
OFFICIAL REPORT

(HANSARD)

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NORTHERN IRELAND ASSEMBLY

Tuesday 13 January 2009

*The Assembly met at 10.30 am (Mr Deputy Speaker
[Mr Dallat] in the Chair).*

Members observed two minutes' silence.

EXECUTIVE COMMITTEE BUSINESS

Financial Assistance Bill

Accelerated Passage

The deputy First Minister (Mr M McGuinness): I beg to move

That the Financial Assistance Bill proceed under the accelerated passage procedure.

Go raibh maith agat, a LeasCheann Comhairle. The Financial Assistance Bill fulfils a commitment that the First Minister and I gave during the debate that was held in the Assembly on 15 December 2008 on the impact of the global economic downturn. During that debate, we stated that we would introduce legislation early in the new year that would allow the Executive to respond quickly and effectively to the needs of our people.

The Bill aims to provide a firm statutory basis for the Executive to respond to exceptional circumstances or to provide additional financial aid when that is seen as a necessary element of the Executive's response to tackling poverty, deprivation and social exclusion. The fact that the legislation will confer the necessary legislative authority to enable us to assist households with fuel payments means that time is of the essence. For that reason, we are seeking support for the accelerated passage of the Bill.

Subject to the Assembly's agreement, that procedure will allow the Bill to pass all its Stages by the end of January and, in turn, will allow for the cost of resources that have been allocated for a fuel poverty scheme to be incurred during this financial year. Without the accelerated passage procedure, the earliest that we would anticipate having the necessary legal authority to incur such expenditure would be well into the next financial year. That would result in our losing the opportunity to use the allocated resources during this financial year.

I am sure that Members recognise that we need to get the fuel payment out as soon as possible in order for it to be effective in its aim of alleviating fuel poverty and hardship this winter. The only way to get that payment out to people is to pass the new legislation. We are taking this action in acknowledgement of the real hardship and urgent need of those who cannot afford to heat their homes this winter and of those who are struggling seriously to find a way to continue to heat their homes.

In coming to the Assembly seeking accelerated passage for the Financial Assistance Bill, we must all acknowledge that, in the past, we have not been able to respond adequately and swiftly to unfolding and unforeseen events.

The Assembly and the Executive have a responsibility to make provision for dealing with such events in a timely manner, so as to help alleviate suffering and distress in our communities. Surely no-one wants to see our communities continue to suffer from deprivation, poverty and disadvantage.

The junior Ministers discussed their proposals for the Bill and its accelerated passage through the Assembly with the Committee for the Office of the First Minister and deputy First Minister at a special meeting on 5 January. We are grateful to Committee members for agreeing to that meeting and for agreeing to support accelerated passage. The Chairperson formally informed us of that support on 6 January, and for that we are also grateful.

During that meeting, in answer to concerns raised about the role of the Executive and individual Ministers regarding any designations made under the Bill, the junior Ministers advised the Committee that the requirement for any determination or designation under the Bill that would be brought to the Executive would be strengthened by an amendment to the ministerial code. The Committee has asked to see details of that amendment. Amendments to the ministerial code can be proposed to the Assembly only by the Executive; therefore, the amendment must be considered and agreed by the Executive at their next meeting on 15 January. We will forward to the Committee details of the amendment to which we are asking the Executive to agree.

Our proposal to the Executive is that paragraph 2.4 of the ministerial code be amended by the inclusion of a new subsection as follows:

“Any matter which relates to a proposal to make a determination and designation under the Financial Assistance Act 2009 shall be brought to the attention of the Executive Committee by the responsible Minister to be considered by the Committee.”

In essence, it will mean that any exercise of powers under the Bill will be with Executive agreement.

I hope that I have explained the reasons for seeking accelerated passage and the consequences of its not being granted, as required by Standing Order 42(4). I trust that the Assembly can see the exceptional nature of the issue and the fact that a genuine and urgent necessity exists that has been brought about by the global economic crisis.

Standing Order 42(4)(c) also requires us to explain, if appropriate, any steps taken to minimise the future use of the accelerated passage procedure. I am aware that some members of the Committee for the Office of the First Minister and deputy First Minister suggested decoupling clauses 1 and 2 of the Bill. However, they need to be aware that the Bill is about addressing, as a matter of urgency, hardship, whether arising from unforeseen circumstances or from a person's experience of poverty, deprivation and social exclusion. The Executive need powers to respond urgently in either situation.

Our experience since restoration has shown that, as an Executive, we need to be in a position to react quickly to unforeseen events and to ensure that measures can be put in place urgently in order to deal with inadequacies in current provisions for tackling poverty, social exclusion, or patterns of deprivation. The Bill provides us with the legislative basis upon which to do that, and it is important that it be enacted at the earliest opportunity. We hope that the powers that the Executive will have under the Bill will avoid the need for urgent Bills to tackle unforeseen events in the future or gaps in the arrangements to tackle poverty, social exclusion or deprivation.

