitt: I also wish to address amendments Nos 4, 5, 6, 7, 8, 9 and 10 in my remarks. During the debate at Consideration Stage, there was a protracted and, at times, heated debate on the issue of sectarian chanting at regulated matches. The consequence of that debate is that clause 37(3) now reads:

"Chanting falls within this subsection if—

(a) it is of a sectarian or indecent nature;" .

That is great, and I think that we all welcome that. We have put in the Bill the fact that we,

as legislators, believe that it is unacceptable to engage in chanting that is of a "sectarian or indecent nature" at regulated matches in Northern Ireland. However, we did not define what we mean by "sectarian," and that presents a specific problem for the House and the region, because sectarian chanting has never been defined in law in the region. If we were to leave the Bill as it stands, we would simply surrender to a judge the discretionary power to define "sectarian chanting". The only way in which someone could be found guilty of an offence, under what would be section 37(3)(a) of the future Justice Act, would be if a judge, at his or her discretion, took the view that the chanting was of a sectarian nature. That is problematic for me personally, and I think that it is also problematic for others in the House, given that many Members on many occasions have argued passionately that the making of laws in this region should rest with us in the Chamber and should not, directly or indirectly, lie with the judiciary. However, if we do nothing today, we will be surrendering or handing over the discretion on the definition of the term "sectarian chanting" to the judiciary.

(Mr Speaker in the Chair)

I am aware and respectful of the remarks that colleagues on the Benches opposite in particular made at Consideration Stage. I understand that it may be difficult, in the relatively short time that we have available to us before the Bill must become law, to agree a fundamental definition of "sectarian chanting". However, what we can do, and what we have a duty to do, is take as many steps as possible to provide the courts in the months, years or even decades ahead with the maximum guidance as to what was in the minds of this legislature when it chose to put the term "sectarian" in the Justice Bill.

The amendments in mine and Alban Maginness's names, and one also in that of the Minister, attempt to do just that. With the House's patience, I will explain exactly what we are attempting to do through amendment Nos 4, 5, 6, 7 and 8. First, we are trying to reaffirm the Bill by stating that chanting falls within the subsection if:

"it is of an indecent nature; or".

Paragraph (ab) follows, which explains the sort of things that would make it unacceptable. For example, if it:

"includes matter which is threatening, abusive or insulting to a person by reason of that person's colour, race, nationality",

and it goes on.

Mr B McCrea: The Member might help with a point of clarification. Is it his intention to define "of an indecent nature"? Surely, there is an issue about defining sectarianism as well.

Mr McDevitt: I appreciate Mr McCrea's important question. That question exercised me and, I think, the Committee, although I could be wrong. "Indecent nature" is clearly defined in law. We know what that means. There is ample precedent in the body of law at regional level, UK level and beyond that a judge could draw on in order to understand that. There is not the same —

Mr B McCrea: I am grateful to the Member for giving way a second time, and I will not detain him. If we took his point about clarity and trying to give direction to the judiciary, instead of relying on case law, it might be better for a definition to be included in the Bill, which would be consistent with the argument in other parts of the amendments.

Mr McDevitt: It is defined in law already. We know what indecent behaviour is, and it is clearly spelt out in other Acts. The problem that we have with sectarian chanting is that no other Act has defined sectarian chanting. We do not have a single piece of legislation on the statute books of this region or these islands — or, that I am aware of, in the European Union — that tells us exactly what sectarian chanting is. Although Mr McCrea's question is valid, the answer, unfortunately, is quite different in that there are plenty of instances in statute where we get a clear definition of indecency, indecent behaviour, indecent chanting and indecent acts.

The amendments attempt to create one paragraph that talks about indecent behaviour, and then leave the Bill as it was intended, telling us the type of things around indecent behaviour that would be unacceptable. We are trying to introduce a second line that states "sectarian". Therefore, the Bill, as amended, would read, "of a sectarian nature", and then it would state, "and". That is not a definition of "sectarian", but it is as far as we could go without falling into the trap of having a political argument that we would be unable to square about what, specifically, sectarian chanting is. To the extent

that we can, the amendments qualify the type of activity that is likely to fall within what we would all feel to be general sectarian behaviour.

Mr Campbell: I thank the Member for giving way. He is outlining at considerable length the definition of sectarian behaviour and associated reference to the types of behaviour that might be similar to that. Will he outline how many Irish League matches he has been to in recent years to ensure that we understand that he knows exactly what he is talking about with regard to sectarian chanting at such games?

Mr McDevitt: The Member will be very glad to hear that I have attended an Irish League game.

Mr Campbell: A senior game?

Mr McDevitt: I have attended an Irish League game.

Mr Campbell will be glad to hear that that applies to "regulated matches". That term covers Irish League games, all regulated GAA games, rugby games, and so forth. My experience of the Irish League was a positive one.

4.45 pm

As I have remarked during previous contributions on this topic, I am one of those who believe that many more people from my community should be attending Irish League games. I am firmly of the view that football and, in fact, all sports should be for everyone. I am one of those who find any sporting organisation, body or sport that seeks to exclude people, for whatever reason, abhorrent. That is not who I am.

Mr Bell: Will the Member give way?

Mr McDevitt: I will give way in a second, if that is OK.

That is not something that I would want to be associated with, nor do I think that the House should be associated with it.

I come back to the second point that Mr Campbell made in his intervention. I want to make it absolutely clear that the amendment does not try to define "sectarian chanting". I accept that that would not achieve consensus. Rather, it tries to build and take us a bit beyond where we are today. At present, the Bill includes the term but no reference whatsoever to what it means. The intention, therefore, is to introduce a sub-paragraph, after what will now read:

"is of a sectarian nature and".

As outlined on the Marshalled List, that will comprise what we in the House have grown to know as "the section 75 list". I think that that is a meritorious approach because we cannot, certainly from an SDLP perspective, go as far as we would like. However, we have a duty to go as far as we possibly can, not just as legislators from our partisan perspectives, but to give the maximum guidance to those whose job it will be to interpret and rule on the Bill when it becomes an Act.

Mr Bell: There will be considerable support for what the Member for South Belfast said. As a season ticket holder of Linfield Football Club, I can tell him that on the back of the season ticket is UEFA's 10-point plan against racism and sectarianism.

Dr Farry: What is wrong with Ards?

Mr Bell: Absolutely nothing. We are trying to get the team a stadium within Ards.

Let me go back to the serious point of the promotion already under way to make sport available to all. The Member said that he did not want any sports ground to alienate any particular person of any persuasion. Will he tell us what the SDLP's position is on those GAA grounds named after or associated with republican terrorists?

Mr Speaker: Order. Let us be careful. Members should, as far as possible, relate their comments to the amendments on the Floor. Let us not widen the debate.

Mr McDevitt: I appreciate your guidance, and I will resist the temptation of opening up an entirely separate debate about an entirely separate issue. *[Laughter.]*

The important point is that we are trying to make law that sends out a strong signal to everyone. If we accept the amendments before us, we will do so in a slightly stronger way than if we rejected them. The signal is that there is no place for indecent or sectarian chanting at sporting grounds in our region. We would send out a message that we want this region to be a place where families enjoy sporting spectacles and where, increasingly, no one feels unable to attend any sporting spectacle because of a perception that he or she may not be welcome.

We are talking about a tiny minority of people in every code. I must be honest: I have heard things that I found indecent and unacceptable at games in every code. That may not be a popular thing to say, particularly not in my constituency, but it is true. In the heat of the moment, I have heard grown men say unacceptable things.

I am in favour of legislating not because I want the cops to arrive, scoop grown men off the terraces and take them down to the police station for whatever penalty can be disposed of under the new legislation. I want the law to be in place to set a standard of behaviour below which, as a society, we refuse to drop.

Mr McFarland: I thank the Member for giving way. Forgive me, but I sat through 10 hours of this some weeks back. The Member has said that his aim in bringing forward the amendments is to bring to the attention of judges the mind of the Assembly — I think that that is the way he put it. Is he in any doubt, after the last 10-hour debate, what the mind of the Assembly is? This is déjà vu. We had a lengthy discussion about political opinion. The Member is crafting his argument well: he wants to deal with the first little bit and then will introduce the second little bit. We are heading for a three-hour speech if the Member takes each little bit in turn. My recollection is that we had this debate in enormous detail over a number of hours and that the mind of the Assembly at that time was that political opinion was not acceptable in the Bill. I am confused about what has changed with bringing forward what are effectively the same amendments and hoping that the Assembly's decision will somehow be different this time.

Mr McDevitt: I thank the Member for his intervention. There is one substantial point to be made. At Consideration Stage, the amendment was a clear attempt at defining the term "sectarian chanting". It was an attempt to define that term as being, as I remember it, chanting that was offensive to someone because of their religion and/or political beliefs. This does not attempt to define it. This will not read, "is of a sectarian nature that is". It will read, "is of a sectarian nature and". It is different — it does not define it. We are very clear about that. All that it does is state that it is sectarian, which we are not entirely defining because we cannot do that. Unfortunately, we are not yet at that point politically. It states, "is of a sectarian nature and". "And" is something else, which means that it is offensive because of ethnicity, religion, sexuality or political opinion. That is an addition.

Mr McFarland: Forgive me, but as I understand it, the bit that is being included is political opinion. Amendment Nos 5 and 6 enter political opinion into the fray. We had a very lengthy discussion and a vote at the end of it, which showed that the will of the Assembly — a majority in the Assembly — was that political opinion should not be included in the clause. They are reintroducing exactly the same thing and hoping for a different outcome. I thank the Member for giving way.

Mr McDevitt: It is always a pleasure. My understanding of the will of the Assembly is that it rejected sectarian chanting being defined as chanting that was offensive to someone because of their religious belief and/or political opinion. My understanding of that debate — I read the Hansard report of the debate before I gave thought to these amendments — was that the House decided that the problem was with an attempt to define sectarian chanting. Colleagues may, of course, in their contributions or through interventions clarify this matter for me, but, as I picked it up, it was not a problem that we thought that it should be illegal.

Mr McCartney: I know that the debate was 10 hours long, but part of that debate was that Members felt that there was no definition of political opinion and that perhaps we should take time out and come back with such a definition at Further Consideration Stage. If Members read our amendment, they will see that we attempt to do that.

Mr McDevitt: I appreciate Mr McCartney's intervention. What I am trying to achieve is that we acknowledge and are honest with ourselves that stuff is said at sporting grounds that is of a political nature. It is not facile comment, nor is it good fun. It is not legitimate comment; it is insulting and offensive comment of a political nature.

Our problem during the Bill's Consideration Stage, as I understood it, was that we did not want comments to be defined as sectarian just because they were of a political nature. However, that does not mean that comments of a political nature in a sports ground are not out of order. In fact, I think that, as a matter of principle, comments of a political nature at a sports ground are out of order. You do your talking on the pitch. Whatever politics people

may or may not have is absolutely, utterly and totally irrelevant.

We are trying to progress what we perceive, or what we would wish to be seen as acceptable in this society, and, by definition, also make it clear what we believe to be unacceptable in this society, without falling into the trap of having a rerun of the previous debate. I take the Member's point, but that debate was a specific debate about the definition of sectarian chanting. We are proposing that we do two things. First, we should leave the word "sectarian" in the Bill and send it out as a strong signal. Secondly, as legislators, we should have the courage to include in the general list of things that we feel to be unacceptable the term "political opinion". Why? First, because section 75 of the Northern Ireland Act 1998 includes that category as one under which it is unacceptable to discriminate against people, and, secondly, it will help judges in future without directly giving them the answer.

I do not want to delay the Assembly much more, except to say that we are in the dying days of the first mandate to have enjoyed a full term. It has been 12 years since the Good Friday Agreement, and unprecedented steps have been taken by all our major sporting associations to address intolerance, tackle bigotry and make sports in our region for all. Is it not the least we could do to formalise in legislation what we know to be true, which is that, once you walk through the turnstile, you should, in the great words of Nick Hornby, be walking into an altogether different place, a theatre of dreams, a place where the story is about the skill, athleticism, tactics and beauty of a game, not the history of the past, the politics of the present, the prejudices of the future, the ethnicity of the players or anything else, which, we all know, is corrosive, damaging and unacceptable?

This is about making a statement on one small area of our society and how we behave inside the ground at a regulated match. It is about nothing else. Let us have the courage to do that. Let us allow this vote to take place; let us not present petitions of concern where concern is not needed. Let us send out a statement in the dying days of this mandate that this Assembly, with all its faults and flaws, is united on one thing: that we love sport, we hate bigotry and unacceptable behaviour, and we want to make that absolutely crystal clear to everyone.

Lord Browne: I oppose amendment Nos 5, 6, 8, 9 and 10. I have listened attentively to Mr McDevitt's attempt to clarify the references to sectarianism in the Bill. Having read the SDLP's amendments, I believe that they appear to bring anything but clarity to the issue. Instead, they add a great deal more complexity to the Bill.

I want to address the manner in which the amendments have defined, or not defined, sectarianism. The definition provided by the SDLP amendments is so broad and all-encompassing that it becomes difficult to determine whether a chant or statement could not reasonably be considered sectarian under that definition. Indeed, the definition provided in the amendments seems to mash together racism, xenophobia, disability discrimination and various other prejudices under the umbrella of sectarianism.

That makes very little sense and only muddies the issue of what sectarianism is.

5.00 pm

Mr McDevitt: This point is unlikely to change Lord Browne's mind, but, as I know him to be a very fair man, I will make it. The amendment does not define the word "sectarian". If we pass the amendment, clause 37 will read: "is of a sectarian nature and 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, political opinion, sexual orientation or disability". I really must stress to colleagues that this is not a definition. If anything, it could be described as a qualification. It makes clear a lot of stuff that it is not, but it does not define it. We thought about it carefully for that reason.

Lord Browne: That may be what the Member is trying to provide through the amendments, but it is so broad that it is utterly useless. It would be particularly useless to the courts in applying or interpreting this law.

Secondly, the amendment brings with it the issue of political opinion. That was discussed at length during Consideration Stage, and it was pointed out clearly that that is a dangerous and difficult road to go down. There is literally no statement that could not be considered, in some way, to be a form of insult to a person's political opinion or sensibility. If the position is that we need not be concerned with this

issue because the courts will make reasonable judgements on which chants are seriously insulting to political opinion, then I fail to see the reason for the amendments. I am sure that learned courts would be able to judge what counts as sectarian chanting in the first place.

Thirdly, sports clubs are undertaking great projects to curb sectarianism in sport, which, in general, are succeeding. If the amendment were to pass with such a vague legal definition, or non-definition, of sectarianism in a sporting context, it would place a severe strain on the efforts of those clubs, particularly as they are succeeding in tackling the most serious forms of sectarianism. The somewhat cumbersome description and clauses would do little to help those clubs.

Mr McCartney: I agree with the Member that many clubs are making great strides in ending sectarianism, but would the legislation not add to that? If someone asked one of those clubs whether a sectarian chant is against the law, the answer they would get is that there is no law banning it.

Lord Browne: The difficulty is in defining sectarianism. Do we want to cut out chanting altogether? That could be the logical outcome of such legislation.

Finally, I draw attention to the construction of the language in the amendments. The amendments refer to behaviour that includes a matter that is

> *"threatening, abusive or insulting to a person by reason of that person's colour"*

and so on. Consider the construction of those parts of amendment Nos 5, 6 and 9. I ask Members to place themselves in a court's position when it considers the meaning of that clause, how it should be applied and where the burden of proof should lie.

The Minister of Justice: Lord Browne criticises the precise wording of some of the SDLP amendments. It seems that he has not taken account of the fact that the current reading of subsection 3(b) of clause 37 includes much the same wording in respect of matters that have to be taken into account with regard to threatening, abusive or insulting chanting. It seems that the point that he is making was already addressed by the House. At Consideration Stage, those words were accepted and put in the Bill. He may have concerns — I accept that he does — about the manner in which the SDLP amendments would change and further refine it, but he cannot object to those words, because those words have been accepted by the House as a whole.

Lord Browne: It is clear from the construction of the clauses that there is no burden of proof to be found. If a court were considering and applying the clause, the only evidence required to convict a person of sectarian chanting would be a plaintiff alleging that he was offended by that chanting. Looking at the SDLP amendments, I see that that would be in one of the 10 ways listed.

We all remember Mr McCrea's example of chanting "No Tory cuts". I wish that he had said that 12 months ago. However, I am sure that there are other examples. A court would have no discretion to consider the merit of a claim or to examine the words that were actually chanted. I know that great difficulties have been experienced with similarly constructed legislation in the past. We must not fall into the same trap again.

Mr McCartney: Will the Member give way?

Lord Browne: No, I am coming to an end now.

I do not know why the SDLP is so keen to bring such clauses and such language back into the Bill. That would not in any way enhance the effectiveness of the Bill. In fact, it would serve only to make it impossible to have certainty over what conduct would cause a breach of these clauses and what conduct would not. That certainty is essential for compliance with European conventions. It is for those reasons that I oppose those amendments in this group.

Mr O'Dowd: Go raibh maith agat, a Cheann Comhairle. I speak in favour of the amendments in this group, in particular amendment No 9, which was tabled in the name of Carál Ní Chuilín, Raymond McCartney and myself.

You could have left the previous debate on the Bill and decided that, despite the claims that everyone in the Chamber was opposed to sectarianism, in reality, they were not. Members did not want sectarianism defined in law, because, if it was, it would be open to challenge, and the people who go into our sporting grounds — contrary to what Mr Campbell believes, it is regulated matches in the sporting grounds of

all three major codes — and involve themselves in sectarian chanting as defined under the law would be prosecuted. This Chamber did not want that to happen. However, you could also have left that debate, having heard the perhaps genuine concerns raised by Members who talked about the right to freedom of expression and freedom of political discourse, and thought that those rights had to be protected at all costs.

My colleagues and I went away and looked at the debate again. We went through the Hansard report and listened to the debate. We have tabled an amendment that, in our view, meets the concerns of anyone in the Chamber who was genuinely concerned during the previous debate about the right to freedom of speech and freedom of political expression.

Amendment No 9 clearly states:

> *"(3B) Nothing in this section shall be used to curtail legitimate or recognised political expression or debate.'"*

Why, then, do we have a petition of concern? If all the Members who spoke in the previous debate are opposed to sectarianism and are concerned that the previous clause went too far and inadvertently included the right to political freedom of speech, amendment No 9 addresses those concerns.

Mr McFarland: The Member talks about legitimate and recognised political expression. For clarification and to help the House, if the sorts of things that we bandy about across the Chamber are legitimate, normal political expression and, therefore, acceptable, can the Member give us an example of what a political opinion that he is seeking to outlaw might consist of, as opposed to the sort of political expression that he considers legitimate and recognised?

Mr O'Dowd: I am not looking to outlaw any political opinion. People are perfectly entitled to their political opinion. I challenge political opinions that I and my party are opposed to, and we allow the public to decide the legitimacy of each of those arguments.

Mr A Maginness: Will the Member give way?

Mr O'Dowd: Just give me one second.

The clauses have to be read in the context of people going into a venue and involving themselves in chanting that is offensive or abusive. Maybe there is an argument, as Mr McDevitt said, that you should leave politics outside the sports ground. I would not argue against that point of view. However, if someone was to go into a sports ground and the chant "No Tory cuts" or "No Tory/UUP cuts" was to go up, whatever way you want to put it —

Mr McDevitt: Or "No Sinn Féin/DUP cuts".

Mr O'Dowd: Indeed. I emphasise: whatever way you want to put it, it is still put across in a way that is not insulting or abusive. On a regular basis, the Speaker and the Deputy Speakers have to intervene when Members in this Chamber — a political debating Chamber — overstep the mark. We occasionally overstep the mark: a Member will go too far, the Speaker will intervene and say so, and he will make a ruling. Our amendment would allow for legitimate political expression. It certainly would not curtail political expression, and I think Members should consider it.

Mr A Maginness: I wanted to emphasise the point that this has to be judged in the context of "threatening, abusive or insulting" behaviour. That is the context in which we are judging all this. If you just say something political — "Up the Labour Party" or whatever — that in itself cannot be seen as abusive, insulting or threatening. If the phraseology is as innocuous as that and it is done in a manner that is not threatening, how can it be seen as offensive? It has to be done in the context of causing offence to somebody. The point that Mr O'Dowd is making is a legitimate one, and I concur with him.

Mr O'Dowd: Thank you for that intervention.

The other concern raised in the previous debate was that, if we established a definition of sectarianism in this legislation for use at regulated matches, it would be quite simple for that definition to be moved across somewhere else at a later date for unintentional use. There will be a strong argument that, if that definition is valid in one section of legislation, it should be moved to another section. I accept that argument, but I do not agree that, when something is defined in one piece of legislation in a particular clause to be used in particular circumstances, it is automatically transferred across into other legislation. The important guardianship against that is this House: it makes the legislation. If Members are not satisfied with a definition in any

clause, regardless of whether it is being used elsewhere, they can stop it being moved across.

The Chairperson of the Committee for Justice: There was some discussion around this point in Committee. In the absence of definitions of sectarianism, religious belief or political opinion, it was said that the next best thing should be looked at. I suspect that the next best thing in the minds of those who are looking for this would be, for instance, the equality legislation. Someone — I am not sure who — said that that would be right in this case and it would simply be a matter of lifting that piece of legislation, seeing a definition of a term there and deciding to apply it here.

Does the Member accept that, once we go into the definition of sectarianism — I want to make it clear that I am totally opposed to it, whether in a sporting arena or anywhere else — we need to get it right? Does he accept that, if we go for a definition of sectarianism here, it will be the monitor for every other piece of legislation? When we come to the definition in the future, I suspect that one definition will be used, which will be whatever is used in the Justice Bill.

5.15 pm

Mr O'Dowd: I thank the Member for that intervention. Let us look at it in another way. As regards the definition of sectarianism and the concern that it may be transferred elsewhere, does any Member want to protect anyone who, in any scenario, is involved in abusive or insulting activity that is based on someone's colour, race, nationality, ethnic or national origins, religious belief, political opinion, sexual orientation or disability? Do we want to protect anyone in any scenario that will allow someone to abuse and insult a person on the basis of those categories? If we have all said that we are opposed to sectarianism, it follows that we do not want anybody to have the right to abuse someone on the basis of those categories. Sectarianism is not simply being opposed to someone simply because of their religious belief; it is being opposed to someone because of the sect that you perceive them to be from. In legislation, under section 75, we have the rough definition that I have read out.

The inclusion of "political opinion" with chanting brought about concerns that it might stifle legitimate political debate. What if we transfer that to trade union rallies, political demonstrations and student protests? Surely, then, we are into a whole different field. However, it does not necessarily read across. Subsection (3B), set out in our amendment, states that the section cannot be used against someone when they are pursuing legitimate political debate. If Members are satisfied that they are opposed to sectarianism, there is no reason to vote against any of these amendments. They have the caveat of voting against them later. If they are satisfied that they would not protect anyone, in any circumstances, who is abusive or insulting to someone on the basis of their nationality, colour, race, ethnic origin, religious belief, political opinion, sexual orientation or disability, they can vote for the amendments.

Mr McFarland: Will the Member give way?

Mr O'Dowd: Let me finish this point.

If they were genuinely concerned, at the last debate, that the amendment would have restricted legitimate political discourse, the answer to that is contained in the amendment tabled by my colleagues and me.

Mr McFarland: I thank the Member for giving way. Everyone in the Chamber agreed the last time that the definition included all the things that you have read out, except for political opinion. The Minister drew attention to the fact that the Bill contains all those things, except for political opinion. The discussion and the argument were around political opinion.

We have all been to events and seen events on television where political discussions or rallies get very vociferous and could easily be viewed as offensive. If, for example, there is a particular republican rally where people are fired up over the hunger strikes or whatever and are chanting, that is clearly not offensive to a nationalist or republican community. However, someone from the loyalist/unionist community may find it offensive. Whether they should find it offensive is a different issue, but they might. They also might find it abusive. Equally, if there was a loyalist or unionist demonstration of some description that got fired up and things were being chanted, that could offend someone from the nationalist/republican community.

Those chants are based, by and large, on political opinion and have been going on for hundreds of years. The question is how, if they are based on political opinion, we outlaw them. You can legitimately object to chants if they are

made on religious grounds or for various other reasons. However, I think that — we debated the issue at length at the Bill's previous stage — the moment that political opinion is brought into this, it becomes an extremely dodgy area on which to legislate. It is easy for people to be offended by or to find abusive something that disagrees with their political opinion. I just worry about that. All the other types of chanting are in here. No one is objecting to their inclusion, but, if we were to add political opinion, we would be in a bit of a minefield. I thank the Member for giving way.

Mr O'Dowd: I thank the Member for his intervention. Again, the Member may be involving himself in a debate that may or may not arise in the next mandate. He referred to parades and political activities. The Bill refers to regulated matches. The clauses preceding clause 37 are as important as clause 37 because they set the scenario in which clause 37 will operate. I again emphasise that the concerns that the Member raised around the expression of political opinion are covered in proposed new subsection (3B) in our amendment No 9. We have to accept that to be insulting or abusive to someone on the basis of their political opinion is to be sectarian. The conflict that raged in this society was not based on sectarianism over religious hatred — some will no doubt argue with me on that point — but over political belief.

The Chairperson of the Committee for Justice: I thank the Member for giving way, and he has been quite tolerant. However, on that point, does the Member accept that, in our society, there are people who will rise early in the morning, sit up late at night and travel long distances to be offended? If he needs any proof of that, he should consult the list of those appearing in court for the Ardoyne riots. He will discover that some came all the distance from Glasgow to ensure that they were offended. I ask him to take that point on board and to address it in the light of what he said. Surely the Member has to accept that there are those with the ingenuity to ensure that they are offended even if they live far from where a particular event takes place.

Mr O'Dowd: I thank the Chairperson for his intervention. I am conscious that there are ongoing court cases connected to the Ardoyne riots, so I will not overindulge that comment.

Mr McDevitt: Will the Member give way?

Mr O'Dowd: OK, very quickly, because I wish to —

Mr McDevitt: I appreciate that. Mr Speaker, I thank Mr O'Dowd for giving way.

Mr Speaker: Before the Member comments further, I am keen that Members, as far as possible, stick to discussing the amendments in the group without widening the debate too much.

Mr McDevitt: I am grateful for that guidance, Mr Speaker. The point that I was going to make in my intervention was that Lord Morrow made an important general point about our society. We are legislating for behaviour at regulated matches. We are legislating just for how we wish our society to behave when it walks through the turnstiles into a game of association football, Gaelic football, hurling or rugby. That is all that we are doing. I hear what Lord Morrow is saying — there is a lot of truth in many of his remarks — but that should not discourage us from legislating for what goes on at regulated matches. Surely that would be the one place and the one time in our week when we would be happy to create no room for anyone to think that they might get away with certain types of behaviour.

Mr O'Dowd: I thank the Member for his intervention. The debate around and about why and what people take offence over at parades or anything else has gone on at length. Lord Morrow has his opinion, and I have mine. We disagree, and we are perfectly entitled to disagree.

The Chairperson of the Committee for Justice: I do not rise early in the morning to be offended.

Mr O'Dowd: Perhaps the Member will agree that there are people who are prepared to rise early in the morning not to go on a parade to celebrate a historical occasion but simply to have the chance to march through a Catholic area. There are certainly people who rise quite early in the morning to do that, but that is a different debate for a different day.

I will end on this point. I believe that, in this instance, amendment No 9 allows for a definition of sectarianism to be included in the legislation and deals with genuine concerns about freedom of political expression. The Bill states clearly that it cannot be used to stifle expression. Therefore, I ask Members to support amendment No 9.

Mr B McCrea: The issue before us appears to comprise three — perhaps four — key points. The first — Mr McFarland's point about whether political opinion plays any part in our thinking — has been debated and reintroduced. Secondly, we have to consider the definition of sectarianism because the argument is that we have included the word "sectarianism" without defining it and, therefore, we will leave it up to the courts to do so. Thirdly, we have to consider Mr O'Dowd's concluding point about read-across. His argument seemed to be that amendment No 9 clearly states that it would only apply in the case of sectarian chanting at sports grounds.

I would add a fourth point, which has not been brought forward at this stage but was part of the Consideration Stage debate: the reason why there is a problem with political opinion is that there are competing rights, including those relating to free speech, which is at the centre of all democracies. Although it is right that we should regulate and legislate to ensure that that right is not abused, we must also ensure that, wherever possible, it is defended. Therefore, as John O'Dowd pointed out in his earlier contribution on the first group of amendments — I hope that I have this right, although, of course, Hansard will tell the tale — the amendments were well intentioned but rushed. We almost got there but did not. We now find ourselves in the same position.

Mr McDevitt: Mr McCrea raised three concerns. The first is that we should include "political opinion" in the Bill. The second is that we should directly or indirectly define "sectarian", and the third is a concern about read-across. Setting aside his first concern, which we definitely need to debate because the amendments would introduce a novel term in a different context, his second concern would not apply with the SDLP amendments. They do not attempt to define "sectarian" and, therefore, there would be no opportunity for read-across. That is a fact. I see Mr Cree shaking his head, but no court in this land would consider what is in the SDLP amendments to be a definition of "sectarian". They do not do that. Therefore, there would be no opportunity for read-across.

There is a debate to be had today about whether it would be meritorious to consider including in the Bill reference to chanting at regulated games that:

> *"includes matter which is threatening, abusive or insulting to a person by reason of that person's … political opinion".*

That, with the greatest respect, is the only point at issue. There is no issue of definition and, therefore, no issue of potential read-across.

Mr B McCrea: I am grateful for the Member's intervention, and I understand some of the points that he was trying to make; however, I refer him to his earlier comments, when I asked him to define indecent behaviour.

I asked him whether there was any need to define indecent behaviour in this Bill because it is a term that we were going to use. His response was that there is no need and that it is already defined elsewhere in other legislation and in case law. In other words, the clear implication of that contribution was that we could take a definition from an article in another piece of legislation and bring it into this Bill. That is precisely my concern in the opposite direction: that we will get read across.

5.30 pm

The key point that I want to make to Mr McDevitt is that it is right that we should have a debate and should confront the issue. All of us feel quite passionate about it and, from what I can detect in the contributions, all of us are opposed to sectarianism. That is a welcome statement for us to bring across. The issue is that — I think Mr McDevitt used words about the time available to us before the end of this mandate — there simply is not enough time to do justice to what is a very difficult issue. Mr McDevitt, in his contribution —

Dr Farry: Will the Member give way?

Mr B McCrea: I will if you let me finish the point, Mr Farry. Mr McDevitt, in his contribution, pointed out that, as far as he is aware, nowhere else on these isles had managed to define sectarianism and that this would be a first. That is why we should not rush into this. The matter deserves proper and full debate, and I hope that the Minister of Justice will bring it back for us to debate in a substantial way at a future time.

Dr Farry: We note that Mr McCrea has stated that all in this House are opposed to sectarianism. That probably is the case. However, there is a clear difference of opinion as to what people understand sectarianism to be, particularly bearing in mind the concept of

political opinion. While I respect that Mr McCrea thinks that this is a long-term process that needs to be shaped, is he willing to start the process rolling by giving us his interpretation of what sectarianism is in Northern Ireland and its scope? We will not hold him to it, but it would help the debate if he were to at least share his view and that of his party in that respect.

Mr B McCrea: I am tempted to respond to that, but I will not, Mr Speaker, because you have previously given direction that we should deal with the amendments here present. *[Interruption.]* That debate is worth having but perhaps not now, in the middle of the debate on the Bill.

However, I will observe some issues that I think are directly relevant. I do not know whether Mr Farry was at the recent presentation to the three codes — the IFA, the rugby union authorities and the GAA — where photographs were taken and where we presented prizes. The Chief Constable was with us, as was Mr McDevitt. I am not sure whether Mr Farry was at that event. Maybe that does not concern him, because it was only to do with sporting bodies and how they might deal with sectarianism. However, Mr Farry will, perhaps, manage to make it to such an event at another date. For my part, I feel that I have made a contribution in whatever modest way I can, because I do not support sectarianism. I have a sense of what it means to me, and I am quite happy to share that at another time.

Mr A Maginness: I appreciate that the Member has been very tolerant of and good about giving way. He said earlier that he has concerns about freedom of expression, particularly freedom of speech. However, is the Member aware that the Northern Ireland Human Rights Commission commented on that aspect of the Bill and is happy to support restrictions in relation to sectarianism or, indeed, racism, with sectarianism being a species of racism?

Will the Member take on board the fact that the Northern Ireland Human Rights Commission does not see any problem with legitimate restrictions that would not attract the normal protections of article 10 of the European Convention on Human Rights? On the basis of that authoritative opinion, will the Member be minded to take the view that that is a right and proper approach?

Mr B McCrea: I read in the Hansard report of Tuesday 22 February that, just before 7.15 pm, Mr O'Dowd drew attention to the Human Rights Commission's opinion. However, I think that it is a role for legislators and for legislation. No matter how authoritative the opinion from other bodies, the important thing is that the Assembly considers all information available, debates the matter at length, and understands the implications, taking on board, of course, the issues that have been put forward. My real objection to this —

Mr A Maginness: Will the Member give way?

Mr B McCrea: I have given way, and, if I allow too many interventions, the Speaker will turn churlish on me.

This is, of course, the legitimate debate to have; this is the right thing to consider. However, although it is our good intent to do many things with the Bill, maybe this issue requires closer attention.

Mr McCartney: Will the Member give way?

Mr B McCrea: I will, after I finish this point.

The Member Mr Maginness raised the issue of racism. In my role on the Northern Ireland Policing Board, of which I previously declared an interest, I deal with how to define racism. The issue is how to define a racist crime. We on the Policing Board, and the police, define it as follows: if the person who has been attacked feels that it is racist, it is a racist crime. Lord Morrow has mentioned the fact that there are people who will take offence at issues that other people do not find offensive.

The Member opposite gently and rhetorically asked whether it would be racist or offensive to chant "No Tory cuts". It depends on the way in which it is said. It depends on whether it is threatening, abusive or insulting. It would be unacceptable to me if I were to feel threatened because of an opinion held by someone else. There are times when I think that debate borders on being inappropriate. At other times, it is a bit of fun. I did not take offence at Lord Browne's rapier-like attack on us about the Tory cuts a year ago, although I point out that that was before the election and before people turned up at Hatfield. I will take the slings and arrows from people in the manner in which they were intended. They are fair comment.

The issue is this: what is the intent? When I first raised the matter on the Floor of the House, some people derided me for it and asked

me what I was thinking about. There was an exchange. I have not sought to fire that back at people, but I hoped to win by force of argument. I put the case across, and I spoke specifically to the Whips. I asked them whether they were really sure that there was not some danger in the legislation as proposed. I had forgotten that I said I would give way to Mr McCartney, so I will let him intervene in a moment.

Mr O'Dowd was talking about what it is that we are defining. The Hansard report of our meeting on 22 February states that Mr O'Dowd said:

> *"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." — [Official Report, Vol 62, No 2, p169, col 1].*

That is the interpretation. That is what you said. That is a problem, and I do not think that we are ready to define sectarianism yet. We accepted the amendment to insert sectarianism in discussions on the past, as to do otherwise would have suggested that we supported sectarianism. How can you not say that you do not want the word "sectarianism" inserted? I am aware that that leaves us in the lap of the gods — or should I say the judiciary? Perhaps it is the same thing.

Lord Empey: It is the same difference.

Mr B McCrea: Yes; perhaps it is the same thing. However, I hope that the Minister of Justice has been encouraged by the debate and will address the issue as soon as practical so that we can have a proper and full debate and can come up with a definition of sectarianism in all its guises in a way that we feel is appropriate. I assure Dr Farry that, at that stage, I will be more than happy to participate in a debate in a helpful, well-constructed and legislatively sound basis. I apologise to Mr McCartney for the delay.

Mr McCartney: In many ways, the point may have passed, but it is still relevant. Everyone welcomes legitimate debate. However, including political opinion in the amendment never seemed to be an issue during the Committee's 16 meetings on the Bill; only when it came to the Floor of the House did it become an issue. I want the Member to recognise the fact that it did not seem to raise any concerns, even though we discussed the issue over 16 meetings. Therefore, it is surprising that it has arisen nearly at the end of the process. People might feel that including political opinion in the amendment had not been discussed when, in fact, it had.

Mr B McCrea: I thank the Member for his contribution, but I am sure that he will agree that that is why we have a legislative process. It is not just for a Committee to look at issues; it is for the entire Assembly. I in no way denigrate the excellent work of the Committee and its members; they looked at many important issues. However, sometimes if you focus on an issue from one particular angle you do not see it from the other side, and issues come back up. The fact that we have had the debate illustrates that perhaps we missed something and that we should have had more time to talk about it. However, that is part of the legislative process. That is not to put down the Committee's excellent work in many areas.

I do not wish to labour the point, but there is a serious problem in leaving sectarianism undefined. However, going forward with a rushed, hashed piece of legislation will cause us more problems than it will solve. The right and proper course of action for the Assembly is to reject the amendments that, sadly, have been brought forward by the SDLP and Sinn Féin, because they insist on going back on points that we have already discussed.

The vote has been taken. The Assembly has had its say, and it does not accept that the generalised inclusion of political opinion is safe. I think that it is inappropriate. It may be a right, but it is not right to reintroduce something that has —

Mr McDevitt: Will the Member give way?

Mr B McCrea: I am sorry, Mr McDevitt, although I have the greatest of respect for you, the amendments appear to do just that.

Mr McDevitt: I do not want to repeat myself, but, first, the amendments do not define anything; therefore, it is not a valid argument to say that we are debating a definition of sectarianism. Secondly, I reread the Hansard report and was particularly drawn to Lord Empey's remarks that we would accidentally end up defining sectarianism as that dangerous cocktail of political and/or religious opinion.

It is my personal opinion that that is sectarian. That may be the opinion of the vast majority

of academics, learned people and others who have thought about the issue in this part of the world during the past 40 years. However, that is not what we are debating today. We are debating two separate things, the first of which is whether or not we want to include political opinion in a general list. If someone can give me a good reason why it is OK to go to a game of football, rugby or Gaelic football and insult someone because of his or her political opinion, I would like to hear it. However, we are not defining "sectarian". We are just not.

5.45 pm

Mr B McCrea: Let me see whether I can get this right. The point that I was addressing is that amendment No 5 introduces political opinion. So too does amendment No 6. Amendment No 8 states:

"After 'religious belief,' insert 'political opinion,'".

Amendment No 9, from Sinn Féin, refers to "religious belief or political opinion". Amendment No 10 refers to "political opinion". The point that I have just made and the reason why I reject those amendments is that the Assembly has had that debate. The vote has been taken. We made it quite clear —

The Minister of Justice: On a point of order, Mr Speaker. I know that Basil McCrea is only about the fourth Member to do so in the debate, but surely he does not suggest that you have gone back on the House's decision at Consideration Stage in allowing a matter to be reopened.

Mr Speaker: We need to be careful. Although the debate is the same, amendments that were tabled at Consideration Stage are different from those that have been tabled at Further Consideration Stage. I agree with Members. Certainly, the debate is the same. That is a matter for Members to try to address and is certainly not for the Speaker.

Mr B McCrea: Thank you, Mr Speaker. I am grateful for that. I have tried to make my contribution constructively and positively by taking points and outlining issues. To have a proper debate requires people to reciprocate. I hope that the Minister of Justice will do just that.

The point that I raised with Mr McDevitt is about why there is an issue and why we have concerns. When comes to the definition of "sectarian", it seems that amendment No 5 certainly goes some way towards that in its reference to:

"colour, race, nationality (including citizenship), ethnic or national origins, religious belief, political opinion, sexual orientation or disability".

Amendment No 6 is similar. I note that in the record —

Mr A Maginness: Will the Member give way?

Mr B McCrea: I am trying to come to a close on the point.

Mr A Maginness: The Speaker, whom I do not wish to involve in the debate, in his response to the point of order that was raised by the Minister, indicated that the amendments cannot be the same as those that were tabled at Consideration Stage. The Member suggests that a definition of "sectarian" is contained in those amendments. It is not. That is not possible under the rules.

Mr B McCrea: Moving to a conclusion, I have tried to outline why my party has concerns with the issue. I have to say that those concerns are genuine; they were not brought forward easily. It is fair to say that I received some contradictory input from Members when we first discussed issues that were similar in nature to those particular points. Therefore, the debate is still to happen. I am sorry, but my party cannot support those amendments, for all the right reasons. As a party, we are more than happy to play our part to discuss issues at the appropriate time and in the appropriate place.

This is not the appropriate time; not now, not at the end of a long legislative session. Come to it fresh again, do it properly, get it right — and you will do our community a service.

I will conclude by saying that when we listen to the contributions that have been made, it is obvious that there has been a toing and froing of things. I do not think that these issues are particularly helpful to members of the judiciary or to anybody else. That is why I urge rejection of the amendments, as outlined.

Dr Farry: I support the amendments in this group, some of which have been tabled by my party colleague the Minister of Justice. At the outset, it is important to stress that we are talking about a very discrete issue. We are not talking about reforming society or about how we regulate behaviour in society. We are

talking about conduct at regulated sporting events. In fact, when we talk about football, rugby and Gaelic Athletic Association events, we are talking about only a certain level of those contests.

The purpose of the approach that has been advocated by the existing clauses and the amendments is not so much about interfering with free expression and free speech as about trying to maintain public order in a situation where, if certain remarks were made, there would be a risk to public order and everything that flows from that and/or a threat to the maintenance of a neutral and welcoming non-hostile environment where people can enjoy sporting events in safety and to which they can bring their families to enjoy sporting events in safety. That is the context of the legislation and the context in which the amendments have been moved, to my mind.

I fear that a much broader issue has been dragged into the debate. That was reflected, in part, during the Consideration Stage, when spurious references, to my mind, were made to the discussions in the House of Lords around equality legislation going through in England and Wales. It has also been reflected in the remarks that have been made today about whether this will interfere with people's rights to express opinions in the Chamber or with anyone's ability to have a rally expressing a political opinion. It will do none of those things, because freedom of speech, expression and assembly is a broader issue for all of us to consider. As a genuine liberal, I firmly believe in that freedom. The bar to any qualification on that freedom needs to be extremely high.

Outside the context of sporting events, we are talking about a situation in which there is an incitement to violence or actual violence associated with those events. No matter how distasteful an opinion may be to me or to anyone inside or outside the Chamber, it is a fundamental tenet of a liberal society that someone has a right to hold that opinion. The problem that we have, and where a legislature has to intervene, is when the opinion that someone holds freely crosses over a boundary into creating a tension, risk or danger to others in society. We should be talking about that today and referring the broader point back to the issue in terms of sporting events.

I appreciate that, to an extent, we are dancing on eggshells with regard to what we are seeking to do in the legislation and whether there is a definition of "sectarianism" or whether, as the SDLP has reminded us, we are not technically defining sectarianism today. Nevertheless, that is the broad theme that we are examining. It is worth stressing at the outset that, as it stands, the legislation covers sectarian chanting. As things stand, and in the absence of whether it is a definition, an elaboration, a qualification, an expansion, or whatever you want to call it, the courts will be making a judgement as to what they understand sectarianism to be. The issue at hand for the Assembly is whether we are content to leave that as it stands or whether we want to have an expansion or an elaboration to give further guidance.

Mr A Maginness: On that point, we frequently hear in the House that we do not want the courts determining issues of policy. Now, as a result of this, we will have the courts making determinations on sectarianism and sectarian chanting. As legislators, we are saying that we cannot handle that issue because it is too hot and we cannot get to grips with it — despite the fact that the Northern Ireland Human Rights Commission says that it is not complex — and that we will leave it up to the courts, something which we have previously been told to try to avoid.

Dr Farry: I am grateful for the Member's intervention, and I tend to agree with what he says, but it leads neatly to a broader point that I wish to make. It came across, particularly from the last Member who spoke, that there is an acceptance of the need to define sectarianism, but the argument is that we are not at the point at which the House can define it and that we need to have a discussion about it. That feeds into the wider theme that there is a whole host of —

Mr O'Dowd: Will the Member give way?

Dr Farry: Yes.

Mr O'Dowd: We have reached an interesting point: it is too early or we are not ready to give a definition of sectarianism. However, if we are opposed to sectarianism, surely we should be able to define what we oppose and put that definition into legislation. That seems to me to be the A, B, C of legislation.

Dr Farry: That common theme, about which we hear particularly from a certain party, is

that there are difficult issues out there that we have to discuss. The reality is here and now, and we need to get on with it. Are we saying that, as legislators, we are not mature enough at this stage to make those definitions, but that we expect and accept that judges are mature enough to make those interpretations? That seems a rather bizarre statement to make. Everyone in the Chamber is aware that sectarianism has been a live issue in Northern Ireland for the past 40 years, the past 100 years, or whatever. Most regrettably, it is part and parcel of our society, so I think that everyone is conscious of what sectarianism is.

Mr B McCrea: Will the Member give way?

Dr Farry: I will in a second. It seems to be simply an issue of finding it difficult to put into words and on paper what we know and can readily identify in everyday actions.

Mr B McCrea: I just have a simple question. Does the Member accept that sectarianism is not exclusively the domain of people from Northern Ireland but affects other parts of the United Kingdom and the British Isles? Will he indicate why sectarianism has not been defined in those other legislatures?

Dr Farry: Absolutely. I am glad that Mr McCrea asked me to go in the direction that I was about to take. Sectarianism is certainly not particular to Northern Ireland. It is, sadly, a reflection of many other societies around the world. One needs only look at what is happening in Iraq, for example, where there is a sectarian dimension to society and at many other conflict situations around the world.

From my point of view, and I beg the indulgence of the Speaker, sectarianism is quite clear as a concept. It is about drawing arbitrary distinctions between people based on presumed characteristics. Those may well relate to religion, race, colour, nationality, disability, sexual orientation or, indeed, political opinion. It is about drawing those arbitrary distinctions between people and the different consequences that flow from that.

Mr McFarland: Will the Member accept that all those categories that are set out by the Minister in the Bill — colour, race, nationality, ethnic origin, religious belief, sexual orientation, disability — are currently protected in law? Does he agree that people are currently not allowed to discriminate against someone for any of those reasons? The only category not there is that of political opinion, which Mr McCrea brought up, and there is probably a very good reason for that, as it is almost impossible to legislate on.

That has been left out in other countries, and it has been left out here. That is because, unlike the other issues that have been described as illegal, it is almost impossible to say that it is illegal to discriminate on the grounds of political opinion.

6.00 pm

Dr Farry: I thank Mr McFarland for his intervention. In response, I will say that political opinion is mentioned very clearly in section 75 of the Northern Ireland Act 1998. Therefore, the notion that political opinion is being introduced for the first time by this Bill is a complete and utter red herring. Political opinion has been part and parcel of the law in this society for almost 13 years. The word "sectarianism" may not be actively used whenever we refer to religion and to political opinion in the context of section 75. However, that is in essence and practice what that element of section 75 refers to.

There are further difficulties with what Mr McFarland said. First, he said that all the categories listed in amendment Nos 5 and 6 are covered by section 75. Secondly, if I may go off on a slight tangent, in its infinite wisdom, the House has not sought to follow suit with equality legislation that is similar to the UK Equality Act 2010. That means that the definition of the term "racism" in Northern Ireland is now behind that in the rest of the UK. Two of those categories — colour and nationality — have not been included for Northern Ireland circumstances. Therefore, we are out of step, as all those categories have not been covered.

Finally, if we use section 75 as our starting point for saying that protection exists already, the problem is that it does not extend itself to what we are saying about chanting at regulated sporting events or about the impact that that could have on public order and the neutral environment. Therefore, I disagree with Mr McFarland on those categories.

For me, sectarianism is about drawing arbitrary distinctions, and prejudice is about prejudging people. The clue is in the term. It is about drawing assumptions about people based on presumed characteristics. For example, someone could be told that, because they are

a Protestant, the assumption is made that they have x, y and z beliefs, or that, if they are a Catholic, they have x, y and z beliefs. That is what prejudice is about. It is not about treating people with respect as individuals who have their own complex identity, opinions and relationships.

Mr B McCrea: Will the Member give way?

Dr Farry: I will give way in a second. Prejudice is about putting people into boxes and everything that flows from that.

Mr B McCrea: Does it not show some sort of prejudice when you define people as unionist and refer to them as "sectarian parties"?

Dr Farry: That perhaps goes to the heart of what we are talking about in a Northern Ireland context. I think that Mr O'Dowd made that point earlier. In common parlance, a lot of people refer to what happened in Northern Ireland as a conflict between those from a Protestant background and those from a Catholic background. Those simplistic terms may imply that the conflict in Northern Ireland was fundamentally about religion, and there may have been a small religious dimension to it. However, it was not a battle over theology. It was a situation where the terms "Protestant" and "Catholic" were used as code words to refer to what was, essentially, a political —

Mr Speaker: I am trying to confine Members to the amendments. I am slightly worried that we are going outside the amendments and that we are possibly straying into an area that is almost a different area. I remind the whole House that we should try, as far as possible, to debate the amendments that are before us.

Dr Farry: I am grateful for your guidance, Mr Speaker. I am trying to head back to the notion of what is understood by the term "political opinion" in the context of sectarianism.

Mr Speaker: I know that the Member is quite good at that.

Dr Farry: Thank you very much. I will get there as quickly as I can.

Whenever we talk about division in Northern Ireland, the division that causes the tensions in this society is essentially a difference of political opinion. When that is not purely an issue of unionism versus nationalism on the issue of the border or on Northern Ireland's constitutional status, it is about when political opinion has essentially become the organising principle. I reject that, but, in common parlance, people talk about the two communities in Northern Ireland. In essence, political opinion is right at the heart of what we understand sectarianism to be. It is certainly at the heart of what I understand it to be, and it is what the law, under section 75, understands it to be. For me, extending this to include "political opinion" is not bizarre, is not a major extension of the current law under section 75 and is consistent with common practice in the day-to-day interpretation of sectarianism.

I stress that, in talking about political opinion, we are going straight back to the notion of chanting at regulated sporting events. We are not talking about the free expression of opinion. People have every right to talk about unionism and nationalism, have different aspirations and be critical of the thinking and expressions of others in the context of freedom of assembly and outside the context of certain regulated areas, which obviously include sporting events.

The other point —

Mr B McCrea: I am sorry to labour this point, but it is at the nub of the thing. You talk about political opinion, but, in the past, I have heard people talk about "unionist parties", which is presumably a political opinion, and "sectarian parties", which presumably is not a term of endearment, as we all say that we are against sectarianism. Surely that is inappropriate. If it is all so straightforward, why was it not included in the Bill in the first place? I do find some of the things offensive.

Dr Farry: I am happy to give way to Mr McCrea if he wishes to elaborate on what he finds offensive.

Mr B McCrea: In the past, I have said that I object to being called sectarian just because I am a unionist; that is on record in Hansard. In fact, I object to being called sectarian — full stop. That is a point going back in, and it is inappropriate and offensive language. We are trying to fix that.

The Member asked me to elaborate, but I will not go on, Mr Speaker. I see you rising from your Chair.

Mr Speaker: Once again, I say to Members that interventions must, as far as possible, relate to the amendments. I am slightly worried that we

are entering into a different debate. Let us all be careful.

Dr Farry: I am so tempted to get into this debate. However, it is a temptation that I will have to resist for another day. I will happily have that conversation with Mr McCrea outside — in a gentlemanly manner, of course. Mr Speaker, at this stage, I think that you probably want me to sit down and move on.

We do not seem to have the same difficulties in applying a common-sense approach to racist issues. Racism and sectarianism could be called two sides of the same coin, but, for me, they are essentially the same thing. In Northern Ireland terms, when we talk about religion and politics, sectarianism is a subset of racism. In essence, when you talk about racism, you are being sectarian at the same time.

Members do not seem to have a difficulty in embracing the notion that tackling racism is not a problem and that defining racism would not necessarily pose a particular problem. There is also a political aspect to racism. People could stand up at a football match and voice what might be regarded as a political opinion by stating that people of a certain background or colour should not be here and should relocate themselves elsewhere, even though many of them may have been born here. Some people might argue that that was a political opinion, but I defy anyone to suggest that that would be viewed as an acceptable form of behaviour. Indeed, it would be disruptive and out of keeping with the notion of a neutral and welcoming environment. We have this particular hang-up when it comes to talking about something that cuts close to the bone and what characterises this society as opposed to a more general issue.

We are simply trying to replicate what has happened in other legislatures in the UK, where there have been no problems in addressing racism. Obviously, there is political consensus that it needs to be tackled. Perhaps the reason why England and Wales have not gone as far as mentioning the word "sectarianism" is that what is commonly regarded as racism is at the core of their problems.

We have a much wider and more diverse range of issues here that we need to be conscious of when legislating. It is appropriate that we seek to expand or elaborate — however those who tabled the amendment wish to define it — and that we have as comprehensive and as clear a piece of legislation as possible.

Lord Empey: As you said, Mr Speaker, at this point, we are in danger of moving into a completely different debate, although it is one that I think needs to be held because of the whole question of sectarianism. Anybody who has been watching their television in recent days, particularly around the sporting arena, will realise there are clearly issues that need to be addressed. We also have to remember that nobody in the Chamber is lily-white on these issues. Some people and politicians make their political living by portraying other people as sectarian. None of us has kept a completely clean pair of hands over the years around all those issues, which are significant.

A few minutes ago, my colleague Basil McCrea made the point that, when the Bill was introduced, it did not contain definitions of sectarianism in respect of chanting. Normally, a Bill introduced by a Minister would have the key components in it at that stage. However, we have spent more time on this issue, which was not in the Bill at that stage, than on the things that were. I suspect that the Minister has personal feelings about this issue and that he may have been advised how difficult it would be to include it in the initial process but then discovered that there was an appetite for it in the House and therefore proposed further amendments after discussions and so on.

The syndrome that we are witnessing now is very similar to that witnessed when we discussed the amendments at an earlier stage. In other words, everybody believes fundamentally that we have a problem that needs to be addressed. The proof of the pudding is in the eating. Two weeks ago, we passed amendment No 18, and it has been frequently pointed out, including in the Justice Committee, that we passed that amendment but did not define it. To have not included it and voted against it at that stage would have led to people accusing us of being sectarian etc, so we understood that there was an issue.

I have some difficulty in understanding this because there seems to be a contradiction. We have amendments before us, and there has just been an exchange between Mr Farry, Mr Maginness and others to the effect that we do not want the courts to define things for us and we want our legislature to do so. Then, in

the next breath, people are saying that those amendments are clearly not the same as the ones that were debated previously, yet they are cited as actually giving directions so that a judge, in future, would not be in a position to make up his or her mind because we will have taken the decision. That is a fundamental contradiction that I do not think has been addressed.