We assure the Assembly that, where time permits, our practice will be to take Bills through the Assembly under the normal process, as we have done, for example, in relation to the Public Authorities (Reform) Bill.

The Chairperson of the Committee for the Office of the First Minister and deputy First Minister (Mr Kennedy): I am grateful for the opportunity to provide an insight into the Committee's role in this important legislation. I will also offer some views on behalf of my own political party.

Standing Order 42(3) states:

"Where, exceptionally, a Bill...is thought to require accelerated passage...the member in charge of the Bill" —

or in this case, members —

"shall, before introduction of the Bill in the Assembly, explain to the appropriate committee —

- (a) the reason or reasons for accelerated passage;
- (b) the consequences of accelerated passage not being granted; and, if appropriate,
- (c) any steps he or she has taken to minimise the future use of the accelerated passage procedure."

I intend to provide the Assembly with information on the role of the Office of the First Minister and deputy First Minister (OFMDFM) which is relevant to the requirements of the Standing Orders. The OFMDFM Committee became aware of the fact that the legislation before the House today would be required when the First Minister made a statement to the House on 15 December 2008. He announced that the Office of the First Minister and deputy First Minister proposed:

"to introduce a Bill to provide for permissive powers to implement remedial action in response to any circumstance that the Executive agree warrants rapid and effective action." — [*Official Report, Vol 36, No3, p122, col 1*].

The Committee received a copy of the Bill and an explanatory memorandum on Wednesday 31 December 2008, and was briefed on the proposed Financial Assistance Bill by the junior Ministers on 5 January 2009. They explained the reasons as per Standing Order 42(3) for seeking accelerated passage for the Bill through the Assembly, and the Committee agreed to endorse the accelerated passage. I trust that my explanation of the Committee's consideration of the Financial Assistance Bill will assist the House in its consideration of the motion for accelerated passage.

I will now offer insights on a party political basis. The Ulster Unionist Party recognises fully the dire circumstances that many people are facing at present due to unprecedented economic circumstances. On a daily basis, we are becoming increasingly aware of how integrated the global economy really is, as job losses are on the rise, and production, exports and inward investments are all down.

The Ulster Unionist Party also supports the fact that the Executive, despite 154 days of self-imposed intransigence, have finally come up with some form of plan to help some of those most affected by the current circumstances, and this Bill forms a part of that plan. If the Executive had been able to meet sooner, those most in need may well have been assisted by now.

The Bill that was introduced yesterday, and which will be further considered today, will set out the legislative foundations that allow assistance to be given to those who receive pension credits and income support in order that they can further meet their fuel and energy needs. Although this Bill is, perhaps, not the perfect mechanism through which to provide such help, it is to be welcomed.

Therefore, the Ulster Unionist Party recognises the need to implement those measures quickly, and I accept the arguments for accelerated passage. However, the Financial Assistance Bill is a substantial piece of legislation. It proposes to give unique powers to the First Minister and deputy First Minister, which could have considerable ramifications on how Departments manage their budgets, and, indeed, what control they

have over the entirety of those budgets in the future. It is crucial, therefore, that the Bill is given the greatest amount of scrutiny possible because it will have a lasting impact. It is crucial, therefore, that we get it right. We do not want to legislate in haste only to repent at leisure.

Recently, the Local Government (Boundaries) Bill and the Commission for Victims and Survivors Bill were pushed through the Assembly by accelerated passage for less than satisfactory reasons. During the debates on those Bills, parties, including the Ulster Unionist Party, brought forward, in good faith, reasonable amendments that sought to improve those Bills for the benefit of the people of Northern Ireland. Unfortunately, all of those amendments were treated with impunity by the relevant Ministers, and Sinn Féin and the DUP ran roughshod over all attempts to improve those Bills.

10.45 am

If a Bill must progress through the Chamber by accelerated passage, all Members' opinions must be given due respect and serious consideration by the relevant Ministers. In this instance, I understand that there are quite serious reservations at Executive and Committee level about the current make-up of the Bill. I hope that the First Minister and the deputy First Minister will be open to reasoned and constructive debate and that any potential amendments to aspects of the Bill may be brought forward from any quarter. Not to do so would be an abuse of the accelerated-passage procedure and an abuse of power; not only by OFMDFM, but, in particular, by Sinn Féin and the DUP.

I look forward to the Bill's passage and the potential aid and relief that it may bring to people who suffer from fuel poverty throughout Northern Ireland. However, the desire and need to help those people should not be used as an excuse to allow a Bill to be passed that is either sloppy or detrimental to the principles of good Government.

Mr Moutray: I support the accelerated passage of the Financial Assistance Bill. Given the current volatile economic climate, it is welcome.

At present, we are witnessing those difficult times at first hand. Accelerated passage of the Bill will allow the Government to take remedial action in both the current situation and exceptional circumstances that may arise in the future. Initially, it will allow the distribution of £15 million in a bid to reduce fuel poverty in society. It will also provide the Executive with the legislative framework that will enable fast, effective financial assistance to be delivered to the people who are most in need.