I want to make a couple of points about today's debate and the one that took place on 22 February. Without wanting to get into a political wrangle, I am bound to say that some colleagues to my left gave those of us at this end of the Chamber — my colleague Basil McCrea in particular — a pretty hard time during the previous debate, which is fine. I want to draw the House's attention to a comment made by Mr Poots, who is not in his place, during an intervention. He said that my party:

> *"should be careful about the route that it is taking and that it is not perceived today to be a party that is the mouthpiece of bigots and of people who will engage in sectarian or racial abuse. That would be a very foolish line to take". — [Official Report, Vol 62, No 3, p185, col 1].*

I said at the time that I found Mr Poots's intervention to be slightly less agreeable than, perhaps, some of my colleagues did. The debate proceeded, and the House divided, and, when I turned around in the Lobby, who did I see beside me but Mr Poots?

6.15 pm

What is happening here is that people are beginning to twig that this is a big issue. Although I do not like to talk about Mr Poots when he is not here, it is noticeable that his name is on today's petition of concern. Yet, we were hammered for daring to make these points two weeks ago, when he was giving us a hard time. People are beginning to realise the implications of what we are doing here.

In my first intervention on 23 February, I said that I had a feeling in the back of my mind and that I hoped we were not passing legislation that was not completely sorted out and thought through. Lots of things are coming in at a rush. The irony is that we have spent hours, days, months and, indeed, years in this Chamber talking about everything under the sun except legislation. You name it, we have debated it. Yet, here we are, at the end of this session with a pile of legislation being forced through at the last minute.

Greater minds than ours, in dealing with this type of amendment, would find that defining such things is the most difficult thing to do. We are dealing with the collision of the right to free speech with that of people not to feel threatened. It is the point at which the actions of an individual in a stand in a football stadium become a threat to somebody else that is the issue for me. I am trying to define in my own mind, as Dr Farry asked some of my colleagues to do, what it is. It is impossible to pass through life without being insulted for a variety of reasons. Perhaps a lot of the insults are to do with class, although people can be insulted for all sorts of things. In this politically correct world, I wonder whether there is a danger that we overreact.

It is very difficult to defend free speech. We had examples of it in Europe, with the Austrian politician who holds what I consider to be vile views, and there are other such individuals. If we say that what a guy says is abhorrent and, in the next stage, say that he has a right to say it and be heard, the riposte is that we are sympathisers and our secret motive, the dog whistle, is that we actually secretly support what he is saying. That is the collision of ideas that we have here.

My party accepted amendment No 18. We fully understand that, had we rejected it, 90% of today's argument would not be taking place. However, what would be taking place would be the cry that we were defending the bastions of sectarianism. Had we not accepted amendment No 18, all the arguments about the courts and about definitions would be gone, because there would be nothing there. We have laid down a marker. I think that the Minister can say, subsequent to the amendments being passed, "Perhaps we did not get all of it, but we have laid down a marker". That marker has been accepted across the House.

Perhaps when the new Justice Committee is formed, the Minister should come back and, working with the Committee and his officials and maybe getting outside help if necessary, work something up on that issue to see whether it is achievable. There is no opposition in principle to trying to prevent somebody being pilloried, abused and threatened because of their religion or because of any other issue listed

in the Bill. I suggest that he should do that if he wants to move the issue forward. However, there is an abiding concern that, if we accept the amendments as they are, we will not have exhausted an examination of the implications of the different circumstances that can arise.

A police constable in the ground on the day will be the key person in deciding what evidence is brought to court. That person has got to know and to hear what happened, and that is sometimes very difficult in the melee. Somebody holding an offensive placard is fairly straightforward: there is CCTV and the person with the placard with the offensive material on it. However, in a shouting or chanting situation, one has to identify an individual and that individual has to be in the court. The police constable will have to stand in the witness box and say to the court, "Bloggs was there. I heard him do that. That is what he said and did". All of that has to be whittled down to the actual position in the court on the day.

Dr Farry: I understand the points that Lord Empey is making. Would he also agree that, in many other situations, the police are asked to make similar judgements on whether it is right to intervene, whether they can intervene in a proportional manner and whether intervening will make a situation worse? The police wrestle with that sort of situation all the time when it comes to public order, and the same applies to the standard of proof regarding any individual. The police have to address such considerations daily in dealing with other policing situations such as public order. That is not new territory for police officers but simply the application of good, professional policing techniques to a new situation.

Lord Empey: I do not dispute any of that. I am just making the point that the more complicated things become, the harder it is and the greater the burden we place on the police officer on the day. That is all I am saying. I accept that there are parallels, and the Member has drawn attention to some of them.

I come back to the point that my colleague Basil McCrea made. If that was a fundamental objective of the Bill, why was it not in the Bill? If it was a cornerstone of the Bill, surely with the resources of the Department and the access to legal opinion — we have an Attorney General and plenty of people whom we could get access to — I would have expected to see that issue dealt with at that stage. It was not dealt with at that stage. Therefore, that has led us into the position —

Mr McCartney: When the Member says that it was not in the Bill, which part was not in the Bill? Could he let us know?

Lord Empey: I am saying the very opposite. Maybe I misheard what Mr McCartney said. I am talking about the proposal to define sectarianism. I am saying that "sectarianism" itself was not in the original Bill. A definition of "sectarian" was not in the Bill. We have been dealing with amendments, and it was the amendments that sparked the major debate on 22 February 2011.

We had an original proposal that referred to threatening and abusive behaviour, and we tried to amend that. We are perfectly entitled to do that; that is what the Chamber is for. I am not objecting to the fact that that has been done. I am just saying that, given the fundamental nature of the issue, perhaps it would have been better coming through with the original proposals after substantial work had been done, legal advice had been taken and opinion had been canvassed.

That is something that we will come back to; I have absolutely no doubt about that. The Minister can take comfort from the fact that the House has put the issue of sectarianism in the Bill. He can take comfort from the fact that the argument will centre on whether it is possible for us to get acceptable consensus on a definition that works legally. That can be done, but I feel strongly — others have said the same — that, if we proceed down the road that is proposed, the definition is not sufficiently mature to stand us in good stead in the years ahead.

Mr A Maginness: I will try to be as succinct as possible.

The inclusion of sectarian chanting as an offence in the Bill was raised initially in Committee because it was felt by the SDLP members of the Committee — my colleague Conall McDevitt and I — that there was a gap that should be remedied. My recollection of the discussions on that and the subsequent Committee meetings is that there was no objection to the inclusion of sectarian chanting as an issue and an offence that should be taken into consideration. We went through the

whole Committee Stage without that being a live issue. I make that point for the record so that it is a matter of history how we have dealt with sectarian chanting. I do not recall any opposition to that, and I want to make that clear.

Other issues have been raised. Mr Basil McCrea, in particular, raised the issue of whether including sectarian chanting as an offence might affect the rights of people to free speech and, in particular, impinge on article 10 of the European Convention on Human Rights. It has been made clear by the Northern Ireland Human Rights Commission, which has a particular duty to assist and guide the House, that it does not see sectarian chanting as something that should be protected under the law or under article 10 of the European Convention on Human Rights, which is now part of our domestic law. So, there is no issue there for an authoritative body with a legal duty to advise the House. That is important for us to take into consideration. Furthermore, in its submission, the commission went on to say that it does not regard defining sectarianism in Northern Ireland as a complex matter, and it drew attention to the well-developed body of international standards from which a definition can be drawn. The commission has called for the explicit recognition of sectarianism in Northern Ireland as a particular form of racism, as defined by international standards. I referred to sectarianism as a species of racism, and colleagues would support that view.

Dr Farry: And vice versa.

Mr A Maginness: And vice versa.

In the House, we have no problem condemning racism, and we have no problem with seeing racism defined in law. So, I do not understand why, when we come to our indigenous form of racism, which is really sectarianism, we have all this difficulty.

6.30 pm

Although this aspect of the Bill will not go any further in the House because of the petition of concern, I appeal to colleagues, particularly unionists, to rethink the matter and how we deal with sectarianism. The issue will not now be dealt with in the Bill. However, I exhort Members to address the issue at the earlier possible opportunity and as expeditiously as possible in the next mandate.

The problems associated with defining sectarianism have been grossly exaggerated in the House. Sectarianism is the single most problematic issue in our society, and we must recognise it as a cancer that eats at the very heart of society here. If we do not recognise and start to tackle that in a direct, open and honest fashion, we will fail our people badly. Our amendments are intended to be of assistance to the House and are not contrived to trip up or trick Members in some way. However, we are now in danger of allowing the issue of sectarianism simply to be determined by the courts. As I said previously in an intervention, colleagues in the House have not previously regarded that as a satisfactory way in which to determine policy issues.

Lord Empey: We understand the Member's final point, but the problem is fixable. There is no reason why the issue cannot be addressed in the new mandate. There is flexibility to do so because the Minister already told us that he will introduce a further Bill to address other issues. It is, therefore, perfectly reasonable and possible to include a clause in that Bill to deal with this issue after a consensus has been reached.

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

We all accept that we do not want to leave the courts completely free. That said, the Member knows better than most of us, given the perspective gained from his career, that it is very hard at times to keep the courts or particular members of the judiciary, who may have their own views and opinions, out of issues and that sometimes situations evolve no matter what Members of Parliament or anybody else has written down. I am sure that the Member could easily stand in court and make the case eloquently and persuasively that things have perhaps moved on and that the court must take a view on the issue. However, a remedy is not that far away because the Minister has indicated that he will introduce another Bill. Perhaps that will happen next year, although I do not know what his timetable is. I, therefore, have no doubt that the matter can be resolved.

Mr A Maginness: I will conclude by responding to that intervention. What Lord Empey just said highlights the danger of us as legislators not legislating on the issue. He reinforced in real terms the very point that I was making: if we leave it to the courts to determine the issue,

they may, of course, take a position that the House does not desire. It is, therefore, better for us to determine the issue as quickly as possible. I take some reassurance from the Member's point that progress will be made. That should happen very early in the next mandate.

The Minister of Justice: The debate on this group of amendments has been remarkably good-natured. However, it also covered some fundamental issues for this society that go way beyond the issue of the amendments that we are officially debating. It has been a good-natured debate despite the length and, dare I say it already, the lateness of the hour and the petition of concern, which means that whatever reasoned debate there is in the Chamber will shortly be superseded with a sectional headcount.

I want to speak about the amendments and, in particular, the two amendments that stand in my name, although jointly with Mr Maginness and Mr McDevitt — amendment Nos 8 and 10. Amendment No 8 to clause 37 and amendment No 10 to clause 44 both simply, as opposed to some of the more complex amendments, seek to add the term "political opinion" to those issues where there is qualification of what is constituted to be threatening, abusive or insulting chanting. In that sense, it is entirely in line with section 75 of the Northern Ireland Act 1998 to consider that that should be a simple amendment, which, although it does not seek to define sectarianism, includes a key feature of what would generally be recognised as sectarianism. I have considerable sympathy with the aims, although not entirely with the wording, of the other amendments that were tabled by Members from Sinn Féin and the SDLP.

With the agreement of the Executive, I sought to and put "sectarian" chanting into the Bill during its Consideration Stage. That followed extensive discussion, and it had the support of the Committee for Justice, as Lord Empey just highlighted. However, as we all know, in that debate, Members raised concerns about defining sectarianism and argued that any definition could set a precedent. As a result, although clause 37 as it stands has a reference to chanting of a sectarian nature, we have no definition of what "sectarian" is, and the same applies to clause 44.

The concerns that arose about the definition of sectarianism have been rehearsed again at considerable length, and I shall not try the patience of the House excessively in debating those wider issues, as the patience of the Speaker was tried earlier. The two simple amendments that stand in my name do not disturb the position with the Bill as drafted, do not disturb the position set at Consideration Stage, do not interpret the word sectarianism and do not attempt to define sectarian chanting. What they do is simply add political opinion, which is the nub of sectarianism in this society, to the list of factors that must be taken into account with threatening, abusive or sectarian chanting.

As other contributors to the debate said, the reference to sectarianism remains in the Bill in the same way as Jonathan Bell — several hours ago, it seems — highlighted the wording on the back of his Linfield season ticket, which refers to the fact that good behaviour is expected. That is a key issue. We are seeking to recognise the good work that is being done across the three sports and to underpin and support the good work that is being done in tackling problems in sport. Nothing in my proposals would undo that. Others have tabled amendments, and, as I said, I have considerable sympathy with the aims of those amendments, and I will support a number of them. However, it seems to me that if the House could agree about anything, it should be able to agree on the simple issue of adding the words "political opinion" to clause 37(3)(b). Concerns have been expressed about some of the other more detailed amendments, but there is no reason why Members should have any concerns about that.

The common point between Members from Sinn Féin, the SDLP and me is a desire for threatening, abusive or insulting chanting to be banned, including with regard to political opinion. I believe that the amendments that stand in my name maintain the integrity of the House's position at the end of the Bill's Consideration Stage, while allowing for that further amplification.

If I could try the patience of the Deputy Speaker ever so slightly, I must address the issue that began with Basil McCrea and was followed up by others, notably Lord Empey, when they encouraged me to initiate a debate on sectarianism. After the debate at Consideration Stage and the debate that we have had so far today, addressing a definition of sectarianism is not my first priority. However, it is an issue that

must be addressed by the entire House, and it is not something that is solely for a justice Bill.

I noticed that Lord Empey made kind references to what the Minister was planning for the next Bill. Of course, there is an issue as to who will be the next Minister and what the composition of the House will be in the next mandate. However, that is an issue that will have to be addressed, and the issue of sectarianism will have to be addressed by the House in a variety of ways, not simply the issue of sectarian motivation behind chanting at regulated sports matches, which is all that the Bill deals with in that respect.

Members had concerns that the definition could be applied wider. There is no definition. My amendments and, largely, the amendments proposed by Mr McDevitt and spoken to by Mr Maginness, specifically do not define sectarianism. We are seeking to qualify and explain in the context of sporting matches. That is an entirely reasonable position to be in, and it is an entirely appropriate place to be in the context of the Justice Bill and its sporting provisions. To suggest that we must wait until we reach wider consensus about sectarianism in this society is wrong. I fear that we could be in the same position as we are with regard to defining victims. I dare say that we could even be in the same position as we were in an hour or two ago on the issue of the proposed clause 33A, which deals with obligations on public bodies, when the views that were expressed around the House were broadly in line but, because there was no agreement on the precise wording, we were not able to move forward.

On that basis, it is entirely reasonable to have a modest proposal — a modest amendment — to add "political opinion" to clauses 37 and 44 to make it clear that that is covered. It is not a definition of sectarian, but it is a way of addressing the concerns that have been expressed in different ways. I believe that the House has to acknowledge that political opinion is at the heart of sectarianism in this society. I am not going to rehearse the arguments that Stephen Farry made about the nature of that, because I suspect, Mr Deputy Speaker, that you would cut me off. However, I noticed that Alban Maginness has just referred to the fact that sectarianism is, I think he said, a species of racism, and he highlighted the Human Rights Commission's concerns on those matters.

My amendments would not ban legitimate political expression. They draw on discussions with the Justice Committee, and they have the support of that Committee, the Executive and the Attorney General — in response to a point that was made by Lord Empey earlier. They simply say that threatening, abusive or insulting chanting during the period of a regulated match is as unacceptable if it is about someone's political opinion as it would be if it was about their nationality, race, disability or sexual orientation. Those of us who work with the concept of section 75 and its reference to political opinion should have no difficulty accepting that as part of the amendment to this clause of this Bill covering this small area of sporting legislation.

The amendments recognise the right to hold a political opinion; they do not qualify that and they do not make any threat to that. Whatever concerns people might have about some of the wording of some of the other amendments, although I believe that the sentiment behind those amendments is entirely correct, there should be no reason whatsoever why the House should not support amendment Nos 8 and 10, and I ask the House to do so.

Mr McDevitt: We brought forward amendments that sought not to define, and yet we had a debate about definition. What are the scholars to interpret from that when they read the Hansard report of today's proceedings? Will they interpret that we are very bad at explaining ourselves, that our command and the Bill Office's command of language and its ability to draft is so poor that amendments are incomprehensible, or will they interpret that there is still an inclination, when it is convenient on all sides of the House, to ignore rather than engage, to avoid rather than address, and to delay rather than act? There is nothing threatening before us today.

6.45 pm

Mr McFarland: People may say: if it walks like a duck and quacks like a duck, it is a duck. *[Laughter.]*

Mr McDevitt: I remember that Mr McFarland was a supporter of the Good Friday Agreement, and I trust that he still supports it. There is nothing before him today that was not in that agreement. There is nothing in amendment Nos 5 to 8 that was not enacted as a consequence of the Good Friday Agreement.

Do we honestly believe that it is OK to go into a sporting ground and be a bigot, be a racist or behave in a way that is prejudicial towards someone because of their political opinion? No, we do not. The only thing on which we divide in the House is whether we have the courage to legislate for it.

I do not understand people who say that the time is not right when it comes to matters of prejudice, because the time was never right. If one looks back through the social and political history of the western world in the twentieth century one sees that those who sought to resist never had the courage to say they were against, but all too often said: just not now, just not yet, soon.

Mr B McCrea: I realise that the Member is in full flow and I do not intend to take the time for an intervention that he will have. Many accusations have been put to me, but lack of political courage is not one of them.

I say to the Member: when I stood up and pointed out the flaws, and my concerns and worries, they were genuinely held. They are put forward by someone who believes in the Human Rights Act 1998, freedom of speech and in building a better society. That is why I am here. It was done with good intent.

The argument that I put to the Member is this: neither he nor the Minister have convinced the House in the time available to support the amendments. That is the issue about timing; it is not whether we do it now, or whenever. The time was not sufficient, the argument was not won. You have heard, and it is a positive that the Member and the Minister should take, that we recognise this as being an issue. Lord Empey himself came forward and said that we will deal with it.

I say to Mr McDevitt that there is no lack of political courage on this issue, no willingness to put it on the Back Benches and not deal with it. We will deal with the issue, and we will deal with it properly, and when there is time to do it right.

As Mr McDevitt himself mentioned, this issue has not yet been defined in any legislation in the British Isles. There are fundamental issues to address. Do not put us in the position of naysayers, for we are not. We fully support the democratic freedoms of this country.

Mr McDevitt: If Mr McCrea supports the Good Friday Agreement, the Human Rights Act 1998 and freedom of speech, he has nothing to fear from the amendments before us because they do not define. They will never be able to be taken as definitions. All they do is set a standard. They say what is right and what is wrong.

We are a region known the world over for our bigotry: it is not popular to say that, but it is true. Our region exported that bigotry to other places. When colleagues spoke earlier about the atrocious events at sporting occasions in our neighbouring nation of Scotland 10 days ago, they spoke of a problem that came from here and traces its roots back to the conflicts and divisions in this part of the island which we own and which, dare I say, we created.

I am not someone who came into the House to look back into history to seek an excuse for not doing something. I came here because I believe that this is the first generation in the history of this island that genuinely has the chance to put reconciliation at the heart of everything we do. Irrespective of our national identities or our constitutional aspirations, we have that chance.

Lord Empey: I am sorry to interrupt again, Mr Deputy Speaker, but I am not prepared to accept the argument that people here exported bigotry. People here, in fact, have a record that is second to none in bringing forward to other parts of the world freedoms and the whole concept of a parliamentary democracy. It was largely people from here who constructed the constitution of the United States and, indeed, other countries. Every part of the world has its downsides, but to label us and people from here in that way is extremely disturbing, and I certainly do not accept it. That is not to say that we cannot point to individuals who fit that label; of course, there are such individuals. It is the old story: from what point do you start? When we see what happens in other parts of the world where people are not even allowed to express a view without getting their arm cut off, it is entirely wrong to say that somehow or other we should be taking that guilt upon ourselves.

Mr Deputy Speaker: Order. At this stage, it is appropriate for me to remind Members that we have had a very long debate and must now focus on the amendments. As I am on my feet, I also ask Members to put away their BlackBerrys, please.

Mr McDevitt: I thank you for your intervention. It is worth noting that those individuals who left here did so because they were being persecuted.

It is just a sad reality of who we are that we have some great light in our history — I believe that we are all proud of that light; we like to point our children towards it; we celebrate it and should continue to do so — but we also have terrible darkness. The point tonight is a simple one. Do we simply do what is right? Do we do what is necessary and long overdue, which is to acknowledge that the divisions in our region are political as well as religious and sectional and that when they combine they are toxic? On a Saturday or Sunday afternoon, or mid-week if we are lucky to get out of here in time, we walk through the turnstiles of a sports ground to do what all of us who are sporting fans love to do — escape into another place. That is a place where the day-to-day affairs and the divisions should not exist and where a new form of tribalism emerges; one that centres simply on an allegiance to club or county. When we walk through those turnstiles, surely we should do so in the certainty that the rules we expect everyone in that special place to adhere to are the highest and best we could expect of our society.

We may be incapable, just yet, of tackling the bigger issues. It is indictment of us, for I do not believe that our society and people are as divided as the politics in our minds here. I put my own politics in that category. However, if not to the 108 of us here, surely we owe it to the almost 1·6 million people out there to create in sporting grounds an example to the world and to send a message that sport is for all; that you can go to any game from any code and expect not to be treated with disrespect and not to hear unacceptable chanting; and that you can expect to witness only a celebration of sport. It is for those reasons that these amendments were tabled, and it is for those reasons that they will be moved.

I believe that we should tackle the wider issue. I will happily introduce a private Member's Bill in the next mandate to start the debate on the wider issue.

Mr McLaughlin: How do you know that you will be here?

Mr McDevitt: As Mr McLaughlin points out, if I make it back, or make it here, for that matter. I will be honest. Does anyone here have the slightest degree of confidence in our ability to tackle the issue in the wider societal context, with all the other political and cultural consequences, when we cannot tackle it on the far side of a turnstile?

Mr Deputy Speaker: Amendment No 4 is a paving amendment for amendment No 6.

Question, That amendment No 4 be made, put and agreed to.

Amendment No 5 proposed: In page 26, line 10, at end insert

> *"(ab) 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, political opinion, sexual orientation or disability; or" — [Mr McDevitt.]*

Question put.

The Assembly divided: Ayes 47; Noes 41.

AYES

Nationalist:

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

Other:

Dr Farry, Mr Ford, Ms Lo, Mr Lunn, Mr McCarthy, Mr B Wilson.

Tellers for the Ayes: Mr P J Bradley and Mr Callaghan.

NOES

Unionist:

Mr S Anderson, Mr Beggs, Mr Bell, Mr Bresland, Lord Browne, Mr Buchanan, Mr T Clarke, Mr Craig, Mr Cree, Mr Easton, Mr Elliott, Lord Empey, Mrs Foster, Mr Frew, Mr Gibson, Mr Girvan, Mr Givan, Mr Hilditch, Mr Humphrey,

Mr Irwin, Mr Kennedy, Mr Kinahan, Mr McCallister, Mr B McCrea, Mr I McCrea, Mr McFarland, Miss McIlveen, Mr McQuillan, Lord Morrow, Mr Moutray, Mr Newton, Mr Poots, Mr G Robinson, Mr K Robinson, Mr P Robinson, Mr Ross, Mr Spratt, Mr Storey, Mr Weir, Mr Wells, Mr S Wilson.

Tellers for the Noes: Mr Buchanan and Mr B McCrea.

Total votes	88	Total Ayes	47	[53.4%]
Nationalist Votes	41	Nationalist Ayes	41	[100.0%]
Unionist Votes	41	Unionist Ayes	0	[0.0%]
Other Votes	6	Other Ayes	6	[100.0%]

Question accordingly negatived (cross-community vote).

7.15 pm

Mr Deputy Speaker: I remind Members that, as I have received a valid petition of concern on amendment No 6, the vote will be on a cross-community basis.

Amendment No 6 proposed: In page 26, line 11, leave out "or indecent nature; or" and insert

> *"nature and 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 , political opinion, sexual orientation or disability." — [Mr McDevitt.]*

Question put.

The Assembly divided: Ayes 46; Noes 41.

AYES

Nationalist:

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

Other:

Dr Farry, Mr Ford, Ms Lo, Mr Lunn, Mr McCarthy, Mr B Wilson.

Tellers for the Ayes: Mr P J Bradley and Mr Burns.

NOES

Unionist:

Mr S Anderson, Mr Beggs, Mr Bell, Mr Bresland, Lord Browne, Mr Buchanan, Mr T Clarke, Mr Craig, Mr Cree, Mr Easton, Mr Elliott, Lord Empey, Mrs Foster, Mr Frew, Mr Gibson, Mr Girvan, Mr Givan, Mr Hilditch, Mr Humphrey, Mr Irwin, Mr Kennedy, Mr Kinahan, Mr McCallister, Mr B McCrea, Mr I McCrea, Mr McFarland, Miss McIlveen, Mr McQuillan, Lord Morrow, Mr Moutray, Mr Newton, Mr Poots, Mr G Robinson, Mr K Robinson, Mr P Robinson, Mr Ross, Mr Spratt, Mr Storey, Mr Weir, Mr Wells, Mr S Wilson.

Tellers for the Noes: Mr Buchanan and Mr B McCrea.

Total votes	87	Total Ayes	46	[52.9%]
Nationalist Votes	40	Nationalist Ayes	40	[100.0%]
Unionist Votes	41	Unionist Ayes	0	[0.0%]
Other Votes	6	Other Ayes	6	[100.0%]

Question accordingly negatived (cross-community vote).

7.30 pm

Mr Deputy Speaker: I will not call amendment No 7, as it is consequential to amendment No 6, which was not made.

I remind Members that, as I have received a valid petition concern to amendment No 8, the vote will be on a cross-community basis.

Amendment No 8 proposed: In page 26, line 14, after "religious belief," insert "political opinion," *— [The Minister of Justice (Mr Ford).]*

Question put.

The Assembly divided: Ayes 46; Noes 38.

AYES

Nationalist:

Ms M Anderson, Mr Boylan, Mr D Bradley, Mrs M Bradley, Mr P J Bradley, Mr Brady, Mr Burns, Mr Butler, Mr Callaghan, Mr W Clarke, Mr Doherty, Mr Gallagher, Ms Gildernew, Mrs D Kelly, Mr G Kelly, Mr A Maginness, Mr A Maskey, Mr P Maskey, Mr F McCann, Ms J McCann, Mr McCartney, Mr McDevitt, Dr McDonnell, Mr McElduff, Mrs McGill, Mr McGlone, Mr M McGuinness, Mr McKay, Mr McLaughlin,

Mr Molloy, Mr Murphy, Ms Ní Chuilín, Mr O'Dowd, Mr O'Loan, Mrs O'Neill, Mr P Ramsey, Ms S Ramsey, Ms Ritchie, Ms Ruane, Mr Sheehan.

Other:

Dr Farry, Mr Ford, Ms Lo, Mr Lunn, Mr McCarthy, Mr B Wilson.

Tellers for the Ayes: Mr D Bradley and Mr McCarthy.

NOES

Unionist:

Mr S Anderson, Mr Beggs, Mr Bell, Mr Bresland, Lord Browne, Mr Buchanan, Mr T Clarke, Mr Craig, Mr Cree, Mr Easton, Mr Elliott, Lord Empey, Mrs Foster, Mr Frew, Mr Gibson, Mr Girvan, Mr Hilditch, Mr Humphrey, Mr Irwin, Mr Kennedy, Mr Kinahan, Mr McCallister, Mr B McCrea, Mr I McCrea, Mr McFarland, Miss McIlveen, Mr McQuillan, Lord Morrow, Mr Moutray, Mr Newton, Mr Poots, Mr G Robinson, Mr K Robinson, Mr Ross, Mr Spratt, Mr Storey, Mr Weir, Mr S Wilson.

Tellers for the Noes: Mr Buchanan and Mr B McCrea.

Total votes	84	Total Ayes	46	[54.8%]
Nationalist Votes	40	Nationalist Ayes	40	[100.0%]
Unionist Votes	38	Unionist Ayes	0	[0.0%]
Other Votes	6	Other Ayes	6	[100.0%]

Question accordingly negatived (cross-community vote).

Mr Deputy Speaker: I remind Members that, as I have received a valid petition of concern on amendment No 9, the vote will be on a cross-community basis.

Amendment No 9 proposed: In page 26, line 15, 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.*
>
> *(3B) Nothing in this section shall be used to curtail legitimate or recognised political expression or debate." — [Mr McCartney.]*

Question put.

The Assembly divided: Ayes 46; Noes 39.

AYES

Nationalist:

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

Other:

Dr Farry, Mr Ford, Ms Lo, Mr Lunn, Mr McCarthy, Mr B Wilson.

Tellers for the Ayes: Mr Boylan and Mr McCartney.

NOES

Unionist:

Mr S Anderson, Mr Beggs, Mr Bell, Mr Bresland, Lord Browne, Mr Buchanan, Mr T Clarke, Mr Craig, Mr Cree, Mr Easton, Mr Elliott, Lord Empey, Mrs Foster, Mr Frew, Mr Gibson, Mr Girvan, Mr Givan, Mr Hilditch, Mr Humphrey, Mr Irwin, Mr Kennedy, Mr Kinahan, Mr McCallister, Mr B McCrea, Mr I McCrea, Mr McFarland, Miss McIlveen, Mr McQuillan, Lord Morrow, Mr Moutray, Mr Newton, Mr Poots, Mr G Robinson, Mr K Robinson, Mr Ross, Mr Spratt, Mr Storey, Mr Weir, Mr S Wilson.

Tellers for the Noes: Mr Buchanan and Mr B McCrea.

Total votes	85	Total Ayes	46	[54.1%]
Nationalist Votes	40	Nationalist Ayes	40	[100.0%]
Unionist Votes	39	Unionist Ayes	0	[0.0%]
Other Votes	6	Other Ayes	6	[100.0%]

Question accordingly negatived (cross-community vote).

Clause 44 (Banning orders: "violence" and "disorder")

Mr Deputy Speaker: I remind Members that, as I have received a valid petition of concern in relation to amendment No 10, the vote will be on a cross-community basis. Amendment No 10 has already been debated.

Amendment No 10 proposed: In page 30, line 37, after "religious belief," insert "political opinion,". — *[The Minister of Justice (Mr Ford).]*

Question put.

The Minister of Justice: Based on the similarity to amendment No 8 and the voices that I heard around the Chamber, I am prepared to accept that amendment No 10 is lost. It might be in the interests of Members' families, if nothing else.

Mr Deputy Speaker: As this is a cross-community vote, and I did not hear clearly, I must put the Question.

Question put.

The Assembly divided: Ayes 45; Noes 40.

AYES

Nationalist:

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

Other:

Dr Farry, Mr Ford, Ms Lo, Mr Lunn, Mr McCarthy, Mr B Wilson.

Tellers for the Ayes: Ms Lo and Mr O'Loan.

NOES

Unionist:

Mr S Anderson, Mr Beggs, Mr Bell, Mr Bresland, Lord Browne, Mr Buchanan, Mr T Clarke, Mr Craig, Mr Cree, Mr Easton, Mr Elliott, Lord Empey, Mrs Foster, Mr Frew, Mr Gibson, Mr Girvan, Mr Givan, Mr Hilditch, Mr Humphrey, Mr Irwin, Mr Kennedy, Mr Kinahan, Mr McCallister, Mr B McCrea, Mr I McCrea, Mr McFarland, Miss McIlveen, Mr McQuillan, Lord Morrow, Mr Moutray, Mr Newton, Mr Poots, Mr G Robinson, Mr K Robinson, Mr P Robinson, Mr Ross, Mr Spratt, Mr Storey, Mr Weir, Mr Wells.

Tellers for the Noes: Mr B McCrea and Mr G Robinson.

Total votes	85	Total Ayes	45	[52.9%]
Nationalist Votes	39	Nationalist Ayes	39	[100.0%]
Unionist Votes	40	Unionist Ayes	0	[0.0%]
Other Votes	6	Other Ayes	6	[100.0%]

Question accordingly negatived (cross-community vote).

8.05 pm

New Clause

Mr Deputy Speaker: We now come to the third group of amendments, which deals with the notification requirements of sex offenders. The group also deals with a proposed new schedule that would allow enhanced legal fees to be paid to certain solicitors. With amendment No 11, it will be convenient to debate amendment Nos 12 and 32.

I remind Members that, as I have received a valid petition of concern on amendment No 11, the vote on that amendment will be on a cross-community basis.

The Minister of Justice (Mr Ford): I beg to move amendment No 11: After clause 54, insert the following new clause:

"Sexual offences: review of indefinite notification requirements

54A.—(1) The Sexual Offences Act 2003 (c. 42) is amended as follows.

(2) In section 82 (the notification period) at the end insert—

'(7) Schedule 3A (which provides for the review and discharge of indefinite notification requirements) has effect.'.

(3) After Schedule 3 insert the following Schedule—

'SCHEDULE 3A

REVIEW OF INDEFINITE NOTIFICATION REQUIREMENTS

Introductory

1.—(1) This Schedule applies to a person who, on or after the date on which section (Sexual offences: review of indefinite notification requirements) of the Justice Act (Northern Ireland) 2011 comes into operation, is subject to the notification requirements for an indefinite period.

(2) A person to whom this Schedule applies is referred to in this Schedule as "an offender".

(3) In this Schedule—

"sexual harm" means physical or psychological harm caused by an offender doing anything which would constitute an offence listed in Schedule 3 if done in any part of the United Kingdom;

"the notification requirements" means the notification requirements of Part 2 of this Act;

"relevant event", in relation to an offender, is a conviction, finding or notification order which made the offender subject to the notification requirements for an indefinite period.

Initial review: applications

2.—(1) Except as provided by sub-paragraph (2), an offender may, at any time after the end of the initial review period, apply to the Chief Constable to discharge the offender from the notification requirements.

(2) Sub-paragraph (1) does not apply at any time when—

(a) the offender is also subject to a sexual offences prevention order; or

(b) the offender is also subject to the notification requirements for a fixed period which has not expired.

(3) Subject to sub-paragraph (4), the initial review period is—

(a) in the case of an offender under the age of 18 at the date of the relevant event, 8 years beginning with the date of initial notification;

(b) in the case of any other offender, 15 years beginning with the date of initial notification.

(4) In calculating the initial review period—

(a) in a case where an offender is subject to the notification requirements for an indefinite period as a result of two or more relevant events, the calculation is to be made by reference to the later or latest of those events;

(b) in any case, there is to be disregarded any period during which the offender is, in connection with a relevant event—

(i) remanded in, or committed to, custody by an order of a court;

(ii) in custody serving a sentence of imprisonment or detention; or

(iii) detained in a hospital.

(5) The date of initial notification is—

(a) in the case of an offender who is subject to the notification requirements for an indefinite period by virtue of section 81, the date by which the offender was required to give notification under section 2(1) of the Sex Offenders Act 1997;

(b) in the case of any other offender, the date by which the offender is required to give notification under section 83(1) (or would be so required but for the fact that the offender falls within an exception in section 83(2) or (4)).

(6) An application under this paragraph must be in writing and must include—

(a) the name, address and date of birth of the offender;

(b) the name and address of the offender at the date of each relevant event (if different);

(c) the date of each relevant event, and (where a relevant event is a conviction or finding) the court by or before which, the conviction or finding occurred;

(d) any information which the offender wishes to be taken into account by the Chief Constable in determining the application.

(7) The Chief Constable may, before determining any application, request information from any such body or person as the Chief Constable considers appropriate.

Initial review: determination of application

3.—(1) On an application under paragraph 2 the Chief Constable shall discharge the notification requirements unless the Chief Constable is satisfied, on the balance of probabilities, that the offender poses a risk of sexual harm to the public, or any particular members of the public, in the United Kingdom.

(2) In deciding whether that is the case, the Chief Constable must take into account—

(a) the seriousness of the offence or offences—

(i) of which the offender was convicted,

(ii) of which the offender was found not guilty by reason of insanity,

(iii) in respect of which the offender was found to be under a disability and to have done the act charged, or

(iv) in respect of which (being relevant offences within the meaning of section 99) the notification order was made,

and which made the offender subject to the notification requirements for an indefinite period;

(b) the period of time which has elapsed since the offender committed the offence or offences;

(c) whether the offender has committed any offence under section 3 of the Sex Offenders Act 1997 or under section 91 of this Act;

(d) the age of the offender at the time of the decision;

(e) the age of the offender at the time any offence referred to in paragraph (a) was committed;

(f) the age of any person who was a victim of any such offence (where applicable) and the difference in age between the victim and the offender at the time any such offence was committed;

(g) any convictions or findings made by a court in respect of the offender for any other offence listed in Schedule 3;

(h) any caution which the offender has received for an offence which is listed in Schedule 3;

(i) whether any criminal proceedings for any offences listed in Schedule 3 have been instituted against the offender but have not concluded;

(j) any assessment of the risk posed by the offender which has been made by any of the agencies mentioned in Article 49(1) of the Criminal Justice (Northern Ireland) Order 2008 (risk assessment and management);

(k) any other information relating to the risk of sexual harm posed by the offender to the public, or any particular members of the public, in the United Kingdom;

(l) any information presented by or on behalf of the offender which demonstrates that the offender does not pose a risk of sexual harm to the public, or any particular members of the public, in the United Kingdom; and

(m) any other matter which the Chief Constable considers to be appropriate.

(3) The functions of the Chief Constable under this paragraph may not be delegated by the Chief Constable except to a police officer not below the rank of superintendent.

Initial review: notice of decision

4.—(1) The Chief Constable must, within 12 weeks of the date on which an application under paragraph 2 is received, comply with this paragraph.

(2) If the Chief Constable discharges the notification requirements—

(a) the Chief Constable must serve notice of that fact on the offender, and

(b) the offender ceases to be subject to the notification requirements on the date of service of the notice.

(3) If the Chief Constable decides not to discharge the notification requirements—

(a) the Chief Constable must serve notice of that decision on the offender; and

(b) the notice must—

(i) state the reasons for the decision; and

(ii) inform the offender of the effect of paragraphs 5 and 6.

Initial review: application to Crown Court

5.—(1) Where—

(a) the Chief Constable fails to comply with paragraph 4 within the period specified in paragraph 4(1), or

(b) the Chief Constable serves a notice under paragraph 4(3),

the offender may apply to the Crown Court for an order discharging the offender from the notification requirements.

(2) An application under this paragraph must be made within the period of 21 days beginning—

(a) in the case of an application under sub-paragraph (1)(a), on the expiry of the period mentioned in paragraph 4(1);

(b) in the case of an application under sub-paragraph (1)(b), on the date of service of the notice under paragraph 4(3).

(3) Paragraph 3(1) and (2) applies in relation to an application under this paragraph as it applies to an application under paragraph 2, but as if references to the Chief Constable were references to the Crown Court.

(4) The Chief Constable and the offender may appear or be represented at any hearing in respect of an application under this paragraph.

(5) Where an application under this paragraph is determined, the appropriate officer of the Crown Court must send notice of the order made by the Crown Court to the offender and the Chief Constable.

Further reviews

6.—(1) Except as provided by sub-paragraph (2), where a notice is served on an offender under paragraph 4(3) or 5(5), the offender may, at any time after the end of a further review period, apply to the Chief Constable to discharge the offender from the notification requirements.

(2) Sub-paragraph (1) does not apply at any time when—

(a) the offender is also subject to a sexual offences prevention order; or

(b) the offender is also subject to the notification requirements for a fixed period which has not expired.

(3) A further review period is the period of 5 years beginning on the date of service of a notice (or the last notice) served on the offender under paragraph 4(3) or 5(5).

(4) Paragraphs 2(6) and (7), 3, 4 and 5 apply with appropriate modifications in relation to an application under this paragraph as they apply in relation to an application under paragraph 2; and a reference in this Schedule to a provision of paragraph 4 or 5 includes a reference to that provision as applied by this sub-paragraph.

Discharge in Scotland

7.—(1) An offender who is, under corresponding legislation, discharged from the notification requirements by a court, person or body in Scotland is, by virtue of the discharge, also discharged from the notification requirements as they apply in Northern Ireland.

(2) In subsection (1) "corresponding legislation" means legislation which makes provision corresponding to that made by this Schedule for an offender who is subject to the notification requirements as they apply in Scotland for an indefinite period to be discharged from those notification requirements.'." — [The Minister of Justice (Mr Ford).]

The following amendments stood on the Marshalled List:

No 12: After clause 86, insert the following new clause:

"Enhanced legal aid fees for certain solicitors

86A. Schedule 4A (which makes provision for enhanced legal aid fees for certain solicitors) has effect." — [The Minister of Justice (Mr Ford).]

No 32: After schedule 4, insert the following new schedule:

"SCHEDULE 4A

ENHANCED LEGAL AID FEES FOR CERTAIN SOLICITORS

Power to provide for enhanced fee

1.—(1) Regulations under Article 22 or 36 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (NI 8) or an order under Schedule 2 to that Order may provide for the payment of an enhanced fee to a solicitor who—

(a) exercises a right of audience in a court or tribunal to which this Schedule applies;

(b) has been accredited by the Law Society under paragraph 2 in relation to that court or tribunal; and

(c) complied with the duties in paragraph 3.

(2) This Schedule applies to—

(a) the Crown Court;

(b) a county court;

(c) a magistrates' court; and

(d) a tribunal to which sub-paragraph (3) applies.

(3) This sub-paragraph applies to a tribunal if—

(a) it is a tribunal mentioned in Part 1 of Schedule 1 to the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981; or

(b) assistance by way of representation may be approved under Article 5 of that Order in respect of proceedings before the tribunal.

Accreditation of solicitors

2.—(1) The Law Society shall make regulations with respect to the education, training and experience to be undergone by solicitors seeking accreditation for the purposes of this paragraph in relation to a court or tribunal to which this Schedule applies.

(2) A person who is qualified to act as a solicitor may apply to the Law Society for accreditation under this paragraph in relation to a court or tribunal to which this Schedule applies.

(3) An application under sub-paragraph (2)—

(a) shall be made in such manner as may be prescribed;

(b) shall be accompanied by such information as the Law Society may reasonably require for the purpose of determining the application; and

(c) shall be accompanied by such fee (if any) as may be prescribed.

(4) At any time after receiving the application and before determining it the Law Society may require the applicant to provide it with further information.

(5) The Law Society shall grant accreditation under this paragraph in relation to a court or tribunal if it appears to the Law Society, from the information furnished by the applicant and any other information it may have, that the applicant has complied with the requirements applicable to the applicant in relation to that court or tribunal by virtue of regulations under sub-paragraph (1).

(6) Accreditation granted to a person under this paragraph ceases to have effect if, and for so long as, that person is not qualified to act as a solicitor.

(7) The Law Society may by regulations provide that any person who has completed such education, training or experience as may be prescribed, before such date as may be prescribed shall be taken to be accredited under this paragraph in relation to a prescribed court or tribunal.

(8) Every entry in the register kept under Article 10 of the Solicitors (Northern Ireland) Order 1976 (NI 12) shall include details of any accreditation granted under this paragraph to the solicitor to whom the entry relates.

Duties of solicitor

3.—(1) Sub-paragraph (2) applies where—

(a) either—

(i) a criminal aid certificate or civil aid certificate is granted under the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 to a person in any proceedings in a court or tribunal to which this Schedule applies; or

(ii) assistance by way of representation is approved in respect of a person under Article 5 of that Order in relation to proceedings in such a court or tribunal;

(b) that certificate or approval entitles that person ('the client') to be represented by counsel or by a solicitor accredited under paragraph 2 in relation to that court or tribunal; and

(c) either—

(i) the client's solicitor is minded to arrange for another solicitor who is accredited in relation to that court or tribunal to provide that representation; or

(ii) the client's solicitor is accredited in relation to that court or tribunal and is minded to provide that representation.

(2) The client's solicitor must advise the client in writing—

(a) of the advantages and disadvantages of representation by an accredited solicitor and by counsel, respectively; and

(b) that the decision as to whether an accredited solicitor or counsel is to represent the client is entirely that of the client.

(3) The Law Society shall make regulations with respect to the giving of advice under sub-paragraph (2).

(4) A solicitor shall—

(a) in advising a client under sub-paragraph (2), act in the best interest of the client; and

(b) give effect to any decision of the client referred to in sub-paragraph (2)(b).

(5) Where—

(a) a solicitor has complied with sub-paragraph (2) in relation to the representation of a client in any proceedings in a court or tribunal, and

(b) that client is to be represented in those proceedings by an accredited solicitor,

the solicitor shall inform the court or tribunal of the fact mentioned in sub-paragraph (a) in such manner and before such time as the relevant rules may require.

(6) For the purposes of this paragraph compliance with sub-paragraph (2) or (5) in relation to any proceedings in a court or tribunal in any cause or matter is to be taken to be compliance with that sub-paragraph in relation to any other proceedings in that court in the same cause or matter.

(7) If a solicitor contravenes this paragraph, any person may make a complaint in respect of the contravention to the Solicitors Disciplinary Tribunal.

Regulations

4.—(1) Regulations under this Schedule require the concurrence of—

(a) the Lord Chief Justice; and

(b) the Department, given after consultation with the Attorney General.

(2) The Department shall not grant its concurrence to any regulations under paragraph 2(1) or 2(7) unless regulations have been made under paragraph 3(3) and are in operation.

Consequential amendments

5. The Department may by order make such amendments to—

(a) the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981; or

(b) Schedule 3 to the Access to Justice (Northern Ireland) Order 2003 (NI 10),

as appear to the Department to be necessary or expedient in consequence of, or for giving full effect to, the provisions of this Schedule.

Interpretation

6. In this Schedule—

'accredited solicitor', in relation to any court or tribunal, means a solicitor who is accredited under paragraph 2 in relation to that court or tribunal;

'the client' has the meaning given in paragraph 3(1)(b);

'the Law Society' means the Incorporated Law Society of Northern Ireland;

'prescribed' means prescribed by regulations made by the Law Society;

'relevant rules' means—

(a) in relation to the Crown Court, Crown Court rules,

(b) in relation to a county court, county court rules or family proceedings rules,

(c) in relation to a magistrates' court, magistrates' courts rules,

(d) in relation to a tribunal, the rules regulating the practice and procedure of the tribunal." — [The Minister of Justice (Mr Ford).]

The Minister of Justice: The amendment, which brings a change to the law on sex offender notification as a result of a ruling of the Supreme Court, was debated during the Consideration Stage of the Bill. However, due to a request from the Chairperson of the Justice Committee following concerns expressed by some Members over the proposed review process, I agreed to withdraw the amendment to allow the Justice Committee to revisit the issue before the Further Consideration Stage today.

My officials attended the Committee on Thursday 24 February to provide further information required by members and to offer clarification on matters of detail. The law on this subject is complex. Many people are unsure of what notification means and of its effects. Put simply, it is a system that requires offenders who have been convicted and sentenced for a sexual offence to give the police certain personal information and to keep that up to date.

Neither the court nor the police decide who should be subject to notification or for how long. The notification is a statutory requirement based on offence and sentence, but it is not part of the sentence, nor is it a punitive measure. The motive behind the law is to assist the police in the prevention and detection of crime. However, to fail to comply is a criminal offence.

I understand that the Committee looked again at the issue of a review mechanism on Monday of last week but did not reach a position. I had hoped, however, that that further opportunity to discuss the issues of concern would have allowed us to progress the proposals today. Unfortunately, that now looks unlikely due to the petition of concern that you referred to.

Despite that, there seems to be broad consensus that a legislative provision is required to remedy the incompatibility issue. However, the remarks made recently in Westminster by the Home Secretary and the Prime Minister obviously sparked anxiety on the part of some Members that the Northern Ireland response was somehow soft on sex offenders and offered more than was necessary to meet the Supreme Court ruling.

That was argued on three grounds: that the initial review period that the offender would need to complete before making an application for a review was too short; that the burden of proof determining discharge should not fall on the Chief Constable; and that allowing an applicant to ask the Crown Court to review the case after the police had turned it down was permitting a second bite at the cherry.

Some Members were anxious that we were exceeding the bare minimum response to the judgement, as lauded by David Cameron, and felt that we should wait for Home Office Ministers to bring forward their proposals to Parliament before legislating here. We have already dealt with those concerns at Committee and during the debate at Consideration Stage, but let me rehearse the major points.

First, we are not being soft on sex offenders. Fifteen years before a review can take place represents the period chosen by all three UK jurisdictions. Both here and in England and Wales, the review is not automatic; the offender must make an application, which will only

be considered if 15 years has passed since release from prison.

Secondly, the legislation does not impose a burden of proof on the Chief Constable. The Chief Constable decides from the information available, including any risk assessments carried out under the public protection arrangements, whether an offender continues to pose a risk of harm to the public, which is the same standard as in the rest of the UK. If the Chief Constable concludes that the offender poses a risk, he will not discharge the requirements. The Crown Court will be given the opportunity to decide applications on the same basis. In addition, the provisions specifically exclude applications from offenders who have been awarded a sexual offences prevention order by the courts because of their behaviour since conviction. That is a bar over and above the Scottish system. Those are offenders whose behaviour is causing the most concern and who will, therefore, not be able to apply for discharge.

Thirdly, without a court process of some sort, the legal advice is clear: we risk a further legal challenge if our law is incompatible with article 6 of the ECHR, which is the right to a fair and public hearing before an independent and impartial tribunal.

All three jurisdictions recognise the risk and deal with it on the basis of their legal advice. I understand that in England and Wales the exact way in which that it will be dealt with has yet to be decided. However, in Scotland, there is already a statutory route to the Sheriff Court. On the basis of legal advice, I consider that the Crown Court route is an appropriate and practical response here and is not an opportunity for an easy way out. Nevertheless, there is likely to be a robust debate on some of those points. The judge must reach a decision on the same basis as the Chief Constable, and we continue to support that provision over the judicial review option that is likely to be used in England and Wales. The police have been fully consulted in the development of the provisions and are not viewing the outcome as a process that is designed to be soft on sex offenders. They are confident that the review process, as outlined in the amendment, offers a way to make appropriate decisions about the best use of resources to maximise public protection.

In response to those who wish to delay the legislation until after the elections and pass it to the next mandate, I remind them that what we have here are proposals based on detailed consultation with the police, other key stakeholders and jurisdictions. The proposals are based on careful policy development and on measured decisions about how best to meet the judgment and continue to protect the public. Delay by the Assembly is unlikely to change any of the conclusions reached but will be delay for delay's sake. The right thing to do is to get the legislation passed and allow for future opportunities to concentrate on strengthening the notification requirements in meaningful ways for those offenders who pose a risk.

Let me summarise and be absolutely clear: the Supreme Court has ruled that the current law leaving offenders indefinitely on the register cannot continue. The three jurisdictions across the UK agree on a minimum of 15 years before review, which is 50% more than the maximum determinant time on the sex offenders register. Offenders will have to apply for review and will have to satisfy the Chief Constable that they no longer pose a risk to the public or else they will stay on the register. Offenders can then appeal to the Crown Court. Legal advice is that this is much a more robust option than the judicial route.

If the Assembly does not legislate, there are two possible outcomes: offenders could end up being removed from the register without proper consideration of all relevant factors; or they could end up receiving compensation for being retained on the register. I do not believe that those are desirable outcomes, because they would not protect vulnerable people in Northern Ireland, and people would want them. I accept that this is a difficult issue for Members. However, the House is here to address difficult issues on behalf of the people of Northern Ireland and to establish robust means of protecting the public from, in particular, sexual offenders. I believe that what is currently proposed, to which no substantive alternatives have been produced despite two weeks' further consultation and despite the fact that it has been previously discussed at Committee, should stand.

I turn to amendment Nos 12 and 32, which give the Department of Justice the power to provide enhanced legal aid fees to certain solicitors providing advocacy services in the lower courts. During Consideration Stage, I moved amendments to give my Department an Order-making power to make technical amendments to primary legal aid legislation that would pay

enhanced remuneration to solicitors who had exercised the new extended rights of audience in the High Court and the Court of Appeal.

I now want to move those amendments to introduce a clause and a schedule that will properly remunerate solicitors who are exercising their existing rights of audience in Magistrate's Courts, County Courts, Crown Courts and tribunals. They will facilitate the enhanced remuneration of solicitors who undertake advocacy work in place of counsel. In line with the duties and responsibilities that are placed on solicitors exercising their proposed new rights of audience in the High Court and the Court of Appeal, similar requirements will be placed on solicitors carrying out advocacy work in the lower courts.

8.15 pm

The amendments will require the Law Society to make regulations that set out the education, training or experience requirements that a solicitor must possess before accreditation can be granted at each court tier. Those regulations will require the concurrence of my Department.

The measures will include the creation of a duty for a solicitor to advise the assisted person in writing of the options available for representation; a duty to act in the best interest of the assisted person when providing that advice, and to give effect to the decision of the assisted person; and a duty to inform the court that they complied with those requirements, and that the assisted person had been advised accordingly. Provision is also made to ensure that a complaint can be made to the Solicitors Disciplinary Tribunal in situations in which there was an alleged breach of those requirements. The clauses will also give the Department an order-making power to make technical amendments to certain legal aid primary legislation to enable enhanced fees to be paid to solicitors performing that role.

Implementing the clauses will have no cost implications for the legal aid fund, as the new enhanced fee will be paid in place of fees that are paid to counsel. I seek the agreement of Members to introduce those changes, which follow from the proposals that were accepted at Consideration Stage.

The Chairperson of the Committee for Justice (Lord Morrow): I have listened carefully to what the Minister said, and he is right to say that I was the one who asked for the matter not to be pushed when the Committee last debated it. As a Committee, we thought that the issue should be looked at again. However, I emphasise that I am not speaking as the Chairperson of the Committee for Justice, but as an MLA.

When the issue was discussed by the Committee, one member said that in times like these one would rather not be a legislator. It is difficult task and great responsibilities are placed on one's shoulders to deal with issues such as this.

In his amendment, the Minister has more or less, and certainly in the term of years, followed the Scottish model. However, there is a difference when one looks more closely, because the Scottish model gives an offender the right to have his case looked at after 15 years, whereas the Minister is not advocating that here.

We must consider what others have said, and the Minister was right when he quoted the Home Secretary, Theresa May. However, what the Prime Minister said may also be worthy of notice, because, to some degree, he contradicted what Theresa May said.