We live in a time when people are in need. They need assistance now — not in six months' time. Accelerated passage of the Bill will enable such help to be provided. It will enable the Government to take

remedial action and to act swiftly to any exceptional circumstances that may arise. We have only to think back to circumstances such as flooding and the hike in fuel prices during the past year to see the benefits that the legislation will bring. It will allow the Executive and Government Departments to assist the people who are in greatest need.

I welcome the accelerated passage of the Bill.

Mr Molloy: Go raibh maith agat, a LeasCheann Comhairle. I welcome the Bill and support its accelerated passage. The Bill is an important piece of legislation that will enable the Assembly to respond quickly to events that may arise in the future.

As regards the current economic downturn and concerns about whether the Assembly can meet the public's needs, particularly those of less-well-off people, the Bill will enable the Executive to provide payments to support them. It is important that the Assembly is able to respond. The general public expects a local Assembly to respond quicker than direct rule Ministers would have done. Therefore, it is important to have in place legislation that enables it to do so. Accelerated passage is the only way to enable payments to be made quickly in the present situation.

Junior Ministers, Mr Donaldson and Mr Kelly, provided the Committee with a detailed explanation of why accelerated passage is necessary. Members raised several questions and debate ensued. This morning, the deputy First Minister has explained the change to the ministerial code that will enable Ministers who may have concerns that the legislation will undermine their powers.

The legislation helps all Ministers collectively. Although its powers must be directed by the First Minister and the deputy First Minister, that must be done in conjunction with the other Executive Ministers. Therefore, it is important that the Assembly recognises that the legislation will bring Ministers together to provide a response to the community's needs. The Bill empowers all Ministers to make payments and legislation where required and to, therefore, be able to deal with situations that might arise in the future for which no legislation exists at present.

Although the Assembly has been up and running for several years, there is no legislation that ensures that it can respond quickly and efficiently to the community's needs in such circumstances.

It is important that the Bill not be held up at this stage. Before the Christmas recess, all Members were seeking to act quickly to meet the community's needs and to respond to requests from the business community and the public. The process must not be held up any further. We must grant the Bill accelerated passage so that the process can operate. Go raibh maith agat.

Mrs D Kelly: I welcome the opportunity to speak about the accelerated passage of such a wide-ranging and sweeping piece of legislation. The SDLP shares many of the concerns that Mr Danny Kennedy expressed on behalf of the Ulster Unionist Party.

As a member of Sinn Féin, the deputy First Minister's words of concern about the dire need and hardship facing people in our community ring particularly hollow. These are most exceptional times, but, for 154 days, the deputy First Minister's party, in partnership with the DUP, did not tackle the economic downturn.

I remind Members that, on 15 September 2008, the Minister for Social Development, Margaret Ritchie, submitted proposals for dealing with fuel poverty for discussion at the Executive meeting on 18 September, but that meeting was cancelled. On 2 October, she submitted proposals for urgent procedures to be used. That lends somewhat to Francie Molloy's lie that the Assembly did not have the ability to deal with an emergency situation, because urgent procedures and regulations are available to Ministers.

Mr Molloy: I thank the Member for giving way. Will the Member make it clear that Minister Ritchie did not have the legislation in place in order to make those payments, even if the proposals had been dealt with at that time?

Mrs D Kelly: I will not. The Minister put forward draft legislation and proposals on 2 October, and that day's Executive meeting was cancelled. Had that not happened, payments could already have been in the pockets of families who are facing hardship.

The First Minister (Mr P Robinson): Will the Member get it into her head that one must have resources in order to make payments? The Minister did not have those resources, because those resources only became available as a result of the December monitoring round.

Mrs D Kelly: Will the First Minister therefore explain why the Bill grants the First Minister and the deputy First Minister the ability to tell other Ministers how to spend and prioritise their budget, when they are not being given the money to do so? That is what the Bill states.

Some Members: Hear, hear.

The First Minister: That is absolute nonsense.

The Deputy Speaker: Order. The Member has the Floor. All remarks should be directed through the Chair.

Dr Farry: Will the Member give way?

Mrs D Kelly: I will.

Dr Farry: I am grateful to the Member for giving way. Does she agree that, if the Executive had been meeting, it would have been entirely possible for legislation to have been implemented last autumn? A

modality scheme could have been put in place, with the money allocated in the December monitoring round and handed out before Christmas.

Mrs D Kelly: I thank Dr Farry for his support, and, indeed, that is what I was saying. Had the Minister for Social Development been supported by the other Ministers in the Executive, the money would already be in the pockets of those who are most in need. Electricity bills are hitting the mats of homes throughout the North as we speak.

Only yesterday, in response to a question about the need for a full-time older persons' commissioner, the First Minister said that, by its very nature, it takes between one year and two years for such substantial legislation to be brought before the Assembly. However, the OFMDFM Committee received notice of last Monday's meeting only on New Year's Eve. That hardly gave any of us enough time to consider such a far-reaching piece of legislation.