We must be very sure and certain about what we are about here today. Those of us who will oppose what the Minister is proposing to introduce will do so in the best interests of the general public. We will not oppose the amendments simply to score cheap political points, because the nature of the matter that we are debating is much too serious, and it could have far-reaching implications if the Assembly does not get it right. Therefore, it is imperative that we apply our minds as best as we can to getting it right.

It is important that we hear exactly what the Home Secretary said. She said:

> *"The Government are disappointed and appalled by that ruling."*

The ruling that she referred to was the ruling by the Supreme Court that a person had the right to apply to be removed from the sex offenders register.

She went on to say:

> *"It places the rights of sex offenders above the right of the public to be protected from the risk of their reoffending, but there is no possibility of further appeal. The Government are determined to do everything we can to protect the public from predatory sexual offenders, so we will make the*

minimum possible changes to the law in order to comply with the ruling. I want to make it clear that the Court's ruling does not mean that paedophiles and rapists will automatically come off the sex offenders register. The Court found only that they must be given the right to seek a review."

She goes on directly or indirectly to criticise or make light of the Scottish Government's decision. She said:

"The Scottish Government have already implemented a scheme to give offenders an automatic right of appeal for removal from the register after 15 years."

This is the important bit. She said:

"We will implement a much tougher scheme."

Regrettably, she did not say what that much tougher scheme might be. It would not be prudent for the Assembly to push ahead with legislation unless and until we see what the Home Secretary's tougher regime will be. Is she saying that instead of 15 years, it will be 20 or 30 years? We do not know, because she did not say.

Furthermore, it might be interesting to look at what someone else said on the matter. The chief executive of the NSPCC said:

"Adults who sexually abuse children should stay on the offenders' register for life, as we can never be sure their behaviour will change."

He goes on to say:

"It is unbelievable that the rights of sex offenders, paedophiles and rapists are to take priority over the protection of the public. The ruling"

— by the Supreme Court —

"means that thousands of sex offenders are now free to apply to have their names removed from the register."

I hope that the Minister realises, as I am sure he does, that it might be possible for this part of the United Kingdom to have legislation that is contrary to the rest of the United Kingdom. Therefore, he can imagine how those who would have a mind to could slip across from one part of the United Kingdom to another where there is a difference in the legislation, and the confusion that that could cause. When the Minister is summing up, I hope that he will reassure the House that those issues have been looked at in a very definite way, because those are the issues that concern us. There would be a potential loophole if we do not have legislation that is at least as tight and as stringent as that in England and Wales. If we do not, we will be vulnerable here, and we will leave members of the public vulnerable.

It is on those grounds that we will be opposing the Minister's amendment. It is not for a cheap political shot or to score a few political points — there will be plenty of opportunity to do that in a couple of weeks. We take the matter very seriously, and we are telling the Minister that we believe that what he proposes is hasty, that it must be more stringent, and that he should have waited until the Home Secretary decided what her tougher measure will be.

The Minister mentioned his concerns that if there were no legislation in place, there could be a problem. Are there not facilities to bring in legislation by accelerated passage? Would there not be provision for any Justice Minister, whether the present one or a future one, to do that? I ask the Minister to consider that. I intend to stop there. I am interested to hear what others have to say about the issue.

Ms Ní Chuilín: Go raibh maith agat, a LeasCheann Comhairle. I want to put on record the help and support that we got from officials. This part of the legislation has not been easy for anybody.

We genuinely disagree with Lord Morrow's position. We could not reach a consensus on the Committee and so that was agreed. The fact that the current situation is not compatible with article 8 of the European Convention on Human Rights leaves us vulnerable to judicial review. Does that mean to say that what we are going to get is strong enough or tough enough? We read Lord Morrow's evidence in the Hansard report of the debate at Westminster. He made some legal points but a lot of political points, too. We tried to sift through those in order to try to come to a decision.

As the Minister mentioned in his introduction, no member of the Committee wants to be seen as being soft on the perpetrators of sex crimes, sex offences and so on. I want to put that on record.

The Committee was briefed again by the Department's officials on 24 February, and we asked questions, particularly in relation to the review of the period of notification. The period is 15 years after release or, if the offender was under the age of 18 at the time of the conviction, eight years after release. One of the

concerns that I had was that, somehow, the arrangements that we use to manage the risk posed by sex offenders would be diluted as part of this process. We were told categorically that they would not be, that robust checks and balances would be imposed on a risk-assessment basis and that clear guidelines would be produced to bring this forward.

If the Chief Constable or a superintendent decides that, even after 15 years, an offender needs to stay on the sex offenders register, the mechanism exists whereby the offender can appeal to the Crown Court. However, the court can only use the same assessment criteria that the Chief Constable of the PSNI used. The judge cannot go outside of those criteria. If the decision goes against the offender, he can take his case to the Court of Appeal. However, I imagine that it is the same path and he will be unable to come back. The decision may be that the offender may have to stay on the sex offenders register until the Chief Constable is content that he no longer poses a risk.

It is one of those pieces of legislation that no member of the Justice Committee wanted to deal with. One of my colleagues said that this was the one time when he wished he was not a legislator. However, if we do not make law on this, the matter will be left to the courts and left open to judicial review, and I fear that it will be abused. I would much prefer to bring forward legislation with robust guidelines that can be used to ensure that we are not we are not putting at further risk vulnerable people who have been victimised and who are survivors.

That is where we part company with Lord Morrow's party. On the rest, we can all agree. We read the Hansard report, and John O'Dowd, anorak that he is, went through all the European legislation and all the comments on it. We have taken this position after a lot of consideration. I was assured by the officials at the Committee. We asked them tough questions, hoping that there would be some sort of gap, so that we could say, "Ah, but". That is where the differences may lie.

We are still nervous about this, to be totally honest. At the same time, our position is that to do nothing is not an option. We understand that the petition of concern takes this out of our hands, and that is democracy. Like it or not, that is what people use, and that is fair enough. However, we must have due regard for those who come after us. Unless we strengthen this provision and close any legal loopholes — there are legal loopholes, as the European Court of Human Rights has shown — by default, and not by any sinister or malign reason, we will be leaving it open for whoever comes after us in the next mandate.

8.30 pm

The other aspect of this, which we did not see a lot of, is how will we close the loophole? I am not making party political points when I say that we need to make sure that people cannot take refuge in the 26 counties in the South, just as they cannot take refuge in Scotland, England or Wales. We need to see how those guidelines will be implemented across borders and across different jurisdictions. However, given the advice and assurance that we received from officials about the need to make sure that we are compliant with the article from the European Court of Human Rights, we are "content" enough to support the Minister's amendment.

Mr B McCrea: As someone who was alarmed about this proposed legislation some time ago and voiced that alarm in number of places, I want to address some of the issues raised by the two Members who have just spoken. I declare an interest as a member of the Northern Ireland Policing Board and as chairman of that body's human rights and professional standards committee. As chairman of that committee, I have come across a number of human rights issues. We talked earlier about political courage and making decisions. The more I got into it, the more I understood why it is important that we have a Human Rights Act.

I also understand that the words Human Rights Act cause a knee-jerk reaction in the general public. They think that it is not an Act that protects them, because it always seems to be used to invoke the privileges and protections of others. That is a serious issue. I explained earlier in the debate why I believe in the Act. If we consider that the Act emerged after the travesties and injustices of the Second World War and ask ourselves whether there are certain rights that we should protect, such as the right to life, the answer is that, of course, we should protect the right to life.

I understand more and more about the issues that come up, such as whether prisoners should be allowed to vote, to which there is a knee-jerk reaction. The issue is misunderstood because, when such rulings are made, they state not that

every prisoner should be allowed to vote, but that it should be considered. However, it is a hard argument to sell, and the public say that it is outrageous.

I approach this particular issue from a background that has given me some time to study the implications. I have some cognisance of the legal arguments that apply to everything from stop and search to the publishing of images of children under the age of 18 and the use of force. My stance on the ruling from the Supreme Court on this issue is contrary to that put forward by the previous Member who spoke. I want to try to explain why I think that it is important — I am talking in a non-party political way — and why I hope to change people's minds. I hope that I can put across arguments that will do that. It is sometimes difficult for people to change their mind because they have to consult colleagues, and so on, but I want to put some points to Members on why I think that proceeding with this particular legislation is unsafe.

Members talked about being soft on sex offenders. I suspect that no one in the Chamber wants to be soft on sex offenders. I also suspect that there is no one who is not completely horrified by the rape of a young woman in front of her children in Newry. People feel absolute revulsion at such crimes. I hope that the perpetrator of that crime will be caught and brought to justice.

I am prepared for Members to tell me that there is a bit more for me to understand, but one of the pieces of information that worried me when I looked at the evidence that was put to the Committee in support of the legislation was that 75% of offenders do not reoffend. That means, of course, that 25% do reoffend. It is that 25% that are the problem, and most of them reoffend in the most serious and heinous of ways. I must say that, when we try to convince the public to have confidence in our criminal justice system, our Chief Constable, our Police Service and this legislative body, it is important that we win this argument. If we were to talk to any woman, and, I suspect, most men, about what we are trying to do here, they would react by saying that we cannot be serious.

I do not suppose that it needs protecting, but here I am, trying to protect the Supreme Court over its decision. That decision was neither soft nor broad. It was a very narrowly focused decision that said that the situation had to be looked at again, because there could not be a blanket ban. However, none of the Supreme Court justices argued in the actual judgement that anyone had any real expectation of being let out, although there were specific instances in which that might be considered. I am critical of the Scottish position on automatic renewal, but that was what not what the Supreme Court ruled. It ruled that there is an entitlement to a review. I am sure that the barristers among us will be able to confirm this, but the Supreme Court even brought up the fact that people were talking about using the word "indefinite" in legislation. That would mean that a person would never get off the register, even if they died. So, there are issues in the Bill that we need to get right.

In particular, the Supreme Court talked about the need for a tribunal to look at the issue. That is important. At this point, I will talk about some quite sensitive matters, that are, nevertheless, germane to the point. According to some representations, the Chief Constable has, apparently, said that he could make the decision. In fact, at the Policing Board last week, one of the ACCs was talking to me about this issue and told me that they could take the decision. Of course, the Chief Constable could take the decision. Many of us could take the decision. However, is it right for the Chief Constable to take that decision?

We can invoke articles 2, 8 and 10 of the European Convention on Human Rights on another issue — parading. The Chief Constable could make a determination on a parade and about whether it goes up and down a particular road. Those of us who are members of the Policing Board will understand that we have had discussions with the Chief Constable about why he does not take that decision. If he does, one side of the community will say that it does not like it, and the other side will say that it does like it. The Chief Constable will therefore be embroiled in making decisions on conflicting human rights issues. That undermines the Chief Constable and the police, and it gives us a problem.

How did we fix the legislation on that issue? We introduced the Parades Commission. I understand that Members will have problems in that the Parades Commission is not constituted in the way that they want, or it does not do the right thing. The point is, however, that to avoid the Chief Constable having to make those

types of decisions, we have another body, a tribunal, that engages on those issues. Those are fraught and difficult issues, but I contend they are no more fraught and difficult than sex offending of the type that happened in Newry. Just recently, we had issues with the report on the investigation into the McGurk's Bar bombing. That is a very sensitive issue that will be dealt with in another place.

However, the issue is whether the Chief Constable made the determination. The answer is no. We have an ombudsman who makes those decisions. We have another body called the Policing Board, which was set up precisely to ensure that difficult issues are dealt with in a tribunal format.

The Minister of Justice: The Member produces an interesting set of analogies in other areas where there are particularly contentious issues on which the Chief Constable may not be the right person to make a determination. However, given the role that the Police Service already has in public protection arrangements, and their liaison with bodies such as the Probation Board, will he not accept that they are, in fact, uniquely well placed to be the first determinant? The proposal is to back that up with the Crown Court, which will provide that legal tribunal to ensure that matters are dealt with correctly. Although the Member has produced some interesting analogies across the field, they are not germane to the issue that we are seeking to discuss.

Mr B McCrea: Although I have had a discussion with the Minister on the issue, I have to say that I think that they are germane. They deal with conflicting articles of the Human Rights Act — articles 2, 8 and 10 — which the Supreme Court covered.

The way in which we have a relationship with the Chief Constable of the Police Service of Northern Ireland is different to the way that relationships with the Chief Constable of forces in England and Wales or Scotland are conducted because there is no contentious space in those places. We are in a process of reassuring the public of Northern Ireland — all sections of our community — that the police are for everybody. We want to get the police dealing with issues that they are particularly responsible for.

My concern is that, if a sex offender is brought to the Chief Constable, who reviews the issue and decides to let that person out — forgive the shorthand — there will be a hue and cry that undermines the Chief Constable. It does not matter whether the legal position is right or wrong; the public will ask how he can do that, because they have very fixed ideas on this issue. Conversely, if the Chief Constable does not let the sex offender out, there may well be a process of judicial review in which there will be yet more conflict between what the Chief Constable decides and what the law decides. If I understood Alban Maginness's intervention correctly, I am right in saying that is why it is safer to follow what the Supreme Court decided and say that a tribunal should be set up to deal with those issues. This is not a matter for the Chief Constable to deal with. It is a matter for experts who are founded in the law and able to deal these issues without burdening the Chief Constable, even though the Chief Constable may be able to make decisions because he will have the information.

I want to address other issues in closing. The Supreme Court ruling makes no determination on whether 15 years is the right or wrong length of time. I absolutely agree with Lord Morrow that, if the Prime Minister and the Home Secretary are going to produce tougher regimes, we should wait and see what those are. The whole issue is to do what is required under the law and no more. The essence of human rights legislation is the need to protect everybody. The general public need to be protected as well.

Ms Ní Chuilín: I am still not clear, and I am being genuine. First, is the Member saying that part of his concern is that we should wait to see what comes over from Britain before making a decision? That is one clear point. Secondly, is the Member saying that there should be a tribunal but that the Chief Constable should not make the decision? To be fair, Basil, that is not clear. If the Member agrees that there should be a tribunal, should it be the system that we are using at the minute to assess the risk of sexual offenders and something else? If so, what is that something else?

8.45 pm

Mr B McCrea: I am grateful to the Member for her intervention. I appreciate the call for clarity. I will deal with the points in the way that I remember them.

I am saying that I do not think that this is a position in which we want to put the Chief Constable, even though he may be technically

competent to make such decisions. I think that we should be looking for an alternative way to do it; some form of tribunal. That is what the Supreme Court ruling said. Perhaps we could have a body similar to the Life Sentence Review Commissioners or the Parole Commissioners. That would invoke the procedures that the Member has outlined about appeals and so on. I think that another body should do it. I hope the Member is clear that that is what I am suggesting we look at again.

Dr Farry: The Member is making a point about the possible establishment of tribunals. However, the Life Sentence Review Commissioners already cost several million pounds to run. Given the spirit of the times, and given that we are trying to rationalise government, does he think that setting up a tribunal process for 20 cases a year would be a good use of money, as opposed to running it through an existing body such as the PSNI?

Mr B McCrea: There are a number of answers to that question, and I am trying to get back to the point raised by Carál Ní Chuilín. My real point is that this legislation has been taken off the shelf and is being rushed. The proper place to debate all the issues is in Committee —

The Minister of Justice: The Member says that the legislation is being rushed. With respect, this issue has been under discussion across the three UK jurisdictions since the Supreme Court ruling. It is an issue on which the Department wrote to the Committee back in December 2010. It is an issue that was discussed in at least one meeting in each of January and February 2011. It is an issue on which, as I said, we went back and allowed further opportunity for discussion over the two weeks since Consideration Stage. It is fine to talk about issues being rushed. However, if opportunities are not taken to engage with the issues, and given that those issues follow consideration across the three jurisdictions as to how best to engage and show a broadly similar pattern — for example, waiting 15 years before an application can be made is identical in England, Wales, Scotland and here — I find it difficult to accept the suggestion that this is being rushed.

Mr B McCrea: Obviously, the Minister and I have different time frames in mind. When I read the Hansard report of the two Committee meetings — one of which was during the last week in February, the other of which was during the first week in March — I saw that, unfortunately, the amount of detail provided to the Committee was relatively modest, as was, in my opinion, the amount of debate that took place. An issue of this import requires further scrutiny and discussion.

The point that I am trying to make is that Northern Ireland has particularly different circumstances from other parts of the United Kingdom. That is why we have devolution. It is not correct to say that what works in Scotland, England and Wales is correct. That is why we have a difference. To simply shoehorn in legislation that has been considered by other places is unsafe. *[Interruption.]*

I hear people to my right people saying that they did not do that. However, that is not apparent to me. I have looked at the information and have read the reports. Members who were present at the Committee meeting can indicate whether this is an accurate record of what they said. Mr Givan said:

> *"I agree to its inclusion although I probably do not support it. However, we have no choice".*

The Chairperson of the Committee said:

> *"It is Hobson's choice."*

Ms Ní Chuilín said:

> *"Just because it is in our report does not mean that we like it."*

Nobody liked it. Nobody wanted it.

What I am telling you is that the Supreme Court judgement does not insist that we do it this way. This is not the right way to do it. You should go back and look at it properly, in a timescale in which you think that you can do it. You may think that telling the Chamber that Lord Morrow, Mr Givan and Mr Maginness asked for the issue to be taken back and reconsidered is a debate. I have not had the exact detail, but simply saying, in essence, that you have had a look at it in Committee and that here it is back again is not a debate. That is not —

Mr Deputy Speaker: Order. I have been very lenient with the Member, but he has now used the term "you" several times. I remind him that the only "you" in the Chamber is me.

Mr B McCrea: I stand corrected, Mr Deputy Speaker.

I will bring some structure back to the commentary that I have to make. When the Prime Minister and the Home Secretary say that there are some concerns about the issue, that rings alarm bells with me. I do not accept that the term of 15 years is agreed by anybody and everybody, or that that is appropriate. I think that there are special circumstances —

The Minister of Justice: Will the Member give way?

Mr B McCrea: I am sorry, Minister, but I want to get to an end. I would normally give way, but I am getting a steely eye from the Deputy Speaker.

It is not a question of being critical of either the Minister or the Committee, because I understand full well what the implications of the Supreme Court judgement are, but the real issue for this legislative Assembly is that these are difficult issues to deal with that will have implications in other areas. The most fundamental issue as far as I am concerned is that we convince the people of Northern Ireland that we are able to legislate on their behalf and that we can do the right thing for them. That requires mature debate and proper scrutiny. If people have an issue, it should be dealt with in a calm and collected way. We should be able to go back and get more information.

I realise that a petition of concern was presented on this amendment, and I support that, but it is worth having the debate, because nobody is ducking the issue. We are just saying that we need to have a proper debate and that it is not necessary to do things just because everybody else is doing them. That is a fundamental flaw. It demeans the Assembly, it demeans the people here, and I accordingly ask for Members to vote against the amendment.

Mr Deputy Speaker: At this stage, it would be useful if Members could focus on the amendment. The analogies, and so on, were very interesting, but, at this hour, we should focus on what we should be debating.

I call Mr Alban Maginness.

Mr A Maginness: Thank you, Mr Deputy Speaker; I will attempt to do as you have directed.

The central issue here is how we best protect the public in Northern Ireland in the light of the Supreme Court judgement. We have to evaluate the amendments that the Minister has presented against that background. In my view, the best way to protect the public is to take the Minister's route and to support the amendments. I have reasons for that belief and will try to be succinct in explaining them.

It is best to be timely, and I think that this is an opportune moment to act. I cannot see how what the Minister has presented to the House can be substantially improved on, but if we do not act in a timely fashion, we risk some applicants going to the courts, seeking and being granted relief on the basis of the Supreme Court judgement and thereby being removed from the sex offender register.

That is a risk. I do not know how high it is and I am not saying that it is immediate or imminent, but it is a risk. We should be very conscious of the fact that there is such a risk.

Given the changes in Scotland and the proposed changes in England and Wales, there is the risk of offenders here going to Scotland, Wales or England and taking advantage of provisions that are contrary to our position. That is a difficulty that we have to address as well, and we have to do so now. The desirable thing is to have a uniform system throughout these islands and among the three jurisdictions in the UK, because that would provide the maximum protection to society, particularly to women and children. The Minister's approach is the best that is available. We will not produce any better legislation by delaying the implementation. There is no advantage to the public, and there is certainly not an advantage for public protection. We should support what the Minister has introduced.

I understand the arguments that Lord Morrow put forward. I understand that people do not find the legislation palatable. There is no doubt that it is unpalatable. Most of us would instinctively react by saying that there should not be a review of those people, because they have offended grievously in society. However, the fact is that the Supreme Court has found that their rights under article 8 have been adversely affected. It is a fact that there are review mechanisms in other jurisdictions, including the Republic of Ireland, France and Canada. We have to accept that as a matter of fact in law. We have to act within the spirit and the letter of the Supreme Court ruling, and it is timely and opportune for us to do so now.

Mr McCrea put forward the idea of a tribunal. In some respects, it is an attractive proposition. However, it is important to remember that being

on the sex offenders' register is not part of a sentence; it is a consequence of a sentence. The fact is that article 6 rights do not seem to be infringed in relation to registration or —

Mr B McCrea: To make it clear, it was the Supreme Court, in its judgement, that indicated that a tribunal would be the best way forward.

Mr A Maginness: Yes. Of course, as other Members have pointed out, one is not obliged to carry out every aspect of what the Supreme Court judgement discussed and concluded on. However, the essence of that judgement is reflected in the Minister's amendments. It is to be preferred that we move on those amendments now, because that will give the greatest possible protection to people now rather than later.

The police are best placed to deal with the review. The article 6 rights of people on the register are not affected.

9.00 pm

Ms Ní Chuilín: I thank the Member for giving way. Basil McCrea referred to a tribunal, using the Life Sentence Review Commission as an example, but it is worth pointing out that the Chief Constable already has responsibility for sex offenders. Whether called a tribunal or a panel, it would use the same criteria to assess risk. So, with respect, that undermines the argument that you used. I wanted to clarify that.

Mr A Maginness: In agree with the Member. There is no advantage to a tribunal, which, in essence is what I think the Member is saying. In any event, most people would regard the police as best placed to deal with matters of fact involved in this review. Of course, if that is unsatisfactory, going to the Crown Court is another mechanism by which to deal with those matters. In that sense, article 6 rights would be protected.

I referred to the points that Lord Morrow made, in particular about the remarks by Home Secretary, Theresa May, to the House of Commons. I do not believe that that is a good basis on which to make a political decision, the reason being that I do not believe that those were particularly appropriate remarks in the circumstances. It is not sufficient for us to rely on the Home Secretary's remarks, which were not particularly well informed in relation to the total consequences of that decision. We should maintain our own position here, act quickly and act strongly, and I think that we are acting strongly.

There is no automatic right of appeal under these provisions; 15 years after a person has been released from prison is a fairly long time. A positive review, in the sense of a person being deregistered, is not necessarily the conclusion of that review. Therefore, in all of the circumstances, and given the provisions in the amendments put forward by the Minister, although all of us in some way question the decision of the Supreme Court and are concerned about the consequences of people being deregistered, which we regard as unpalatable, nonetheless, I believe that the Minister has got the right balance. His is the right way forward, and I go back to my original point: what is the best way of protecting the public here in Northern Ireland? In all the circumstances, the best way of doing that is to adopt the Minister's position.

(Mr Speaker in the Chair)

Unfortunately, because of the petition of concern, that will not become a reality. We do a disservice by not making it a reality and I hope that we, as an Assembly, can deal with this matter as quickly as possible after the end of this mandate.

Dr Farry: Welcome back to the Chair, Mr Speaker.

I support the amendment and tend to concur with a lot of Mr Maginness's comments, which I will try not to repeat. It is important to recognise that the House has a responsibility to act in this regard and, in some respects, this is a test of the maturity of the Assembly. In life, there are often things that we do not want to do but have to because of the responsibility that is placed upon our shoulders, and this is clearly an example of that.

I am certainly concerned that we will potentially shirk our responsibilities and leave the Northern Ireland system exposed to risk. The risk is twofold. In addition to what Mr Maginness said about the risk of the courts intervening and removing certain individuals from the sex offenders register, there is a risk that the courts may intervene and, through legal precedent, set a time frame that is lower than the 15 years that the House might introduce today. Therefore, by not acting, there is a danger that we will leave things to the courts and end up with legislation by the courts, whereby the threshold is not set at 15 years but at a lesser time.

The 15-year threshold has been a source of concern, particularly for Mr McCrea, and it is worth pointing out that it is perhaps the one thing that should be agreed in common across all three UK jurisdictions. Although there seem to be differences over the mechanisms to be invoked, there are none about the 15-year threshold, which is realistic, because reducing it to a lower figure would greatly enhance risk. Conversely, by extending the time frame much beyond 15 years, we would be in danger of not following the spirit of the Supreme Court ruling and of making the time frame virtually meaningless, which would also cause problems. Therefore, 15 years is a realistic figure that would keep us in line with the ruling but would also set the bar quite high. It is worth stressing again that people may apply to the Chief Constable for removal after 15 years: removal will not be automatic, and the test for removal will be extremely high, so by no stretch of the imagination will the floodgates be opened for people to come off the register after 15 years.

The point about devolution being an opportunity for us to do things differently has been made. We can look at issues such as time frames, and there are certainly many examples of the House having had the luxury to reflect on things for quite a while. Indeed, a theme is coming across, particularly from the Benches to my immediate left, of not rushing Members to make decisions, especially when we have had proper time to scrutinise and consider and when there has been a responsibility on us to act. Some Members seem determined to take their time in coming to decisions. However, prevarication often leaves people fairly exposed.

I certainly support devolution, which is about the House deciding how to allocate resources and offering policies that reflect particular circumstances. However, this is not one of those cases. In this situation, we must reflect a decision of the UK-wide Supreme Court. It is also a matter of interpreting human rights that bind us all. The only reason why we are discussing this subject is because policing and justice is a devolved matter, and, therefore, we have to follow suit on what is, in essence, a national ruling that applies equally to all parts of the UK.

It is worth bearing in mind that there is also a constitutional difference here on Supreme Court rulings. Again, that is a factor of devolution. The UK Parliament has a greater degree of latitude than us with what it does, because it is a sovereign Parliament. Although, under the Human Rights Act 1998, the UK Parliament is required to take account of Supreme Court decisions, if it chooses and the case is well made, it can resolve to do differently. As a devolved Parliament, the Assembly is in a secondary position, so it is obliged to follow Supreme Court rulings and the 1998 Act. We do not have the option to decide, on reflection and if we want to, that we are determined to go ahead and do things differently.

As other Members identified, it is a difficult issue; however, difficult as it may be, we have a duty, obligation and responsibility to take that decision, which may head off a worse decision, from the perspective of many Members, being taken by the courts. Therefore, moving the legislation forward tonight may be the least worst thing that we can do.

Mr Givan: I recognise that this is a very sensitive matter, and it is important that we debate it in a calm fashion and with cool heads because it can be very emotive. It certainly touches the public, who have strong views on the issue.

Obviously, action is required as a result of the Supreme Court ruling, and the Home Secretary has indicated that she will comply. I note that the Member who spoke previously highlighted how Parliament is sovereign and may choose to do something else because the Human Rights Act 1998 allows it to do that. However, the Home Secretary has said that the Government will comply. The Home Office has said that it will be the bare minimum legal response, and the Prime Minister has said likewise. Therefore, it would be premature of this House to take a decision on the matter until we see exactly what the Home Office produces in its response to the ruling and the type of scheme that it will operate. Members have highlighted the fact that the Home Secretary's statement may have had a lot of political connotations. However, in the response and in responses to questions, she said that they will comply with the Supreme Court ruling. Therefore, we should wait for that ruling.

Obviously, there is an issue with the ruling itself. The Supreme Court ruling quite rightly caused outrage, and, ultimately, when the UK Government challenged that and lost their challenge, the Prime Minister was, quite rightly, outraged as well. In taking that decision, the

Supreme Court usurped the role of legislators. It has taken on the role of those who are elected by the public to create legislation. It is always very dangerous for the judiciary to take it upon itself to act in a way that I believe only elected Members should ever be able to.

It is an abuse of human rights for the court to base its decision on article 8 of the European Convention on Human Rights, and it does a disservice to those who champion human rights. It crystallises in my mind one reason why I am not an integrationist when it comes to Europe. I think that Europe has offered very little through the legislation and the directives that it passes. It undermines the sovereignty of national Governments, and this is a case in point, where article 8 of the European Convention on Human Rights has been used to afford rights to individuals who, in my view, should never be granted those rights. As my colleague from Lagan Valley intimated, it does a disservice to those who believe in true and genuine human rights. Article 8 says that the right of privacy is not absolute where provision is made in law by democratic society in the interests of public safety and protection. The UK Government put in place legislation to safeguard the public's right to protection and safety, which the Supreme Court has now decided to overturn. Therefore, I think that the Supreme Court has abused article 8 of the European Convention on Human Rights.

Members have touched on the Scottish model. Our model is quite similar to the Scottish model, but it differs in that the automatic right of review has to be requested by the individual who is on the register. I welcome that; it is appropriate and correct. We come close to the Scottish model in that the Chief Constable will take the initial decision. I have no particular problem with that. I hear comments that have been made about it. We will look at that matter, and I am willing to do so. At present, I do not have a particular problem with the Chief Constable taking the decision. However, I have an issue with the fact that, if the Chief Constable decides that a person must stay on the register, that individual has the automatic right to challenge that decision in court. It begs the question: why not just go straight to court anyway? I suspect that if a person makes the effort to ask the Chief Constable to review their being on a register and he decides that they should stay on it, I would have thought that that individual will take advantage of the fact that the law allows them to pursue the matter on another level. So the point could be made as to why it does not go straight to the judiciary. I have concerns about that, and that is one of the reasons why we oppose it.

9.15 pm

The point has been made that it is not the court's decision that a person who has been convicted has to notify the police and sign on the sex offenders' register. That is automatic, because it has been put in statute. Politicians have made that decision, so a judge does not further punish an individual by telling them that they must sign on. They have to do it once they have been sentenced for a period of time. That calls into question why the judiciary should decide whether someone should stay on the register, because it is not a judicial decision. I think that, in England, the Home Secretary will allow for the potential of a judicial review of the police's decision. That will be on the process that the police have followed, not on the ultimate decision. It will be on whether the process outlined in the legislation has been carried out. That is the correct measure that should be followed.

My colleague Lord Morrow outlined some of what the Home Secretary said. Her statement came on 16 February, which followed the Committee's consideration of the matter. She said that she would be tougher than Scotland, and that immediately set alarm bells ringing with the Committee about the type of scheme that she was going to introduce. Therefore, we should take more time to consider this to ensure that we get it right. Earlier, we talked about the duty on public bodies, and Members from across the House said that that needed to be given greater thought. If Members feel that we should give greater thought to make sure that we are doing the right things on the duty of public bodies, Members should take the view that we need to make sure that what we do on this issue is the right thing. In light of what the Home Secretary and the Prime Minister said, we are not in a position to jump before they move. We need to be careful in the approach that we take.

Some Members pointed out that there is an element of risk with this. As I have said already, the Supreme Court has usurped the role of legislators. The Northern Ireland Assembly has not acted now because we have not had the necessary time to consider the issue, so it would be wholly inappropriate for any judge —

wherever they sit, including Northern Ireland — to decide to release someone from the register or to provide someone with compensation, as some Members alluded to. If the judiciary were to carry out that type of function and undermine further the role of elected Members, that would be a very poor reflection on it. I do not think that the judiciary will take that course of action. It has been pointed out already that another justice Bill will be introduced in the next mandate. It is important that we consider the matter properly and take a considered view on it.

Mr A Maginness: A court will not say that the Northern Ireland Assembly has not bothered to introduce legislation. It will look at the law as it stands currently in the light of the Supreme Court judgement and come to a decision. It will not be deliberately perverse in the sense that it will decide to spite the Assembly for not introducing the legislation. It will look at it in the context that the legislation here has not been amended in any way. That is the point, and that is where the risk lies.

Mr Givan: I thank the Member for that intervention. The problem for some of us is the nature of the review and how it will be carried out. The time period that must be served before the review can be asked for has not been spelled out by any institution. The Supreme Court has not specified how the review should be conducted, the nature of it and the time that people should wait. The Home Office has not responded to the review, and no European institutions have provided detail about the type of review that is to be conducted. Therefore, no member of the judiciary will be in a position to say what the European Court or the Home Office have decided should be applied. The Scottish Government are the only body that has done anything on the issue. Therefore, it would be premature for us to move on it until we can be certain that what we do in Northern Ireland is what the Prime Minister and the Home Secretary have indicated, which will be the absolute bare legal minimum to comply with the Supreme Court. As we speak today, we are not in a position to put our hands up for that. Therefore, we oppose the amendment.

The Minister of Justice: I am grateful to Members for the points that were raised, and, as nearly every Member said, the issue has been addressed tonight in a serious way, for which I am also grateful. Every Member who spoke referred to either the difficulties or to the quotation that Lord Morrow started with that said that this was one of those occasions when people wished that they were not legislators. However, let me re-emphasise that my primary concern and that of the Department of Justice is, and always has been, to ensure the continued protection of the public from the risk that is posed by sex offenders in the community.

The proposals that we have brought forward represent a considered response to the Supreme Court judgement. They do not mean that the Department is going soft on sex offenders, and they do not mean that we are asking the Assembly to go soft on sex offenders. We have a proposed review process that is in line with those that are being applied in the other two UK jurisdictions. That process will be as rigorous as necessary to ensure the continued protection of the public. It is not the case that offenders will be discharged after 15 years. Offenders who continue to pose a risk will remain on the sex offenders register. The issue is purely the right to apply for discharge, not the right to be discharged. I find it extremely unfortunate that, despite the way that Members have addressed the issue, it has not been possible to reach any consensus on it.

I will now turn to some points that were made during the debate. A number of Members, starting with Lord Morrow, referred to the Scottish model. Indeed, Lord Morrow suggested that, to some extent, we were following that model. We are proposing elements of the Scottish proposal for Northern Ireland, because Scotland has already legislated on it. There are common elements that will be applied across the three jurisdictions. For example, the 15-year time limit has been agreed across the three jurisdictions as one of those measures that we need to have in common, so that people do not travel from one jurisdiction to another to gain any particular benefit from that.

The 15-year limit was not derived because the Supreme Court gave a particular ruling, which I acknowledge. Rather, the limit was derived on the simple basis that the maximum determinate basis is 10 years, and 15 years is seen as a reasonable additional length on top of that before, which I will repeat again, an offender is obliged to apply if they wish to be discharged and not, as is the case in Scotland, where police automatically consider issues.

Lord Morrow raised issues to do with our position in comparison with our colleagues in England and Wales. However, as Stephen Farry said, the reality is that we are subordinate as a legislature. We are not the United Kingdom Parliament. We do not have the luxury that resides in Whitehall and Westminster of being able to take a slightly different line. Therefore, the legislation that may be introduced in England and Wales may be treated in a different way from that that we would be obliged to have and that the Scots have already been obliged to have. We need to be realistic on that. However, to suggest, as the Home Secretary said, that we are somehow putting the rights of the offender above the rights of the public is absolutely not what the proposals were about. We have an arrangement that is tougher than that in Scotland. It is as robust as it can be, and we believe that it is in line with what will eventually be produced in England and Wales.

In that context, let me turn to Paul Givan's remark about the timescale in which we may have to work and wait for progress at Westminster. Unlike England and Wales, we do not have the luxury of waiting. We have a minor disruption to our business, which will be caused by an election in a couple of months' time. We ought to take action to ensure that we comply with the Supreme Court ruling within a realistic timescale. If legislation goes through for England and Wales in the autumn, it is most unlikely that a renewed Assembly could comply, regardless of who the Minister of Justice and Committee for Justice will be. There could be potential problems.

We have sought to produce our legislation in parallel with that of England, Wales and Scotland, though that is not to suggest that we automatically and slavishly follow suit. However, on the 15-year issue, there is a key need to ensure that the same timescale applies as that within which offenders have the right to apply to be removed from the register. I repeat the point I made earlier. Our advice is that the right of appeal to the Crown Court is more robust than simply leaving it open to individuals to apply for judicial review; it is likely to be significantly cheaper, and it will avoid some of the difficulties that could arise from a series of expensive judicial reviews, each to be fought on its individual merits, rather than the Crown Court reconsidering cases on the same basis on which the Chief Constable and his senior colleagues determined individual applications.

I was surprised when Lord Morrow suggested that it would be possible to introduce a Bill by accelerated passage. In some senses, that allows even less consideration than what we had sought to do — even acknowledging for the fact that the issue was not raised when the Bill was first produced and, due to having to try to co-ordinate with the timescales of the other two jurisdictions, had to be introduced later. I am surprised that the Committee Chairperson is recommending a mechanism to the Minister that I do not like, which I thought that the Committee did not like, and which would subvert proper Committee consideration.

The Chairperson of the Committee for Justice: The Minister has taken what I said out of context. I accept that everyone else who has spoken on the issue, whether they agree with my position or not, was quite sincere in what they said. I am beginning to wonder whether the Minister is now trying to be trivial. What I said was that there have been dire warnings that if we do not do something, a worse fate will come down the road and that we had, therefore, better get on with it. In that context, and if that were the case, I asked whether the Minister or any future Minister — and I made the point that it may not be the current Minister — had to take emergency steps, he or she had the potential to do that. Unfortunately, the Minister did not say it that way. I hope that that clarifies the matter.

The Minister of Justice: I apologise to the Chairperson if I took him up wrongly in that respect. However, the point remains that accelerated passage is a less than ideal way in which to manage these issues.

Similar points were made by Basil McCrea when he expressed his concerns about how we deal with these matters. I noted the point he made when he referred to the fact that statistics show that 75% of sex offenders do not reoffend. He highlighted, quite rightly and reasonably, that that means that 25% do reoffend. However, it raises issues about whether the 75% need to be kept on the register indefinitely or whether there are alternative ways to ensure that sex offenders are managed and that effort is concentrated on those who do need to be managed, rather than on those who do not. He also talked at considerable length about the recommendation in the Supreme Court, the need for a tribunal. It is my advice that the basis of the system that we have represents a legally robust tribunal in that terminology, would have

the Crown Court review of the process which was under way, and would ensure that that was carried through.

I am grateful for support from Carál Ní Chuilín, Alban Maginness and Stephen Farry, none of whom gave me the impression that they find the issue palatable or that they are dying to legislate in that way. All of them have recognised the difficult position that we are in and the necessity to look to ensure that there is compliance with the Supreme Court judgment in a way that is robust and which we can stand over.

9.30 pm

Mr Callaghan: I appreciate the Minister's sentiment that this is an unpalatable topic to have to legislate on, but we recognise the Minister's attempt not to shirk the imperatives that stem from the Supreme Court decision. The Minister mentioned some of the considerations, which include wider public policy and offender management. Does the Minister agree that there is another dimension, which is not only community confidence in its broadest sense but the confidence of victims of past sexual offences and people who will become victims of such heinous crimes in the future? Given that it appears that the measure will not make progress today and may come back to this place at another time, does the Minister feel that it would be helpful to give further consideration to a mechanism in the statute book to enable a different type of notification requirement? Such notifications could include either a notification to victims of offenders that an offender has applied to the Chief Constable, or whatever is deemed the appropriate tribunal or person in any future measure, or a notification of any decision taken by the Chief Constable or another tribunal that would affect them or their loved one, in the event that the victim of a sex offence may have passed on.

The Minister of Justice: I thank Mr Callaghan for that intervention. It is clear that there are significant issues about the way in which the criminal justice system treats victims in general, and he highlighted the ramifications of offender notification provisions for those who have been victims of sex crime. Those are the sorts of issues that will have to be considered as we continue to look at enhancing the rights of victims and other aspects of the Bill, regardless of how we address this legislation. I will ensure that my officials continue to work on that. Work is already being done on how to ensure that the needs of victims are met. We must recognise our responsibilities not only to individual victims but to the protection of wider society. I take that point entirely.

Carál Ní Chuilín said that, despite a couple of what I understand to have been fairly detailed Committee sessions, the Committee did not find any gap in the evidence put forward by departmental officials. That is the reality. A number of Members are asking us to look at different ways to do it, but, on the occasions when opportunities for suggestions were given to the Committee, no alternative suggestions were made. We are left with a situation in which we are saying that nobody likes this, and, therefore, some Members are saying that they cannot take this decision. However, at some point the Assembly will to have to take difficult decisions to ensure that it complies with the Supreme Court decision in a way that protects the public and has a robust system in place to make sure that that is done. Alban Maginness made that type of point strongly when he talked about the protection of the public being the important need. I welcome his statement that he supports the Minister's route because he sees that as the best way forward. That is the reality of what we have to do. As Stephen Farry said, we have to meet the test of maturity. We have a duty to act, and at some point we will have to act to ensure that we comply with those requirements.

Paul Givan said that the Supreme Court had taken on the role of legislators. That may or may not be the case, but that is a verdict of the Supreme Court, and, as a subordinate legislature, we have to take account of that verdict. Regardless of whether or not we like court decisions — in many cases, people do not like them — there is no option.

I will go back over some of the points. The similarities between the three jurisdictions mean that the 15-year limit would apply in all three jurisdictions before any consideration would be given to someone being removed from the sex offenders register. In all three jurisdictions, the police would make the initial decision, with different methods for how it would be resolved. If we do not move forward, the element of risk needs to be addressed.

In light of the petition of concern, it is clear that we will not be able to take this matter through

the House today. That is a disappointment to me, given that there was no opposition voiced by the Committee when the proposals were provided in December and officials attended in January and February.

I had hoped that by not moving the proposals at Consideration Stage the two-week period since then would have allowed for progress today, but it is clear that a sufficient number of Members, aided by a petition of concern, are unwilling to move forward because they are not yet satisfied that this is the right way. However, the Assembly should decide matters on the basis of what protects the public of Northern Ireland and not simply rehash simple sound bites, even if they do come from the Home Secretary and the Prime Minister.

As a result of the concerns expressed today, there is little choice for me but to take the matter away. It is certain that something similar will have to be brought back by whomever is the Justice Minister after the elections in May, and Members who are present then will have to consider the matter in detail. At this point, noting that there was not a single comment on the other two amendments in this group and therefore assuming that they are accepted, I have no option but to beg to ask leave to withdraw amendment No 11.

Amendment No 11, by leave, withdrawn.

New Clause

Amendment No 12 made: After clause 86, insert the following new clause:

"Enhanced legal aid fees for certain solicitors

86A. Schedule 4A (which makes provision for enhanced legal aid fees for certain solicitors) has effect." — [The Minister of Justice (Mr Ford).]

New clause ordered to stand part of the Bill.

Mr Speaker: We now come to the fourth group of amendments for debate, which will deal with the variation of firearms certificates and young people's access to firearms. With amendment No 13, it will be convenient to debate amendment Nos 14 and 15.

New Clause

Lord Morrow: I beg to move amendment No 13: After clause 101, insert the following new clause:

"Variation of firearms certificate

101A. In Article 11 of the Firearms (Northern Ireland) Order 2004 (NI 3) after paragraph (3) (substitution of shotguns) insert—

'(4) If a person—

(a) sells a relevant firearm ("the first firearm") to the holder of a firearms dealer's certificate ("the dealer"); and

(b) as part of the same transaction purchases from the dealer another relevant firearm of the same type and calibre ("the second firearm"),

the dealer may vary that person's firearm certificate by substituting the second firearm for the first firearm.

(5) In paragraph (4) "relevant firearm" means a firearm other than—

(a) a shotgun; or

(b) a prohibited weapon.'." — [Lord Morrow.]

The following amendments stood on the Marshalled List:

No 14: After clause 101, insert the following new clause:

"Removal of restrictions on sporting shooting for young persons

101B.—(1) Schedule 1 of the Firearms (Northern Ireland) Order 2004 (NI 3) paragraph (11) (shotguns) shall be amended as follows.

(2) For sub-paragraph (3) substitute—

'(3) Sub-paragraphs (1) and (2) do not apply in relation to a person who is under the age of 18 unless he is under the supervision of a firearm certificate holder who is authorised to possess such a shotgun.'." — [Lord Morrow.]

No 15: After clause 101, insert the following new clause:

"Air guns and ammunition

101C.—(1) Schedule 1 to the Firearms (Northern Ireland) Order 2004 (NI 3) paragraph (9) (air guns and ammunition) shall be amended as follows.

(2) For sub-paragraph 3(a) substitute—

'(a) have an air gun in his possession without a firearm certificate unless he is under the supervision of a firearm certificate holder who is authorised to possess such an air gun.'." — [Lord Morrow.]

Members will recall that at Consideration Stage I had tabled three amendments, but none of them was moved at that point. I will put the House out of its anxiety and assure it that all three will be moved this evening. However, I can also bring some relief by stating that I do not intend to speak to all three amendments because, as Members will recall, I spoke at some length on amendment No 13 at Consideration Stage, so I do not wish to reiterate what was said on that occasion.

Suffice to say that, as best I could, I tried to lay out the objectives of what is a one-on, one-off transaction and the proposal itself. I tried to deal with the economics of it, the practicalities of it and the public safety around it, and then I sought to summarise it. Therefore, to save the House time — the hour is fairly late — I do not intend to say anything more on it, other than to refer Members to what I said then.

I will move to the other amendments in my name. As I said, at the appropriate time, when you ask for them to be moved, I will go ahead and move them.

Mr McFarland: For clarification and because one would need the Firearms Act to understand it, can I confirm that shotguns are already taken care of, which is presumably why they are excluded from this?

Lord Morrow: The Member has it spot on; that is absolutely right. Shotguns are already included, so it is others that we are dealing with.

I want to speak about the other two amendments. I will be as brief as I can, but hopefully I will give the amendments the respect that they deserve. I commend them to the House this evening and trust that they find universal support. I got an indication of some hesitation from the Minister at that stage, and, because I was trying to facilitate him — I got a quick shift this evening for facilitating him — I did not then move the amendments, but I will take a chance here tonight and see if he is in better form. In moving the amendments, I recognise that other organisations carried out work on them, and I trust that my amendments will assist them. I am referring to organisations such as the Northern Ireland firearms control liaison committee, which consists of the Countryside Alliance, the British Association for Shooting and Conservation, the Northern Ireland Gun Trade Guild, the Ulster Clay Pigeon Shooting Association, the Ulster Farmers' Union, the Ulster Rifle Association and the Scottish Association for Country Sports. I also commend those organisations for their work in this field.

The combined objective of amendment Nos 14 and 15 is to remove a significant barrier to sporting achievement in shooting sports disciplines at Olympic, Commonwealth, world and European games by facilitating the training of young people in the safe and responsible use of certain sporting firearms while under the strict supervision of an experienced firearms certificate holder. Amendment Nos 14 and 15 would allow young people to receive supervised coaching in shotgun and airgun shooting sports only. Such supervised coaching and training could take place only at approved shooting ranges or on private property with the consent of the owner/occupier. Clay pigeon target shooting using shotguns and air rifle shooting are Olympic sports. Competitions are also held at the Youth Olympic Games and at world and European levels.

The Firearms (Northern Ireland) Order 2004 requires that a person must be over 18 years old before he or she can be granted a firearms certificate, which enables the holder to purchase a particular firearm and associated ammunition and to use them under strict conditions. Additionally, the Firearms (Amendment) Regulations 2010 require EU member states to ensure that only those over 18 years old can purchase firearms and ammunition. Significantly, however, the legislation permits young people to participate in supervised shooting. Similar legislation in England, Scotland and Wales permits young people also to possess shotguns and airguns under supervision. That has enabled shooting organisations to run highly successful training and coaching courses for young people aimed at improving sporting achievement and, of course, encouraging safe shooting practices.

Amendment Nos 14 and 15 would bring our laws on supervised shooting into line with the Firearms (Amendment) Regulations 2010 and practices in many other countries, including those in England, Scotland and Wales. That would mean that only those aged 18 or above could purchase a shotgun or airgun but an exemption would be introduced to facilitate the training of those under 18 years old by an experienced firearms certificate holder. In many instances, he or she would be a qualified shooting coach.

The principal benefit of those amendments is the removal of a significant barrier to sporting achievement. If someone is to achieve success at Olympic or world level, coaching in shooting, as in any other sport, must start at a relatively young age and progress as the young person develops and matures. The amendments would also facilitate much better training in the safe and responsible use of sporting firearms, particularly for newcomers to the sport. At present, only those aged 18 and above may use a shotgun under supervision, and that is widely regarded as a major obstacle to training.

At 18 years old, a person may acquire a shotgun on their own firearms certificate without the need to undertake training. The amendments would allow responsible parents and trained shotgun coaches to determine the appropriate age for young people to be introduced to shooting sports in a safe and controlled manner. The expansion of training would be economically beneficial to shooting grounds in Northern Ireland and open up the possibility of hosting future Olympic, world and European youth games. Furthermore, shooting sports are extremely disciplined by their nature. Coaching and training also help young people to develop their personal discipline. All applicants for a firearms certificate are subject to stringent checks. For example, in order to acquire a firearms certificate, an applicant must have good reason to possess a particular firearm, have access to appropriate lands in which to use it, demonstrate that they can be trusted to possess it without endangering the safety of the public, provide two references and grant the PSNI access to their medical records.

In summary, introducing a mechanism to allow the training of young people in the safe and responsible use of sporting firearms, under the strict supervision of a firearms certificate holder, would improve sporting achievements by local athletes at Olympic and world games, further improve safe shooting practices and present new opportunities for income generation, often in isolated rural areas where such opportunities are limited. Shooting sports are worth some £50 million annually in Northern Ireland and are responsible for some 2,100 full-time jobs. I thoroughly commend the amendments to the House.

9.45 pm

Lord Empey: I support the amendments. As he did in the debate two weeks ago, Lord Morrow has put forward strong, coherent reasons why the amendments should be passed. Obviously, whenever anything about firearms is mentioned in this country, it is perfectly natural that there is reluctance and concern, which the Department and the Minister expressed. However, we must remember that we are talking about specific amendments that deal with matters that, quite frankly, are not really problematic.

The Chairperson made a powerful case for the amendments. Not only is there an economic dimension, but — it evokes laughter in certain places when it is mentioned — we have some excellent sportspeople who shoot. At Bisley and other places, those people have distinguished themselves for many years. We should do everything that we can to promote that in a properly controlled manner.

In the amendments, I do not detect any sense that Lord Morrow anticipates any watering-down of processes that would protect members of the public. Public protection is always a concern and is why we have firearms control in the first place. We have the most rigorous firearms control laws of pretty much anywhere. It is a balanced series of amendments, which take care of any concerns that any reasonable person should have. I appreciate that some people say that we should perhaps consult further on the amendments, but we are dealing with a very limited number of people. We are dealing with a sport that, as has just been said, has its roots in rural areas. We have a policy in the Programme for Government of trying to promote economic activity in rural areas, and this is one example of where that could happen. So, on balance, the amendments are positive and are worthy of support in the House.

I beg your indulgence, Mr Speaker, to raise a matter that I was associated with in the debate on 23 February. At that time, you may recall that there was a clause in the Bill — clause 93A, now clause 93 — that provoked considerable debate. That clause is about the power of the Department to make payments in respect of the prevention of crime. You will remember the exchange well, Mr Speaker.

Mr Speaker, I want to draw your attention to my main concern about the power of the Department to make payments in relation to

the prevention of crime. I think that this was expressed by at least some other Members. I supported and continue to support payments from criminal assets recovery because that is a positive development. However, at Consideration Stage, I made the point that the clause did not confine payments to those from criminal assets money. Nevertheless, the Minister suggested that it would be good if we did not oppose the clause at that stage, and he undertook to make every effort to address the issues that I and others had raised. Unfortunately, no proposals came forward from the Minister, and, when I became aware of that, it was too late for me to table an amendment. Mr Speaker, I then attempted to bring a table amendment after a meeting with you, but that also was not possible. So, you have allowed me the privilege of making some comments this evening, for which I am grateful.

When I spoke to an official in the Department, my concern became even greater. The clause is not solely about making arrangements for the Department to make payments from criminal assets recovery, which I support. The official made it absolutely clear to me that that power was needed for other reasons. I do not know what those reasons are. That individual also made the point that the Department already gave money to community safety partnerships and other groups, but it appears that there is some other reason why that power is needed. However, I cannot believe that it is beyond the ability of the Department and the Minister to bring forward proposals to put in place some constraints or criteria to ensure that there is not a complete blanket power. All that the clause says is:

> *"The Department may … make such payments to such persons as the Department considers appropriate in connection with measures intended to —*
>
> *(a) prevent crime or reduce fear of crime".*

That is a blunt instrument, and I am very concerned about it.

I did not want any heavy duty reporting proposals that would place added undue burdens on the Department, but I am sure that some constraints and criteria could have been put in place. I do not think that the power relates to criminal assets recovery, and I believe that it is very open-ended and could be open to abuse in the long term. I am, therefore, disappointed that the Minister did not bring forward any proposals. It would have been perfectly possible for him to do so given the circumstances. Mr Speaker, thank you very much for giving me the latitude to make those comments.

Mr A Maginness: I was a bit surprised when the amendments were tabled. In fact, I said to one colleague that I felt ambushed. I had this vision of newspapers with a headline that went something like this: "Gunmen ambush the Justice Committee in the Assembly".

I understand what Lord Morrow is trying to introduce, but this is not the most appropriate way to deal with the legislation. I listened carefully to his cogent arguments about the provisions. He talked in a straightforward fashion about the safe and responsible use of firearms. He said that young people would be supervised by qualified coaches at shooting ranges or on private property and that similar practices are used in England, Scotland and Wales. He also mentioned the importance of the sector, given that it provides over 2,000 jobs in Northern Ireland. However admirable those facts may be — I cannot question whether those are facts or not — the reason why I raised concerns is that we have not gone through what I would regard as the due process of scrutiny of the amendments. It would have been right and proper for that scrutiny to take place. I feel uneasy about legislation of this type being effectively brought at the last minute to the Assembly and the Committee. The Committee has not had a proper opportunity to scrutinise the amendments.

I am also uneasy about guns and the use of firearms. They should be strictly regulated. In particular, when young people have access to firearms, they should be very strictly supervised. I accept Lord Morrow's assurances that there will be that type of supervision and that it will be strict and so forth, but, at the same time, there was a need for the House and the Committee to look at the amendments in a thorough manner and to perform suitable scrutiny. I do not believe that there has been that scrutiny, and, in the absence of it, it is difficult for the SDLP as a party and for my colleague and me, as members of the Committee for Justice, to support the provisions.

Mr B McCrea: Will the Member give way?

Mr A Maginness: Just hear me out, and then I will take your intervention.