We have difficulties with clause 2. However, because of its concerns for social justice and for the people facing hardship, our party will not oppose the use of the accelerated-passage procedure for the Bill. Nevertheless, we will seek amendments to the entire Bill, because we are concerned at some of the powers that the First Minister and the deputy First Minister, and their respective parties, are taking on to themselves.

Mrs Long: I will specifically address the issue of accelerated passage, and, despite evidence to the contrary, I do not want to repeat myself. If accelerated passage is granted, I will discuss the detail of the Bill during its Second Stage.

The Alliance Party sees a principled difference between accelerated passage being necessary for clause 1 and clause 2 of the Bill. I welcome the fact that the First Minister and deputy First Minister — particularly the latter — have indicated that they are willing to consider reasonable amendments. Furthermore, in the past few minutes, I have received notification from the private office in the Office of the First Minister and deputy First Minister that it intends to answer my queries as quickly as possible. I appreciate that development, because I was concerned yesterday after Question Time that that might not happen.

First, I will discuss accelerated passage of clause 1. Members have already referred to the current financial circumstances and the hardship that people in our community are experiencing. All Members recognise that we must take urgent action to address that problem. From that perspective, the Alliance Party thinks that the emergency provisions included in clause 1 merit accelerated passage. Although the party does not agree with every aspect of clause 1, it believes that its concerns can be addressed through amendments during the accelerated passage procedure. Therefore, the party is

happy to support the accelerated passage of clause 1 in the context that it can be subject to amendment, the details of which I will discuss during the Bill's Second Stage.

However, there is a significant difference between consideration of clause 1 and clause 2, which deals with social exclusion, deprivation and poverty. Everyone will agree that those urgent issues must be addressed. No one would have argued that those issues were not urgent when the Executive were established a year and a half ago or that they have not been urgent since that time. However, we must question whether accelerated passage is necessary in order to address the provisions in the Bill that cover those issues or whether they would be better addressed by the Committee, which could gather evidence from, for example, the community and voluntary sector, other Committees such as the Committee for Health, Social Services and Public Safety, the Committee for Social Development, the Committee for Enterprise, Trade and Investment, the Committee for Education and all other Departments that are involved in tackling patterns of social exclusion, deprivation and poverty. That procedure could determine the appropriateness of establishing any mechanisms.

During Committee meetings, I highlighted the fact that the Office of the First Minister and deputy First Minister has identified a gap — which affects clause 2 — in its ability to direct other Departments on cross-cutting themes, on which it is the policy driver but the delivery mechanism lies with other Departments. I agree that such a mechanism is necessary.

The matter has been debated in two contexts. First, during the inquiry into child poverty, it became apparent that, if a Minister decided to frustrate action on child poverty issues or tackling social exclusion deliberately, it would be difficult to force that Minister to adhere to the policy that was agreed by the Office of the First Minister and deputy First Minister. Secondly, the issue was debated in the context of the cessation of the Executive programme fund and the special programme fund, both of which provided an opportunity to draw together a central fund to tackle cross-cutting issues. After the cessation of those funds, and because of the lack of ring-fencing, important questions had to be answered about what levers existed in the Office of the First Minister and deputy First Minister to ensure delivery of key issues that might not be of high priority in individual Department budgets but are important to the Executive's overall function and the Programme for Government.

That matter caused a protracted debate. At the time, the junior Ministers suggested that such a capability gap did not exist. However, this legislation, particularly in the context of clause 2, indicates that such a gap does exist. At my request, the Committee commissioned research on how other devolved Administrations and

other Governments deal with cross-cutting issues. Of course, the situation elsewhere is often not as complex, because the Assembly is a mandatory coalition rather than a voluntary coalition that is based on the agreement of some form of programme for government.

However, that request was answered with a number of suggestions that are different from those that have been formulated in the legislation.

11.00 am

It is important that there should be a Committee Stage to consider the options that were outlined in that piece of research, the issues that arise in clause 2 of the Bill and, more importantly, the implications for other cross-cutting themes — such as sustainability, community relations and the many other important themes in the Programme for Government — and how they can be enacted.

We are conscious, in the current climate, of the urgency of tackling social deprivation and poverty, because those are particularly pressing issues in a time of economic hardship. However, my party believes that the provisions for exceptional circumstances that are outlined in clause 1 would give OFMDFM the power to intervene in areas of social deprivation and exclusion in the interim, while more reasoned ways of dealing with those issues on a longer-term basis could be subject to the Committee procedure, and more robust mechanisms could perhaps be put in place.

We have significant reservations about accelerated passage with regard to clause 2, though not with the principle that some action must be taken to tighten the way in which the Executive respond to the issues that are dealt with in that clause. There is a distinction between those. We are not claiming that the current arrangements are perfect; we are simply claiming that they could be better thought through if there were to be a Committee Stage, and perhaps alternative arrangements could be put in place. On the other hand, perhaps the Committee Stage would identify that alternative measures would not be robust enough to deal with the situation.