That is not to say that the amendments are not meritorious. They may well be, and, at the end of a scrutiny process, I may well have been completely happy with them. I can see that they are, of course, limited. Nonetheless, we should have gone through that proper process, particularly with a subject as sensitive and as important as this.

Mr B McCrea: I have two points. First, I would have a little more sympathy for the Member's position if he had agreed with what I said about the amendments in the earlier group. Like him, I agreed that the amendments may be good and right, but I was concerned that we had not had a real chance to debate them. That is not intended as a criticism, but we have had to deal with an awful lot of work.

Secondly, the Member's comments about his concerns about guns in general do not specifically affect the points that Lord Morrow raised. However, he will no doubt join me in being shocked at the news of two people being shot dead in Craigavon tonight, which shows the difficulty with firearms. That is why it is right and proper that we regulate as well as possible to ensure that guns are used only in the appropriate manner that Lord Morrow outlined.

Mr A Maginness: I am unaware of the incident that the Member referred to because I have been in the Chamber most of the evening. Whatever happened in Craigavon is a matter of deep regret and sadness, and it highlights the problems with firearms and my uneasiness with any firearm. We ought to have strict regulation of any firearms, whether they are shotguns as covered by amendment No 14 or air guns as covered by amendment No 15.

The point that Mr McCrea made about the previous debate is not on all fours with this issue, because the Committee had no opportunity to examine these amendments.

We had considerable discussion in the previous debate about sex offender provisions, although perhaps not as much as people wanted, and other matters were discussed in Committee.

10.00 pm

In conclusion, the SDLP will support amendment No 13, but not amendment Nos 14 and 15. We are satisfied that we have made our point, and we will not push the House to a Division. Nevertheless, I would like the House to note the SDLP's concerns on the latter two amendments.

Mr Buchanan: I support the amendments proposed by Lord Morrow. Amendment No 13 is good common sense. A one-on, one-off facility for the same type of calibre of weapon, where the firearm dealer has the authority to vary or amend the —

Mr B McCrea: On a point of order, Mr Speaker. I am sure that it is not Mr Buchanan's fault, but I am having difficulty in hearing him. Maybe the microphone is not on or he is not beside a microphone.

Mr P Robinson: Come on up here.

Mr B McCrea: It is too late for that now, Peter. *[Laughter.]*

Mr Speaker: Let us see if we can resolve the issue.

Mr Buchanan: I apologise for that, Mr Speaker. Perhaps Mr McCrea needs a hearing aid. *[Laughter.]* It is common sense for the firearm dealer to have the authority to vary or amend a firearms certificate, because it reduces the unnecessary burden from the firearms and explosives branch when something like this is fairly straightforward.

With regard to amendment Nos 14 and 15, the training of young people under strict supervision in a properly controlled and safe manner can only add to the calibre of those young people in all aspects of the sport. Many of us in Northern Ireland are proud of the achievements of those in the shooting fraternity at sporting arenas across the world, and we remember those who brought back gold medals to Northern Ireland. I cannot understand why the SDLP is so concerned. When young people reach 18 years of age, they can apply for a firearm under the proper regulations. Therefore, I would have thought that the amendment, which gives those young people supervised training in the use of their firearm and training in all aspects of safety when using a firearm, is a positive move, instead of the negative attitude taken by the SDLP.

Mr A Maginness: They may be meritorious amendments; the SDLP is not disputing that. However, they have been introduced late in the day, although there may be legitimate reasons for that. Therefore we cannot make a judgement on them, and that is why we have concerns about the two amendments.

Mr Buchanan: I hear what the Member says. Lord Morrow has outlined the economic aspect for the shooting fraternity across Northern Ireland. The amendments are timely and appropriate, and we give them our full support.

Mr McCartney: Go raibh maith agat, a Cheann Comhairle. Sinn Féin supports amendment No 13, the one-on, one-off aspect, and we supported it in the last debate. With regard to amendment Nos 14 and 15, the Chairperson of the Committee outlined the supervision that will be involved, and, in that sense, we are satisfied with the amendments. However, we understand and support Alban Maginness's reservations with regard to consultation and scrutiny. This may not be the best way of legislating those amendments.

In future we would have more serious reservations, if it was not around these particular issues and the guarantees outlined by the Chairperson in relation to supervision. We accept that this is not the best way to legislate.

The Minister of Justice: Mr Speaker, let me first refer to the point which you allowed Lord Empey to raise: the issue of what is now in clause 93. At Consideration Stage, I gave an undertaking to review the contents of that clause and examine whether it was appropriate to strengthen it. I said that it might or might not require an additional clause or subsection. Although Lord Empey is disappointed, I want to inform the House that I looked in detail at clause 93 with my officials and I concluded that the addition of further text was unnecessary.

The clause already contains two requirements — that expenditure must be approved by DFP, for example — analogous to what applies to any other aspect of expenditure and my experience, even in my 10 and a half months so far, is that DFP carries out its duties extremely thoroughly. The Minister is not here yet.

In addition to that, the Justice Minister, whoever he is, is accountable to this House and the Justice Committee, so we have a reasonable range of checks and balances. I am prepared to give the House an assurance of my commitment to publish how the Department allocates any of those receipts from criminal assets, the amounts given and the organisations or persons involved, to ensure that the funding is fully transparent and open to public and Assembly scrutiny. I place that on the record, and I trust that Members find that acceptable. Though Lord Empey had hoped for a specific form of words in the Bill, it was not deemed to be appropriate when we examined the issue.

Mr McFarland: Lord Empey pointed out that he had had discussions with an official of the Minister's Department. That official seemed to indicate that there were other issues that had not been brought to the attention of the House last week by the Minister. I am slightly worried. Perhaps the Minister could answer Lord Empey's request for clarification as to what the official may have meant by saying that there are other things that are not clear yet.

The Minister of Justice: If I knew who was supposed to have said exactly what, I might be in a position to provide clarification. Since I do not, I am afraid that I cannot help Mr McFarland on that matter.

Lord Empey: I can make it clear. The official indicated to me that, in addition to needing the power to distribute the money from criminal assets recovery, the power was needed for distribution for other reasons other than that particular jam jar full of money; it was needed for disbursement purposes from a wider position than the criminal assets disbursements.

The Minister of Justice: I am not sure of the detail, and I will write to Lord Empey about it. It is my understanding that it is entirely analogous to the existing powers which apply to the expenditure of other money. I must say that Lord Empey clearly has bigger jam jars than I do, because we are hoping for something in excess of £1 million out of that particular jam jar this year.

Let me turn to Lord Morrow's amendments on the firearm issues. First, amendment No 13 was debated largely at Consideration Stage. When I indicated that the one-for-one policy for firearms exchanges, other than shotguns, was already under active consideration, it was clear that there was a significant mood in the House to support that. On that basis, Lord Morrow agreed to withdraw his amendment in order to table another which was sound and compatible. The amendment that he has brought back is sound, legally compatible and clearly in line with what was the expressed view of the House a fortnight ago. Although there is no Executive position on amendment No 13, it is clear that there is a significant body of support for it in the House.

However, I cannot be so positive about the other two amendments. They were tabled at a very

late stage. The first allows anyone under 18 to possess a shotgun under the supervision of a holder of a firearms certificate authorised to possess such a shotgun. That is a fundamental change to the law as it affects young people.

I indicated to the House at Consideration Stage that my officials are working on the policy for young people shooting and are doing so with a range of interested parties, including shooting organisations and the PSNI. That review has the support and engagement of shooting organisations and is determined to ensure that we strike the right balance between allowing access to firearms and maintaining public safety.

I believe, as has already been said by Mr Maginness, in particular, that the public have a right to be consulted on such a significant and fundamental change to firearms legislation, as indeed do the Police Service. I do not see any point in rushing through a sensitive change at this stage in the Bill's progress. Although it is clearly desirable for some people, it is not essential. As such, I believe that, given the normal procedures of the House, it should be subject to full consideration and consultation. Given the amount of consultation, limited though it perhaps was, around the proposed clauses 33A and 54A, I find it a certain irony that the argument is being reversed across the Chamber from what it was an hour ago.

There are real dangers in amending a couple of articles in an Order without considering the impact on the Order as a whole. I do not believe that it is the best way to proceed. I fully recognise that shooting is a legitimate sport, and other Members have highlighted the benefits. I have no wish to restrict unnecessarily appropriate activities, but, as Minister of Justice, I have a responsibility to the whole community, and I want to get it right.

I have real concerns about amendment No 14 as proposed. Similarly, amendment No 15 seeks to remove restrictions on young people, albeit in relation to air guns and ammunition. Regardless of the distinction in the types of guns in the two amendments, I have the same concerns about the lack of consultation for this important area of public policy. Let me repeat: firearms legislation is important to allow legitimate use of firearms for purposes such as livestock management, pest control and sport. Sport shooting also produces many benefits for the economy.

I support the shooting community in its desire to have access to firearms for agreed and appropriate purposes and for its interest in promoting public safety. The current legislation is not set in stone, and I have indicated that I am sympathetic to change where it can be justified, and a policy review is already under way in respect of possible changes, including the law as it applies to young people shooting. The interests of the shooting community are important, but so are the interests of the wider public, the Police Service and the Chief Constable, who is responsible for maintaining the firearms licensing regime. Certainly, in my time as Minister, I have seen the diligence with which the PSNI carries out its application of firearms legislation.

The Firearms Order 2004 is a coherent piece of legislation, which was subject to full consultation, and many of the articles are interlinked. Under the current legislation, the minimum age for possession of an air rifle with a kinetic energy of one joule or less without supervision is 14. Those under 14 years of age may possess such an air gun but only under the supervision of someone who is at least 21 years old. There is no current requirement to have a firearms certificate for those low-powered air guns.

Lord Morrow's amendment seeks to remove the age requirement for the possession of those low-powered air guns, to lower the age limit for supervision from 21 to 18 and to add that the person who is supervising should possess a firearms certificate. No one has lobbied me on the issue prior to the amendment being produced, but the amendment would mean that anyone under 18 could possess such a firearm under the supervision of someone who is just 18 years of age. It would also mean the introduction of firearms certificates for low-powered air guns. The supervisory age of 21 was inserted to provide greater maturity and experience, and I am uncomfortable with a reduction to 18.

As I mentioned before, the Firearms Order is a coherent set of articles and minor changes to one part would have consequences for other parts. Amending schedule 1 to the Order as suggested by this amendment would create anomalies in other parts of the Order that are not addressed by the amendment. One such consequence would be to amend the Order to require firearms certificates to be applied for and granted to those over 18 wishing to use a

low-powered air rifle. Another consequence is that the age of those who supervise recreational facilities, such as miniature rifle ranges or shooting galleries at fairgrounds, would reduce from 21 to 18. Again, that would require some thought and proper consultation. I wonder whether such consequences are what Members really want. There may be other consequences from what may appear to be an innocuous amendment.

As I said before, the policy relating to young people shooting is already under consideration in consultation with the Police Service and shooting organisations. Any new proposals should be proportionate and should have the benefit of the same full public consultation as was afforded the original Order. I do not support the piecemeal amendment of the Firearms Order outwith the context of a proper policy review and consultation.

I hope that Members agree with that, but I will ensure, in the near future, that we will carry out a proper consultation to ensure that we get firearms legislation right, seven years on from the coming into operation of the Firearms (Northern Ireland) Order 2004.

10.15 pm

The issue of the one-for-one replacement is clearly a modest extension of what already applies in relation to shotguns. I fear that the other two amendments open the doors without necessarily ensuring that all the relevant issues are covered. Therefore, I cannot accept them.

The Chairperson of the Committee for Justice: I thank all those Members who participated in the debate, some more enthusiastically than others. Lord Empey has intimated that he and his party will support my amendments, for which I am very grateful. We are making strides when we can get those who represent urban constituencies to support what might be deemed rural sports.

Alban Maginness has had some reservations about my amendments, although he has intimated that he is not prepared to divide the House. However, his reservations are unfounded and when he takes a look at what has been said this evening he may want to rethink his position. It does not surprise me that Tom Buchanan, coming from a rural constituency, spoke enthusiastically about what my amendments were trying to achieve. I think that Mr McCartney supports them, in part anyway, although I am not 100% sure, because at one stage I thought he was supporting me, and then he seemed to dive off.

The Minister did not say anything that surprised me. More or less, I got the response from him that I expected. That, of course, disappoints me greatly. I ask the Minister to look at the situation again. In my estimation, none of the reservations that he has tried to clamour or the reasons that he has put forward stand up to scrutiny. I remind him that there are 61,000 firearms licence holders in Northern Ireland. It is not the holders of firearms licences that have been the cause of problems in Northern Ireland over the years, but rather the unlicensed owners of firearms. If the Minister carries out an exercise, he will be pleasantly surprised by how few legally held guns have been involved in any illegal activities.

It would also be interesting for him and his Department to carry out an exercise to determine how many firearms licences have had to be rescinded over the years for misuse in particular. The firearms licence test is quite stringent, and no one is asking for a relaxation of that test. I recognise that, as one who has been involved in field sports all my adult life, and, under supervision, before that, there is a safety aspect to this issue. I am the last person to want to interfere with that or make it easier for persons who were going to act in an irresponsible way to acquire firearms. I do not think that my amendments do that.

There is an inference that Members are being asked to take a quantum leap. They are not being asked to do any such thing. There is no leap in the dark here; it is quite clear what the amendments say, what the objectives are and what the end goal is. Is it not much better to have supervised training under those who are experts and to build up experience? As Mr Buchanan and others said, individuals go from these shores to represent us in Olympic and world championship shooting competitions, and when they come back, we are all full of praise for them and are grateful to them because they have had great success. If we want to continue that, we have to put the infrastructure and facilities in place for young shooters to get going early, under supervision. Not only will that help their expertise, it will instil in them the importance of the safety aspect.

I will say little more. I rest my case and commend my amendments to the House. We will see which way the House votes on them.

Question, That amendment No 13 be made, put and agreed to.

New clause ordered to stand part of the Bill.

New Clause

Amendment No 14 made: After clause 101, insert the following new clause:

> ***"Removal of restrictions on sporting shooting for young persons***
>
> *101B.—(1) Schedule 1 of the Firearms (Northern Ireland) Order 2004 (NI 3) paragraph (11) (shotguns) shall be amended as follows.*
>
> *(2) For sub-paragraph (3) substitute—*
>
> *'(3) Sub-paragraphs (1) and (2) do not apply in relation to a person who is under the age of 18 unless he is under the supervision of a firearm certificate holder who is authorised to posses such a shotgun.'." — [Lord Morrow.]*

New clause ordered to stand part of the Bill.

New Clause

Amendment No 15 made: After clause 101, insert the following new clause:

> ***"Air guns and ammunition***
>
> *101C.—(1) Schedule 1 to the Firearms (Northern Ireland) Order 2004 (NI 3) paragraph (9) (air guns and ammunition) shall be amended as follows.*
>
> *(2) For sub-paragraph 3(a) substitute—*
>
> *'(a) have an air gun in his possession without a firearm certificate unless he is under the supervision of a firearm certificate holder who is authorised to possess such an air gun.'." — [Lord Morrow.]*

New clause ordered to stand part of the Bill.

Clause 103 (Regulations and orders)

Amendment No 16 not moved.

Amendment No 17 made: In page 63, line 21, after "Regulations" insert "made by the Department". *— [The Minister of Justice (Mr Ford).]*

Amendment No 18 made: In page 63, line 25, at end insert

> *", paragraph 7(3) of Schedule 1 or paragraph 7(3) of Schedule 2;". — [The Minister of Justice (Mr Ford).]*

Schedule 1 (Policing and community safety partnerships)

Amendment No 19 made: In page 69, line 40, leave out from "a chair" to end of line 7 on page 70. *— [The Minister of Justice (Mr Ford).]*

Amendment No 20 not moved.

Amendment No 21 made: In page 70, leave out line 38 and insert

> *"(a) a chair who shall be the person who is for the time being chair of the PCSP; and". — [The Minister of Justice (Mr Ford).]*

Amendment No 22 made: In page 71, line 1, leave out sub-paragraph (3). *— [The Minister of Justice (Mr Ford).]*

Amendment No 23 made: In page 71, leave out line 12. *— [The Minister of Justice (Mr Ford).]*

Amendment No 24 made: In page 71, leave out line 21. *— [The Minister of Justice (Mr Ford).]*

Schedule 2 (District policing and community safety partnerships)

Amendment No 25 proposed: In page 74, line 14, leave out "a DPCSP—" and insert

> *"the DPCSP in each police district of Belfast—". — [Mr McCartney.]*

Question put and negatived.

Amendment No 26 made: In page 79, line 9, leave out from "a chair" to end of line 16. *— [The Minister of Justice (Mr Ford).]*

Amendment No 27 not moved.

Amendment No 28 made: In page 80, leave out line 6 and insert

> *"(a) a chair who shall be the person who is for the time being chair of the DPCSP; and". — [The Minister of Justice (Mr Ford).]*

Amendment No 29 made: In page 80, line 9, leave out sub-paragraph (3). *— [The Minister of Justice (Mr Ford).]*

Amendment No 30 made: In page 80, leave out line 20. *— [The Minister of Justice (Mr Ford).]*

Amendment No 31 made: In page 80, leave out line 29. *— [The Minister of Justice (Mr Ford).]*

New Schedule

Amendment No 32 made: After schedule 4, insert the following new schedule:

"SCHEDULE 4A

ENHANCED LEGAL AID FEES FOR CERTAIN SOLICITORS

Power to provide for enhanced fee

1.—(1) Regulations under Article 22 or 36 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (NI 8) or an order under Schedule 2 to that Order may provide for the payment of an enhanced fee to a solicitor who—

(a) exercises a right of audience in a court or tribunal to which this Schedule applies;

(b) has been accredited by the Law Society under paragraph 2 in relation to that court or tribunal; and

(c) complied with the duties in paragraph 3.

(2) This Schedule applies to—

(a) the Crown Court;

(b) a county court;

(c) a magistrates' court; and

(d) a tribunal to which sub-paragraph (3) applies.

(3) This sub-paragraph applies to a tribunal if—

(a) it is a tribunal mentioned in Part 1 of Schedule 1 to the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981; or

(b) assistance by way of representation may be approved under Article 5 of that Order in respect of proceedings before the tribunal.

Accreditation of solicitors

2.—(1) The Law Society shall make regulations with respect to the education, training and experience to be undergone by solicitors seeking accreditation for the purposes of this paragraph in relation to a court or tribunal to which this Schedule applies.

(2) A person who is qualified to act as a solicitor may apply to the Law Society for accreditation under this paragraph in relation to a court or tribunal to which this Schedule applies.

(3) An application under sub-paragraph (2)—

(a) shall be made in such manner as may be prescribed;

(b) shall be accompanied by such information as the Law Society may reasonably require for the purpose of determining the application; and

(c) shall be accompanied by such fee (if any) as may be prescribed.

(4) At any time after receiving the application and before determining it the Law Society may require the applicant to provide it with further information.

(5) The Law Society shall grant accreditation under this paragraph in relation to a court or tribunal if it appears to the Law Society, from the information furnished by the applicant and any other information it may have, that the applicant has complied with the requirements applicable to the applicant in relation to that court or tribunal by virtue of regulations under sub-paragraph (1).

(6) Accreditation granted to a person under this paragraph ceases to have effect if, and for so long as, that person is not qualified to act as a solicitor.

(7) The Law Society may by regulations provide that any person who has completed such education, training or experience as may be prescribed, before such date as may be prescribed shall be taken to be accredited under this paragraph in relation to a prescribed court or tribunal.

(8) Every entry in the register kept under Article 10 of the Solicitors (Northern Ireland) Order 1976 (NI 12) shall include details of any accreditation granted under this paragraph to the solicitor to whom the entry relates.

Duties of solicitor

3.—(1) Sub-paragraph (2) applies where—

(a) either—

(i) a criminal aid certificate or civil aid certificate is granted under the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 to a person in any proceedings in a court or tribunal to which this Schedule applies; or

(ii) assistance by way of representation is approved in respect of a person under Article 5 of that Order in relation to proceedings in such a court or tribunal;

(b) that certificate or approval entitles that person ('the client') to be represented by counsel or by a solicitor accredited under paragraph 2 in relation to that court or tribunal; and

(c) either—

(i) the client's solicitor is minded to arrange for another solicitor who is accredited in relation to that court or tribunal to provide that representation; or

(ii) the client's solicitor is accredited in relation to that court or tribunal and is minded to provide that representation.

(2) The client's solicitor must advise the client in writing—

(a) of the advantages and disadvantages of representation by an accredited solicitor and by counsel, respectively; and

(b) that the decision as to whether an accredited solicitor or counsel is to represent the client is entirely that of the client.

(3) The Law Society shall make regulations with respect to the giving of advice under sub-paragraph (2).

(4) A solicitor shall—

(a) in advising a client under sub-paragraph (2), act in the best interest of the client; and

(b) give effect to any decision of the client referred to in sub-paragraph (2)(b).

(5) Where—

(a) a solicitor has complied with sub-paragraph (2) in relation to the representation of a client in any proceedings in a court or tribunal, and

(b) that client is to be represented in those proceedings by an accredited solicitor,

the solicitor shall inform the court or tribunal of the fact mentioned in sub-paragraph (a) in such manner and before such time as the relevant rules may require.

(6) For the purposes of this paragraph compliance with sub-paragraph (2) or (5) in relation to any proceedings in a court or tribunal in any cause or matter is to be taken to be compliance with that sub-paragraph in relation to any other proceedings in that court in the same cause or matter.

(7) If a solicitor contravenes this paragraph, any person may make a complaint in respect of the contravention to the Solicitors Disciplinary Tribunal.

Regulations

4.—(1) Regulations under this Schedule require the concurrence of—

(a) the Lord Chief Justice; and

(b) the Department, given after consultation with the Attorney General.

(2) The Department shall not grant its concurrence to any regulations under paragraph 2(1) or 2(7) unless regulations have been made under paragraph 3(3) and are in operation.

Consequential amendments

5. The Department may by order make such amendments to—

(a) the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981; or

(b) Schedule 3 to the Access to Justice (Northern Ireland) Order 2003 (NI 10),

as appear to the Department to be necessary or expedient in consequence of, or for giving full effect to, the provisions of this Schedule.

Interpretation

6. In this Schedule—

'accredited solicitor', in relation to any court or tribunal, means a solicitor who is accredited under paragraph 2 in relation to that court or tribunal;

'the client' has the meaning given in paragraph 3(1)(b);

'the Law Society' means the Incorporated Law Society of Northern Ireland;

'prescribed' means prescribed by regulations made by the Law Society;

'relevant rules' means—

(a) in relation to the Crown Court, Crown Court rules,

(b) in relation to a county court, county court rules or family proceedings rules,

(c) in relation to a magistrates' court, magistrates' courts rules,

(d) in relation to a tribunal, the rules regulating the practice and procedure of the tribunal." — [The Minister of Justice (Mr Ford).]

New schedule agreed to.

Mr Speaker: That concludes the Further Consideration Stage of the Justice Bill. The Bill stands referred to the Speaker.

10.30 pm

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

Public Bodies Bill: Legislative Consent Motion

Resolved:

That this Assembly endorses the principle of the extension of the Public Bodies Bill to Northern Ireland. — [The junior Minister (Office of the First Minister and deputy First Minister) (Mr Newton).]

Committee Business

European Issues: Committee for OFMDFM Report

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

The Chairperson of the Committee for the Office of the First Minister and deputy First Minister (Mr Elliot): I beg to move

That this Assembly takes note of the report of the Committee for the Office of the First Minister and deputy First Minister (NIA 48/10/11R) on Statutory Committee activity on European issues.

At this time of the evening, I will try to be as brief as possible and not take up the 15 minutes that you have allocated to me, Mr Deputy Speaker.

Northern Ireland is still recognised as a newly devolved European region interested in developments at European level. Many laws and policies of the European Union have a direct effect on the people of Northern Ireland. The European Union has contributed greatly to economic development in Northern Ireland and to the reconciliation process through Peace funding.

The Office of the First Minister and deputy First Minister (OFMDFM) has overall responsibility for the development of Northern Ireland's strategic approach to Europe; therefore, my Committee has responsibility for scrutinising the work of the Department in relation to Europe. It takes great interest in European issues and the Executive's strategic approach to ensure that Northern Ireland improves its interaction and engagement with various institutions.

The Committee concluded its inquiry into the consideration of European issues in January 2010. In the motion before the House on 26 January 2010 the Committee called for enhanced engagement and improved interaction with the European institutions to raise the profile of Northern Ireland in Europe. The Committee brought forward 12 actions for Assembly Committees and 17 recommendations for the Speaker, the Assembly Commission and

the First Minister and the deputy First Minister. Those actions and recommendations seek to improve the scrutiny of European legislation, enhance engagement with European institutions and promote Northern Ireland as an active region of Europe.

Action 2 of the Committee's report stated that:

> *"The Assembly's statutory committees will be responsible for the scrutiny of all European issues of relevance to the committee. In the autumn of each year statutory committees will be requested to provide a report of activity on European issues to the Committee for the Office of the First Minister and deputy First Minister. The Committee for the Office of the First Minister and deputy First Minister will formulate all contributions into one report to the Assembly which will be submitted to the Business Committee for Plenary debate."*

The Committee's report details the work that my Committee has carried out in its engagement. It also provides an overview of Statutory Committees' engagement in Europe and the consideration of European policy and legislation.

At its meeting of 17 November 2010, the Committee agreed to write to all Statutory Committees to request information on their engagement on European issues. I will briefly outline the work of the Committee in Europe. The Committee continued its engagement with the Northern Ireland representatives in Europe and was briefed in February, March and April 2010 by members of the European Economic and Social Committee, members of the Committee of the Regions and by the MEPs. The Committee was also briefed by the head of the European Commission's office in Northern Ireland in February 2010. In April 2010, the Committee considered the Commission's legislative and work programme and the Europe 2020 strategy. The Committee forwarded those to all the Statutory Committees for their information and wrote to Northern Ireland's representatives in Europe to request their views on the work programme and strategy.

The Committee was briefed by the Assembly's Research and Library Service on the European Commission's legislative and work programme. The Assembly's Research and Library Service provides support to Statutory Committees by screening the Commission's work programme, producing a prioritised list of scrutiny topics that are relevant to each Committee and monitoring the development of European policy. The Committee considered a number of priorities, the development of which it was agreed the research team would monitor. The Committee was also briefed by the research service on the Commission's 2011 work programme.

The Committee undertook a joint visit with the Assembly Commission to the European institutions from 8 June to 10 June 2010, during which it met regional Governments, including the delegation of the Basque region to the European Union and the representation of the free state of Bavaria to the European Union. The Committee also held a formal meeting in the Committee of the Region's offices at which it took evidence from the Spanish, Belgian and Hungarian Governments on their priorities for the presidency of the Council of the European Union. The Committee heard about their priorities specifically on poverty and social inclusion.

During the visit, the Committee also met officials from the Scottish Parliament, the Welsh Assembly Government, the House of Commons, the House of Lords and the Oireachtas to consider how the Assembly can improve its engagement in Europe. The Committee commenced its second round of regular briefings in October 2010 and was briefed by the Department on its work in Europe and the work of the office of the Northern Ireland Executive in Brussels. The Committee was briefed on the terms of reference for the review of the Department's European division, which is recommendation 16 of the Committee's report.