The requirement for accelerated passage has been outlined substantially in regard to clause 1, and we are willing to accept that. The consequences of accelerated passage not being granted are apparent. A number of Members have focused on the anticipated first use of the Bill. However, there is a distinct danger in focusing too much on that anticipated first use, because one must also consider other uses to which the Bill might be put in the future. We accept that, in relation to the first use of the Bill and with regard to clause 1, the need for accelerated passage has been established, and my party is content with that, although it is less content with that in respect of clause 2.

I will now consider the steps taken to minimise future use of accelerated passage. The need for legislation was

first identified towards the end of last summer when the Department for Social Development (DSD) was considering the issue of fuel poverty. At that point, it was identified that, if DSD — or possibly the Department of Enterprise, Trade and Investment (DETI) — was to bring forward some kind of mechanism to tackle fuel poverty, there would be no legislative cover for that. The Executive, quite rightly, decided that the issue should not be dealt with Department by Department, through a series of Bills, but that a single Bill should encompass all Departments. That is the right way to go; there is no dispute on that. However, no progress was made on that through the autumn. At a meeting of the OFMDFM Committee, I asked whether there was any reason why that legislation had not been progressed — other than the self-imposed hiatus in Executive functioning during the autumn. There was no other reason, or if there was, the junior Ministers did not provide any detail on it.

On the one hand, the formulation of a single Executive Bill — rather than a series of Bills from individual Departments — will avoid the repeated use of accelerated passage. On the other hand, I am concerned that accelerated passage could have been invoked earlier, if it was necessary, or that it might not have been needed at all had the lack of legislative cover been addressed in a timely fashion. I am not convinced, with regard to either option, that clause 3 has been satisfied.

Several Members have focused heavily on the anticipated first use of the Bill. Stephen Moutray, for example, said that it would enable such help to be given. However, we must be conscious of the fact that it could enable a wide range of other things.

I am loath to use the phrase “Trojan Horse”, but there is a danger that the need that precipitates the Bill, and its anticipated first use, become the only issues on which Members focus, rather than the Bill’s enabling powers.

I will discuss our concerns about the extent of the Bill’s enabling powers at its Second Stage, because there are some ways in which those concerns can be addressed through amendments. I do not want to get into that now, but we must be very conscious of the difference between what the Bill enables the Department to do and what the Department could use the Bill to do in the first instance.

The Good Friday Agreement afforded autonomy to Ministers within their departmental remits. That was slightly altered by the St Andrews Agreement. We have never been enthusiastic about that autonomy; we would prefer to see collectivity and drive towards that. My concern is that rather than being a drive towards greater collectivity, this Bill provides greater power for OFMDFM and a reduction in the autonomy of other ministries.

That is not necessarily the same as collective working, and I will explore that during the Second Stage.

As Members will have gathered from what I have said, we are not satisfied with accelerated passage for clause 2, but we accept that accelerated passage is necessary for clause 1. Clause 2 still forms part of the Bill, but we will be able to make amendments as the Second Stage progresses. We will, therefore, abstain from voting on the issue of accelerated passage.

Mr Shannon: I support accelerated passage for this Bill. The comments from across this Assembly are very clear. Although Members may have some concerns, the need for accelerated passage is obvious. It is imperative that the Executive and the Assembly are able to respond to conditions, whether financial or otherwise. My colleague Stephen Moutray listed some of the occasions on which it was necessary to do so — I believe that it is necessary now.

Every one of us is aware of the issue of fuel poverty. Accelerated passage is needed so that the money will be available to the people who need it most. As I am sure that other Members are, I am in constant contact with elderly people and vulnerable families. The dire circumstances that those people face are very clear. When I come to this Assembly, my duty is to deliver for those people. I hope that this Assembly will also deliver for them — it is very important that it does so.

It is imperative that this Assembly is able to respond when the need exists; not in a few months’ time when the problems and difficulties have become worse and the financial hardship that people face has become almost unbearable. The legacy may be there in two months’ time, but the need to respond exists today.

We are in very difficult circumstances. Some have lost their jobs, and the occupations of others are in doubt. People are worried about water rates and their prospects for the future. Fuel poverty is very clearly one of the issues about which people are concerned. It is important that we are able to respond to the needs of all the vulnerable people whom we meet on a daily basis. The spectre of fuel poverty hangs over the heads of hundreds of thousands of our constituents like the sword of Damocles. That is all the more reason to grant accelerated passage to this Bill so that progress can be made very quickly.

Accelerated passage will enable the Ministers, the Executive and this Assembly to respond in an urgent and effective manner. Let us not get bogged down in rhetoric — instead, let us ensure that our constituents feel the benefits of a fully working Assembly and Executive. I support the motion.

Mr O’Loan: I speak about the issue of accelerated passage for this Bill, and I will have more to say during its Second Stage. Most people will think that this is an innocuous, well-intentioned piece of legislation that is

merited by the situation. I describe it as a loathsome, dishonest piece of legislation. In fact, I find it particularly loathsome because it is so dishonest.

We are told that motivation for the Bill has come from the fuel poverty issue, and, no doubt, we will be asked to reflect on matters such as last year's flooding situation. We are told that a fast-track mechanism is needed — and I agree — but it must be the right fast-track mechanism, and this Bill is not that.

I deeply resent being pushed into accepting accelerated passage for the Bill in order to get fuel poverty payments to the people who need them. The SDLP will agree to accelerated passage, because those people need payments, but it deeply resents being forced to do so.

Members should take a glance at what is happening in the USA today, where the Senate is holding confirmation hearings for Senator Hillary Clinton's nomination to be that country's Secretary of State. That is democracy at work. The decision to appoint the Secretary of State or other members of his Cabinet does not lie with the President or the President to be. The legislature there protects its democratic rights jealously; it recognises that it represents the people, and it subjects even the President's decisions to scrutiny. That is what should be happening in the Assembly; however, it is not happening and, most importantly, it will not happen if this piece of legislation goes through without amendment.

The Assembly and its scrutiny Committees should be examining the Bill line by line. Were they to do so, they would not like what they would see and they would demand changes. The Bill makes far-reaching changes to how decisions on major issues, with major financial implications, can be taken in the Assembly. It places power in the hands of the First Minister and the deputy First Minister, which is an arrogation of the rights of the entire Executive, the Assembly and its Committees. It is a disgrace that this is being done under the pretext of getting money to the fuel poor.

Earlier, I referred to dishonesty in the Bill. I shall quote from the letter that was sent to the Chairperson of the Committee for the Office of the First Minister and deputy First Minister and from the Bill's explanatory and financial memorandum. I do so because those documents tell us that the Bill is a measure by which the Executive will take action. The letter to the Chairperson states that there will be:

“powers to implement remedial action in response to any circumstance that the Executive agrees warrants rapid and effective action.”

We are told in paragraph 4 of the explanatory and financial memorandum:

“The aim of the Bill is to provide the Executive with flexibility in the allocation and distribution of resources across all Departments”.

In paragraph 7 we are told:

“the Executive needs to be prepared, both financially and legislatively, to deal with exceptional, extreme and unanticipated circumstances ... The legislation will provide them with the flexibility to take remedial action to respond to circumstances that the Executive agrees warrants rapid and effective action.”

I ask Members to examine the Bill and to find where it is stated that the Executive will decide what action is required and what remedy will be applied to address the situation. Members can look, but they will find that it is not there — the powers are given entirely to the First Minister and the deputy First Minister.

The Committee for the Office of the First Minister and deputy First Minister had sight of the Bill only at the last minute and briefly. It, too, was railroaded into accepting accelerated passage, and the argument used, which is the same as has been used on all of us, was that it is essential to get the fuel poverty money out — would you want to stand in the way? None of us wants to stand in the way.

11.15 am

Mr Kennedy: I am interested in what the Member has said. I object to his use of the word “railroaded”. The Committee had little time to organise the meeting, but a full and frank discussion of the Bill was held with the junior Ministers. The Committee did not feel railroaded into accepting accelerated passage.

Mr O'Loan: I apologise if there is any —
[*Interruption.*]

Mr F McCann: Further to Mr O'Loan's assertion that accelerated passage is being sought through dishonest means, does he agree that the Minister who has made most use of accelerated passage is the SDLP Minister — the Minister for Social Development?

Mr O'Loan: I do not speak for, or defend, the actions of the Finance Minister in seeking accelerated passage; I make precise arguments relating to the Financial Assistance Bill. Under the pretext of achieving a good end, attempts are being made to push through the Assembly a very wrong piece of legislation.

Dr Farry: Does the Member accept that the Minister for Social Development's use of accelerated passage was to achieve parity legislation? Accelerated passage is a well-established means of introducing parity legislation. For instance, its use was required to ensure that social security payments in Northern Ireland remained in line with those in the rest of the United Kingdom, and that was a matter of urgency.

Mr O'Loan: I welcome and support the Member's comments. I resent any imputation on the use of accelerated passage from members of parties that held up fuel poverty payments for 154 days, as my colleague Dolores Kelly said.

It is incredible that the Financial Assistance Bill will not be considered by the Committee for Finance and

Personnel — of which I am a member. It is even more incredible that the Department of Finance and Personnel (DFP) did not inform the Committee that such a Bill was being proposed. The only information that members received about the Bill was a passing reference made to it by officials who attended the Committee to talk about another matter. Such treatment shows contempt for the Committee for Finance and Personnel.

Are Mitchel McLaughlin, the Chairperson of the Committee for Finance and Personnel, Simon Hamilton, its Deputy Chairperson, and the eight remaining members of the Committee prepared to tolerate such treatment?

Members must raise their voices, here and at Committee meetings, in protestation at what is being done. The democracy of the Assembly is being subverted; it is being stolen right in front of our eyes. Members must examine the Bill, recognise it for what it is and protest against it.