The Department briefed the Committee at its meeting of 16 February 2011 at which it provided the Committee with an update on the review of the European division and on the Executive's draft priorities for European engagement. The Committee issued the draft priorities to all Statutory Committees for comment.

Between November 2010 and February 2011, the Committee was briefed by members of the European Economic and Social Committee, members of the Committee of the Regions and by MEPs Bairbre de Brún, Diane Dodds and Jim Nicholson. The Committee was also briefed by the head of the European Commission's office in Northern Ireland.

At its meeting last week, the Committee was briefed by Assembly officials on the Assembly Commission's draft European engagement strategy. I take this opportunity to thank the Commission for consulting the Committee on

that. The Committee is keen for the strategy to be developed and implemented as soon as possible, thereby ensuring that the Assembly is fully engaged in Europe and that it improves the information and intelligence that it gleans from the various European institutions.

To that end, the Committee recommended to the Commission that together they facilitate a round-table meeting to be attended by Northern Ireland's representatives in Europe and other interested parties. Such a meeting would consider what can be done to improve co-ordination and provide a better joined-up approach to dealing with European matters.

The Committee also agreed to recommend that the Commission appoint a European officer as soon as possible. The Committee regards the appointment of that officer as key to providing a co-ordinated approach to European matters and to the Assembly playing an integral part in providing better opportunities and outcomes for Northern Ireland.

The Committee looks forward to the Assembly and its Committees enhancing their engagement with European institutions and to Northern Ireland as a region becoming fully involved in the relevant legislation and policy. I look forward to hearing Members' contributions.

Mr Spratt: Mr Deputy Speaker, I assure you that I, like the Chairman, will be brief and will not speak for my full five minutes. The Chairperson covered all of the points, which is why none of my colleagues will speak in the debate, and I will just re-emphasise one or two points.

The Chair said that much could still be done in Northern Ireland in relation to the laws and policies that come out of the EU. One area of concern to the Committee was the amount of support that you, Mr Deputy Speaker and Mr Bell, who are on the Committee of the Regions, receive on EU issues. The Assembly and the Commission could do much more to make sure that you have some sort of support when going out there to do the work that needs to be done.

When Commission representatives were before the Committee on Wednesday past, the clear message to them from all parties, about which they may not be happy, was that more needed to be done. That does not mean sending somebody out to sit in Europe. There are enough staff in the Assembly who could do more work. For instance, the bringing together of all of the key players — the MEPs, Assembly Members on the Committee of the Regions and all of the other folks involved in Europe — into one room would be a major first step forward. That would be a good starting point.

The Committee has been liaising regularly with MEPs. However, given some of the important issues and laws coming out of Europe, the Assembly could liaise much more. After all, four years have passed, and little has been done in that regard by the Assembly. We need to start to move forward. I have said that we spent the past four years doing nothing while the city burned. The Commission now needs to take a serious look at the whole area and make sure that more work is done. However, given the lateness of the evening, I will not say anything else because the Chairperson covered all of the main points.

Ms M Anderson: Go raibh maith agat. The fact that an estimated 75% of legislation here originated in Europe was one of many reasons that the Committee decided to carry out its inquiry. Throughout 2009, Committee members heard from many groups, organisations and bodies. They gave us information confirming the views of all Committee members that we needed to engage better with Europe and that an engagement strategy was required.

10.45 pm

In producing its report, the Committee established how the Assembly and the Executive could improve interaction with Europe and European institutions and how we could raise our profile. As Jimmy Spratt said, a number of people in the North are working in or associated with Europe. Jimmy mentioned a few of them: our three MEPs; members of the European Economic and Social Committee; the head of the Executive's office in the European Commission, Maurice Maxwell, who gave evidence to the Committee; civil servants in OFMDFM's EU unit; you, Deputy Speaker Molloy, and Jonathan Bell, both of whom are our representatives to the Committee for the Regions. They deserve more support. I absolutely endorse everything that Jimmy Spratt said.

When one links all those people, and there are many more, with President Barosso's unique offer to put the European Commission at the North's disposal, identifying European officials to be our first point of contact, one would imagine that we would be firing on all cylinders.

Unfortunately, as Mr Spratt and others said, that is not so, and that point is stated in the report, which covers the evidence taken by and the recommendations of the Committee for the Office of the First Minister and deputy First Minister. I must thank Committee staff, who assisted us throughout the inquiry and who are still with us, even though it is very late.

The Committee report and its recommendations demonstrate that there is an onus on us all to respond to and take full advantage of the opportunities and benefits that Europe offers. For example, there is a massive budget — I know that it is very late, but there are some things that we cannot ignore — of €36 million waiting to be exploited under research and development, and, at one stage or another, every member of the Committee touched on it. None of that money is earmarked for any particular member state.

Today, I spoke briefly to the Chairperson of the Committee for Employment and Learning, which is looking at how well the Department for Employment and Learning (DEL) is publicising what funds are dispensed by the European Union. MLAs who read the report may, like me, want to probe the Committee's comments further, because it states that a number of funds relate to areas in DEL's remit. The Committee has worked hard to ascertain what the Department is doing to ensure good uptake of the programme. I wonder whether the Minister is applying himself in the same way as the Committee. I fear not.

I am extremely concerned that groups such as Action Mental Health, which we would all agree provides a much needed, valuable service to those who struggle with mental health challenges, are having their EU social fund cut by 25% by the Department. Yet DEL does not seem to be working with the organisation's new horizons programme in Derry, Newry and across the North to assist it to fulfil its mission of enhancing the quality of life and employability of people with mental health needs or with a learning disability by promoting social inclusion through the provision of training and support services. Those are the people who are affected by Departments not tapping into opportunities in Europe.

Time does not permit me to go into more issues, but we all need to do much more to secure Peace IV. As Mr Spratt said, Assembly Commission officials came to the Committee last week to discuss the draft strategy. The best I can say is that I agree with Jimmy: we told them that it was not good enough. In truth, we felt that they should get the finger out —

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

Ms M Anderson: And they really should get to work on developing the robust European engagement strategy that the Assembly requires and which the people deserve.

The Chairperson of the Committee for Enterprise, Trade and Investment (Mr A Maginness): The report is timely, and I agree with Mr Spratt that we must seize the opportunity for European engagement.

I also agree with Mr Elliott's opening remarks about the importance of dealing with the European Union through systematic and constructive engagement. If we neglect engagement with Europe, we do so at our own peril. It is very important that we up our game on European engagement. President Barroso has given us an entrée into Europe. He has also given us many opportunities, but I do not think that we have exploited them properly or constructively. They remain, but there is a time frame, and we have to act quickly.

The Committee for Enterprise, Trade and Investment stressed to the Department of Enterprise, Trade and Investment on several occasions the need to place greater emphasis on innovation and research and development so that Northern Ireland can take full advantage of the opportunities that are available under the seventh EU framework programme and, of course, the subsequent eighth programme. The Committee is concerned that opportunities have been missed, and it has been working to ensure that the Department focuses on future opportunities under the programme. There is €50 billion available for research and development in the European Union. That is the biggest R&D fund in the world. It is up to us to be innovative and energetic in accessing that funding.

Mr Humphrey: Members of the Committee will be aware that I raised that point previously in the Committee. At a recent event that was held in Belfast City Council, a staff member of the European Commission Office in Belfast said that this region could expect to draw down €25 million in the next financial year, whereas our

nearest neighbour in the Republic would be able to draw down somewhere in the region of €600 million. That is the level of work that needs to be done, and it is why there needs to be a clear purpose and a joined-up strategy towards delivering for Northern Ireland.

Mr Deputy Speaker: The Member has an extra minute.

The Chairperson of the Committee for Enterprise, Trade and Investment: I thank the Member for his intervention; he highlighted a very important point. There is a tremendous gap, and we must exploit the opportunities to fill it.

The Committee believes that the Department of Enterprise, Trade and Investment must take the necessary steps to maximise the participation of Northern Ireland organisations under the seventh framework programme and that post-2013, it must ensure that we take full advantage of the opportunities for innovation and research and development that will arise under the eighth framework programme. The Committee believes firmly that the Assembly is currently disconnected from much of what is happening at a European level, and members agree that much more engagement with Europe is required from the Assembly and that it needs to be fully involved with the European Union.

Mr P Ramsey: I went on the trip to Brussels with the Assembly Commission, and I saw that it is clear and obvious that we need to give a much stronger commitment to a base in the Brussels bureaucracy. As the Committee Chairperson outlined, when we look at staff from the other member states who are there, including the Irish Government, and at the staff from the Welsh National Assembly and the Scottish Parliament, we can see the true value for money that they get from it. However, does the Member agree that we need the capacity in all the Committee structures here and in the membership to be able to scrutinise effectively the legislation that is coming through Europe? At the present time, we do not have it, and, more importantly, due to the budgetary constraints this year and the effect that the comprehensive spending review (CSR) has had on the Assembly Commission, the likelihood of our having that base is becoming much less likely.

The Chairperson of the Committee for Enterprise, Trade and Investment: I agree entirely with both the Member's timely intervention and his remarks. I believe that the Assembly's capacity must be enhanced to deal with European legislation at a very early stage. The time to deal with legislation is at a pre-legislative point, and it is very important that the Assembly is represented in the European Union.

Our members believe that it is appropriate for parliamentary bodies to have representation in the EU. As such, the Assembly should maintain a presence in Brussels over and above that of the Executive office. Such a move would assist greatly in keeping Assembly Members informed of developments at a European level, would increase awareness of European matters and would increase connectivity to assist the Assembly in understanding the impact of the European Union on the lives of people in Northern Ireland.

In conclusion, the Committee believes that there is a need for EU legislation that impacts on devolved matters to come before the relevant Statutory Committee in the Assembly at the earliest possible opportunity.

The Chairperson of the Committee for Culture, Arts and Leisure (Mr McElduff): Go raibh maith agat, a LeasCheann Comhairle. I welcome the opportunity to speak to the debate on behalf of the Committee for Culture, Arts and Leisure. I am also a member of the Committee for the Office of the First Minister and deputy First Minister, so I have a strong interest in this area.

The Committee for Culture, Arts and Leisure has been monitoring regularly EU policies in respect of the Department of Culture, Arts and Leisure (DCAL) and its arm's-length bodies. That work has been informed by briefings from Assembly Research and Library Service on the European Commission's legislative and work programme, which Tom Elliott spoke about earlier in the debate. In December 2010, the Committee commissioned a research paper on aspects of the EU culture programme and how it relates to the objectives of the Programme for Government's cohesion, sharing and integration strategy. That culture programme is designed to provide member states with mutual co-operation on cultural matters.

The Committee was concerned that DCAL and its arm's-length bodies had not availed themselves of any opportunities under the current EU culture programme. Given that the aim of the programme is to exploit the cultural sector's potential to contribute to the Europe 2020 strategy for smart, sustainable and inclusive

growth, the Committee raised its concerns with the Minister of Culture, Arts and Leisure last December. Although the Committee was disappointed at the lack of engagement to date, it noted that the Arts Council had submitted a consultation response to the European Commission on the revised culture programme post-2014 and that a number of arm's-length bodies were seeking funding opportunities under the new EU culture programme. That is an important EU programme, and, undoubtedly, the incoming Committee for Culture, Arts and Leisure will want to monitor it.

The Committee for Culture, Arts and Leisure has also been monitoring DCAL's uptake of other EU funding programmes. Given the severity of cuts to the DCAL budget, funding opportunities at EU level must not be overlooked. That, among other things, was discussed with officials on 3 February during a briefing on DCAL's engagement on EU issues. The Committee was encouraged to hear of the reinvigoration of the Barroso task force working group, which is working on new priorities for EU initiatives and programmes in the North to improve competitiveness and create sustainable employment. Although the Department is not the managing authority, officials provided an update on the direct links with Europe on fisheries and the North Atlantic Salmon Conservation Organization. Members learned of the regular engagement of officials with Europe about the north Atlantic salmon stocks.

The Committee learned that DCAL's creative industries team has assisted the Department of Finance and Personnel in encouraging new projects on to the northern periphery programme area, which is under INTERREG, and to engage with the Special EU Programmes Body's (SEUPB) economists to develop the new INTERREG creative industries programmes.

The Committee also received a briefing from the Assembly's Research and Library Service on European issues.

The Chairperson of the Committee for the Office of the First Minister and deputy First Minister: The Member mentioned the European culture programme on a number of occasions. There was no indication of what level of funding, if any, had been accessed from that European cultural organisation for Northern Ireland. Can the Member give any detail on what has been achieved so far?

Mr Deputy Speaker: The Member will have an extra minute.

The Chairperson of the Committee for Culture, Arts and Leisure: My understanding is that the level of funding is extremely limited, perhaps negligible. The Department has been guilty of absolute and utter inattention to that fund, and that is why the Committee for Culture, Arts and Leisure decided to signpost the Department towards the next round of opportunities in 2014. It will be macro-organisations that will be well placed to avail themselves of such funding, but, so far, the impression of the Committee for Culture, Arts and Leisure is that there has been complete inattention and neglect in that area. I understand that the Arts Council has a dedicated person trying to track funding opportunities in Europe, but, to date, the take-up has been extremely negligible. That is our Committee's strong impression on that matter.

11.00 pm

More recently, the Committee received a research briefing on European issues relating to culture, arts and leisure. We discussed the paper with DCAL officials, and members sought assurances that the Department is contributing to relevant policy debates at EU level. The Committee embraced the spirit of what the Committee for the Office of the First Minister and deputy First Minister was doing, which was to prompt the other Committees to take a strong interest in EU scrutiny in their remit.

Members welcomed the Department's appraisal of its work and that of its arm's-length bodies in progressing EU issues. The Committee also welcomed the ongoing progress arising from the OFMDFM Committee's inquiry into European issues and ongoing efforts to improve the Assembly's engagement with Europe.

The Committee also considered the Council of Europe's report on the application of the European Charter for Regional or Minority Languages, and it included a report of the committee of experts (COMEX) on the recommendations on how the charter should be implemented here. We also engaged the Finnish authorities in our Committee inquiry into adult participation in sport and physical activity. That was also a useful exercise.

In conclusion, I agree with the Chairperson of the Committee for Enterprise, Trade and Investment that we neglect EU institutions and

their potential at our peril. I agree with Alban Maginness on that point. Recently, I participated in a visit with the Assembly and Business Trust, and it reinforced the notion that we are not exploiting the potential from European institutions.

The Deputy Chairperson of the Committee for the Office of the First Minister and deputy First Minister (Dr Farry): First, I thank all Members who contributed to tonight's debate on the Committee's report. I also thank the Statutory Committees for their responses on their engagement on European issues. The debate was brief, although slightly longer than it might have seemed. I do not think that that reflects a lack of interest or appreciation of the seriousness of the issues that we are discussing; it is simply a desire to ensure that we keep the business of the House moving at this particular time in our session.

I also want to place on record the Committee's thanks to Northern Ireland's representatives in Europe, namely the MEPs, the members of the European Economic and Social Committee and the members of the Committee of the Regions. I also thank the head of the European Commission's office in Belfast and OFMDFM's European division for their continuing engagement on European issues. The Committee hopes to take forward and enhance that engagement during the next mandate.

Before turning to the individual remarks of Members, I will say that two main themes have come out of the debate. The first relates to the twin challenges of how we go about influencing the development of European policy, and the second lies in maximising access to European funding.

Irrespective of one's view of Europe, what happens in Europe, without question, has a major impact on a host of aspects of life in Northern Ireland, whether it is economic, social, environmental, cultural or agricultural. It is important that we use the levers at our disposal, whether through the formal mechanisms of the national delegation in Brussels or through any other avenues open to us, to try to shape the nature of European policy. It is important that Departments and, more importantly in this context, Assembly Committees are aware of what is happening in respect of legislation and that we have the opportunity to make our points known and can filter through the various reporting processes that exist.

The second theme that has come across clearly from Members is the need and challenge to ensure that we maximise access to European funding. It is clear that Northern Ireland has benefited enormously from a host of European funding over the past decades and at present, whether it is through economic funds, competitive funds, the European social fund, the common agricultural policy and the various Peace programmes. I am sure that I have missed some others. However, there is still real concern that, as things stand, we do not maximise the opportunities available to us. In that respect, the presence and ongoing work of the Barroso task force is critical. The sense from Committee members is that we need to do a lot more.

The Committee Chairperson, my colleague Tom Elliott, set out the background to the work that the Committee has been doing and illustrated to Members the care that has been taken to engage with a host of stakeholders, whether they are our representatives or those of other regions in Europe. Even the fact that we have been able to engage with other regions should benchmark what the Assembly should be doing to engage directly with Europe. It is worth stressing that, in some respects, we are behind the curve. We talk about having some type of Assembly representation, based in Brussels or Belfast, and engaging with Brussels, but others already do that. We are in danger of falling even further behind through not following through on that. Jimmy Spratt focused on the point that more can be done to engage and to co-ordinate all the different opportunities and representation that we have. It came across that a lot of good work is done by different people in Brussels. However, they do not necessarily talk to one another or push in a similar direction.

Mr Spratt: I want to take up the Member's point on what Mr Ramsey said about the Commission. We understand that money will be tight. However, the view right around the Committee was that a good starting point would be to have a dedicated person in the Assembly to deal with European issues — that does not mean somebody going out to Europe regularly — as a first priority, so that we can get the ball rolling and stop the drift on issues that we need to be on top of day and daily.

The Deputy Chairperson of the Committee for the Office of the First Minister and deputy First Minister: Mr Spratt's comments reflect the collective view of the Committee at its most recent meeting on Wednesday 2 March 2011. We want to get the ball rolling to create a presence. Perhaps, a presence in Belfast is the best way to start. Its effectiveness could be reviewed within, perhaps, a year of its establishment. There is a direction of travel that we are keen to take. Mr Spratt expressed frustration that Assembly engagement in Europe has been long talked about but has not really been followed through to a formal conclusion.

Mr P Ramsey: I will try to respond to the Deputy Chairperson not on the Commission's behalf but as a member of the Commission. We have been exercised by having a strategic presence in Brussels to make that difference. However, I reiterate my point that we have, for example, discussed with the Executive the shared use of their office accommodation in Brussels. We have looked at that issue seriously. The nominated member of Assembly staff who looks at those issues has carried out a major consultation with MEPs and other interested parties. It is the desire of the Assembly Commission to set up that operation. We are going through the CSR period, as Mr Spratt said. The SDLP's position is to pursue that operation vigorously to create the capacity to work effectively on behalf of the Commission and all Committees. I have to say that the presence should be not in an office in Belfast but in Brussels.

The Deputy Chairperson of the Committee for the Office of the First Minister and deputy First Minister: I am encouraged by Mr Ramsey's remarks on behalf of the Commission. No doubt the Commission will, in due course, if it has not done so already, reflect on the views expressed through the Committee for the Office of the First Minister and deputy First Minister. I have every confidence that, in the near future, there will be a meeting of minds on the best way forward. Perhaps, tonight, we are crystallising that debate in a constructive way.

Mr Humphrey: Does the Deputy Chairperson agree that, given the financial constraints that now apply in the United Kingdom due to Tory cuts, if we can extract more money from Europe as a region, that money can offset the cuts made by the national Government and help to develop and progress the Northern Ireland economy in a much more rapid and focused way?

The Deputy Chairperson of the Committee for the Office of the First Minister and deputy First Minister: I am half conscious that I am responding on behalf of the Committee, and I will probably let Mr Humphrey's comments stand in their own right. I may have my own view on that, but Mr Humphrey has made his point, and, no doubt, it is a theme that will recur over the coming days in the Chamber.

Martina Anderson stressed the importance of an overall engagement strategy with Europe. That very much feeds into the approach that has been taken. Examples have been given of areas in which we can do things better and where we can better take the opportunities that are available to us.

Alban Maginness and Barry McElduff reflected the perspective of at least two of the Committees that are engaging with European issues. Alban Maginness spoke about the Committee for Enterprise, Trade and Investment, and Barry McElduff spoke about the Committee for Culture, Arts and Leisure. Both spelt out examples of concerns at the lack of take-up of the major opportunities that are there. That points to the importance of the Committee system here. That Committee system has, potentially, more clout relative to the Executive than that of many of our sister Assemblies and Parliaments on these islands. It is important that Committees put pressure on their Department to ensure that all opportunities are taken but also that the Committees have access to that support to know to ask the searching questions of Departments, where they feel that there is a deficit in what is being taken forward.

The fact that at least two Committee Chairpersons, in addition to members from my Committee, have made comments shows that Europe is very much a cross-cutting issue that touches the functions of virtually every Department in Northern Ireland. This is not something that simply sits in a silo for OFMDFM, even though the Committee and the Department have lead responsibility in the area.

I am conscious that I have 15 minutes to make a winding-up speech, but, in the spirit of the debate and given the way in which other Members approached the debate, I do not think that it is appropriate to use the full time.

I assure the House that the Committee will continue to work and co-ordinate with the Assembly Commission and the Office of the First Minister and deputy First Minister to ensure that there is enhanced engagement and improved interaction with Europe. Europe is a cross-cutting issue that covers many areas, from agriculture to territorial cohesion. We will, therefore, also continue to seek the support and assistance of other Statutory Committees in scrutinising Departments' work in Europe, and we encourage Statutory Committees to get further involved in the development of relevant European legislation and policy.

The Committee wishes to help to promote Northern Ireland as an active region of the European community, where it not only receives European funding but becomes fully involved in the development of legislation and policy and shares its valuable experiences with other regions of Europe. I commend the report to the House.

Question put and agreed to.

Resolved:

> *That this Assembly takes note of the report of the Committee for the Office of the First Minister and deputy First Minister (NIA 48/10/11R) on Statutory Committee activity on European issues.*

Private Members' Business

Autism Bill: Further Consideration Stage

Mr Deputy Speaker: The debate on the Further Consideration Stage of the Autism Bill will be short, but it is important that the quorum remains. I call the sponsor, Mr Dominic Bradley, to move the Further Consideration Stage of the Autism Bill.

Moved. — [Mr D Bradley.]

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 provisional grouping of amendments selected list.

There is only one group of amendments. The debate will be on amendment Nos 1 and 2, which are technical amendments, removing the reference to Orders and moving the provisions contained in clause 5 into clause 3. I remind members that, under Standing Order 37(2), the Further Consideration Stage of a Bill is restricted to debating any further amendments tabled to the Bill.

Once the debate on the group is completed, the Question on amendment No 1 will be put. The second amendment will be moved formally, and the Question on it will be put without further debate. If that is clear, we shall proceed.

Clause 3 (Content of the autism strategy)

Mr Deputy Speaker: We now come to the amendments for debate. With amendment No 1, it will be convenient to debate amendment No 2. Both amendments are technical in nature. I call Mr Dominic Bradley to move amendment No 1 and address the other amendments in the group.

Mr D Bradley: I beg to move amendment No 1: In page 2, line 27, at end insert

> *"(6) No regulation may be made under this section unless a draft of the regulation has been laid before, and approved by resolution of, the Assembly.*
>
> *(7) Before making a regulation under this section the Department must consult the Northern Ireland departments and such other persons as the Department thinks appropriate."*

The following amendment stood on the Marshalled List:

No 2: In clause 5, page 3, line 10, leave out clause 5. — *[Mr D Bradley.]*

11.15 pm

Mr D Bradley: Go raibh maith agat, a LeasCheann Comhairle. The amendments are interrelated and have been brought before the House on the advice of the Examiner of Statutory Rules by way of simply tidying up some technical loose ends. As you said, Mr Deputy Speaker, amendment No 1 will remove the reference to Orders from clause 5. That reference is now redundant due to other changes that were made earlier during the passage of the Bill. The amendment will also move the other provisions contained in clause 5 of the Bill to clause 3.

Amendment No 2 will simply remove clause 5, which, as a result of amendment No 1, is no longer necessary.

Mr P Ramsey: Will the Member give way?

Mr D Bradley: I will.

Mr P Ramsey: I thank and commend the sponsor of the Autism Bill. We have to commend him on his determination, compassion and grit throughout the process. Can he assure the 30,000 people who have autism across Northern Ireland, their families and their carers that there is no dilution of the Bill in relation to equality or access to provision of services as a result of the amendments?

Mr D Bradley: I thank the Member for his intervention and kind words. I can give him the assurance that he has asked for. As I said, amendment No 2 will simply remove clause 5, which is no longer necessary. The Health Committee has been made aware of the amendments and has no issues with them. The Member will be happy to hear that the amendments will have no effect on the provisions of the Bill and are merely a matter of good legislative practice. On that basis, I am pleased to commend them to the House.

Mr I McCrea: As a member of the all-party autism group, I support the amendments. Technical in nature though they may be, they are important in moving the legislation forward. I do not wish to go into detail, because Mr Bradley has already dealt with the amendments, but I want to make it clear that I unapologetically support the Bill and look forward to it moving to the next stage.

Mr McCallister: I join others in congratulating the sponsor of the Bill on reaching this stage. As he rightly said, the amendments are technical in nature and are a tidying-up exercise, as this is the last opportunity to table amendments. We support the amendments.

Mr McCarthy: I fully support both amendments, and I declare an interest as a member of the all-party group on autism. I also pay tribute to our chairman for his leadership and to all the organisations and groups that have been involved in getting us to where we are. I also pay tribute to the families and carers for their dedication and work in the community. We all know the hardships that they have to go through.

I declare a commitment to ensuring that all people in Northern Ireland with autism, young and not so young, are fully supported in every aspect of life, the same as every other person in Northern Ireland. The Alliance Party fully supports the Autism Act (Northern Ireland) 2011 and looks forward to the final passage of this important Bill.

Mr Callaghan: Go raibh maith agat, a LeasCheann Comhairle. Ba mhaith liom mo chara an tUasal Ó Brollacháin a mholadh as an fhíor-iarracht agus an fhíor-obair atá déanta aige le grúpaí, le daoine agus le saincheisteanna atá ceangailte leis an Bhille an-tábhachtach seo.

I acknowledge the efforts of my colleague Mr Bradley in working with groups on matters relating to the Bill to bring it to this stage. Although these are technical amendments, they show the efforts of everybody involved with the Bill to ensure that it is fit for purpose and meets the challenges that it will face after its enactment. I commend the Bill to the House and look forward to its enactment before the end of the mandate.

Mr D Bradley: Go raibh míle maith agat, a LeasCheann Comhairle. It remains for me only to thank the Members who contributed to the debate. Some mentioned the all-party group on autism, which was instrumental in bringing the Bill to Further Consideration Stage. As chairperson of that group, I appreciate very much the co-operation and hard work of all its members, representing all parties in the House.

I also express my appreciation to the autism charities and advocacy groups that supported the Bill: the National Autistic Society, Parents' Education as Autism Therapists (PEAT) and, last

but by no means least, Autism Northern Ireland, which provided us with tremendous support. I pay particular tribute to the chief executive of that organisation, Mrs Arlene Cassidy, and wish her a speedy recovery after her spell in hospital. I should also mention Mrs Eileen Bell, a former occupant of the Speaker's Chair, who has been extremely supportive, as has Mr David Heatley. The efforts of all those people together ensured that the Bill got to this stage.

After it is referred to the Speaker, hopefully this evening, I look forward to its successful Final Stage.

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

Clause 5 (Regulations and orders made under this Act)

Amendment No 2 made: In page 3, line 10, leave out clause 5. — *[Mr D Bradley.]*

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

Adjourned at 11.23 pm.

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