I urge members of other Committees not to think that this is a private matter for OFMDFM and, perhaps, DFP. It is not. It is possible that emergency regulations involving any Department will be created. Look at the references to tackling poverty, social exclusion, patterns of deprivation and the catch-all phrase “exceptional circumstances”. That affects all Members, their Committees, Departments and Ministers. Wake up and stop the authority, which has been conferred on you as Assembly Members, Committee members and Ministers, being taken away.

I will say more at the Bill’s Second Stage. At that Stage, and at the Bill’s Consideration Stage, the time will be right for the Assembly to stand up for itself and to assert its proper democratic rights.

As Dolores Kelly said, the SDLP will table amendments to the Bill, and I ask Members to pay close attention to them. The democracy of the Assembly is under fundamental assault in the Bill. Do not allow that to happen.

Dr Farry: My party and I are wary of the use of accelerated passage in these circumstances. Accelerated passage should be used sparingly for such legislation as budget Bills and urgent parity legislation, which, for instance, would ensure that social security payments here remain in line with those in the rest of the United Kingdom. That has been the accepted practice over many years. I fear that the practice is being abused and that a run of Bills is being forced through the Assembly without the proper and deserved scrutiny.

It is to be hoped that it is no more than a coincidence that the three most controversial pieces of legislation to have progressed over the past 12 months — the Commission for Victims and Survivors Bill, the Local Government (Boundaries) Bill and the Financial

Assistance Bill — have been subjected to accelerated passage.

Are controversial Bills that involve major issues and that divide the parties to follow that pattern? Will the parties, having been denied a Committee Stage, be able to sort out those issues only on the Floor of the Chamber, whereas the more routine Bills, on which parties can reach consensus, will be dealt with by Committees at their leisure? If so, that is a matter of deep regret, and it has major implications for democracy in the Chamber.

I believe that the legislation, particularly clause 2, contains major issues that merit proper scrutiny. Some relate to the nature of power sharing in Northern Ireland, and, given our legacy, parties must be sensitive to that. We must ensure that we bring everyone with us as we make progress in Northern Ireland. I appreciate the argument that the measures that are contained in the Bill could, if phrased correctly, strengthen the cohesion and collectivity of the Executive, and that is to be welcomed. Equally, I can see —

Mr O’Loan: To the Member’s knowledge, does the word “Executive” appear in the Bill?

Dr Farry: At this stage, it does not, and the Member’s party and my party will wish to address that important point over the next few days.

Mr O’Loan: In that case, will he defend his point? As the word “Executive” does not appear in the Bill, how exactly will it contribute to cohesion in the Executive?

Dr Farry: I thank the Member for his intervention, but he was slightly too hasty. I was in the middle of one of the Alliance Party’s “on the one hand, on the other hand” routines. *[Laughter.]*

The point that I was making is that, if the Executive were properly referenced in the Bill, I recognise the potential for the measures in clause 2 to enhance collectivity and cohesion in the Executive and between Ministers. Equally, I recognise the danger that the measures, particularly as they are currently framed, could lead to more acrimony in the Executive, increased division, and the alienation of parties and Ministers. For that reason, clause 2 requires proper debate and scrutiny, so that parties can tease out all the arguments and satisfy themselves that the measures are in the interests of Northern Ireland.

A broader issue relates to the financial procedures that are used by the Assembly and, as Mr O’Loan mentioned briefly, by the Executive. Members must ask themselves why the Bill’s measures and objectives, particularly those in clause 2, cannot be addressed through the Budget and, more particularly, the monitoring rounds. Those are the established procedures for dealing with such matters. The Bill may offer some added value, but, equally, it may undermine the existing ways

in which the Assembly conducts its financial management. Again, that issue requires proper scrutiny.

Also, Members must be conscious not only of the powers that are being set out on paper, but of the uses to which they may be put. I am concerned about the implications that they will have for parity between Northern Ireland and the rest of the UK and the Assembly's wider relationship with its parent Government in London. Members must be mindful of situations in which money is spent in Northern Ireland that has implications for that relationship.

In particular, if people in Northern Ireland end up with a more generous settlement of financial support than our fellow citizens in the UK, that may be a source of tension. In responding to that point, I would like either the First Minister or the deputy First Minister to clarify whether the Bill has implications for the principle of parity that has, in its strictest sense, been established for 60 years.

Beyond that, even if the Bill is not a direct threat to the parity principle, are there dangers in using resources that could jeopardise the funding relationship between Northern Ireland and the rest of the UK? I appreciate that there is building tension in the current debate between the Scottish Government and the Treasury and that that is reflected in the UK Parliament.

Northern Ireland has not fallen under the same degree of scrutiny due, in part, to our peace process. As society normalises and we have stability in the Assembly, that debate may well move on. We must be wary of what we are putting in place and the implications that it may have for the relationship between a devolved Administration and the UK Parliament as a whole.

My other point relates to the urgency of the measure. I accept fully that there is an urgency to issue winter fuel payments as quickly as possible. Part of my argument is that the money could be better spent in insulating homes so that people benefit not only this winter, but in subsequent winters. Obviously, £15 million can only go so far in insulating homes, but a start could have been made. However, at this stage, there is an urgency to get money into people's hands to alleviate their difficulties.

Nevertheless, the Assembly should not be in the position of having to consider accelerated passage for the Bill. Legislation could have been approved by the Executive in September; proper scrutiny could have taken place on the Floor of the Assembly and in Committee during the autumn where modalities could have been put in place to enable payments to be made once the legislation was signed off; and the money could have been allocated to places where it did not already exist in the December monitoring round, which would have allowed payments to have been made, potentially, before the winter recess. Even if the Bill were to be put

in place by the end of January, there may well be a further delay and the winter will be almost over.

However, we are where we are, and we will do our best to try to make this happen, but much of the delay has been due to the inability of the Executive to meet and the inability of Ministers to agree. The people of Northern Ireland have suffered as a consequence.

The Alliance Party will not object to accelerated passage today, because it appreciates the urgency of putting in place a measure that will allow emergency payments to be made. It sees the urgency of clause 1, but it does not see the urgency of clause 2. Clause 2 deserves proper scrutiny by a relevant Committee, either by the Committee for Finance and Personnel or the Committee for the Office of the First Minister and deputy First Minister. My party believes that that issue could be addressed through an amendment to decouple clause 2 from the Bill and for the Executive to bring that matter back at a future stage. That would have been a more appropriate way of dealing with the issue, rather than tying ourselves in knots over accelerated passage, when, in fact, one half of the Bill needs to go through and the other does not.

Mr B McCrea: Danny Kennedy spoke in quite measured terms about the concerns that the Ulster Unionist Party has with the Bill. He stated, and I restate, that we support fully the need to get payments to those in need and to act quickly. We share the concerns of other Members about the potential to use what is undoubtedly a crisis measure to sneak through, or to bring through — which is perhaps the appropriate language — legislation that may well be ill-considered and that in future situations may prove not to have the most rigorous of safeguards. We view this as a fundamental change in the relationship between the Ministers, the Executive and the Assembly. We are concerned about its implications, and we do not think that it is something into which we should be rushed.

My party seeks to put to the House, in measured tones, the fact that it is incumbent on those seeking to use accelerated passage to recognise the fact that it does away with many of the democratic safeguards. Therefore, they must listen carefully to what other Members, particularly those from other parties, have to say. A balance must be struck.

In previous forms of legislation or in previous cases where accelerated passage has been used — as has been highlighted by other Members — the precedent has not been helpful. Where there is genuine concern, that concern should be reflected. I will listen to what the deputy First Minister and the First Minister say about how they will deal with the legitimate concerns that we will raise.

There is a case for making amendments, and I urge the House collectively not to reject all amendments out

of hand, but to find a way to build consensus. We all share the concern that fuel poverty payments must be made to people as quickly as possible, but that it should be done by building consensus.

11.30 pm

Ms Purvis: I have many questions about the Bill, as I am sure do all Members, including those who sit on the Committee for the Office of the First Minister and deputy First Minister. However, as Naomi Long rightly pointed out, those Committee members are not being given the chance properly to scrutinise the legislation and the intentions behind it. The agreed legislative process is being circumvented by attempting to grant the Financial Assistance Bill accelerated passage.

I have to ask why accelerated passage is being sought for the Bill. Mrs Long outlined the distinctions between clause 1 and clause 2, and they are important. I agree with much of what she said, but I believe that the entire Bill deserves scrutiny as to whether it merits accelerated passage. The Department for Social Development already has a framework in place to deliver payments to alleviate fuel poverty, so I do not think that the focus on the need for this Bill should take away from the debate and scrutiny that it deserves.

This enabling legislation would allow for a fundamental shift in the way in which the Executive operate. It would create for the Office of the First Minister and deputy First Minister powers that are not part of the Good Friday Agreement or the St Andrews Agreement. At the core of those agreements are the principles of power sharing and collective responsibility. Those are the fundamental ideas on which the peace process and the Assembly are based. That is what we told the people of this country that we had agreed, and those are the principles that make this Province a destination for delegations from around the world to examine peace processes.

This piece of legislation undermines those principles. It will weaken the Executive system whereby Executive members must collectively agree on decisions on how money is spent. This legislation will suck power away from that arrangement and shift it to the Office of the First Minister and deputy First Minister by allowing that office to make unilateral decisions on how money is spent. It will undercut the operational autonomy of Ministers and the Executive's responsibility to agree collectively on their programmes, strategies and how budgetary decisions are made.

Mrs D Kelly: It appears that the Member shares my party's concerns that clause 2 has the potential to amount more to a carve-up of power and resources than to a power-sharing arrangement?

Ms Purvis: I agree with the Member. I also agree that there have been some hiccups in the way in which the Assembly and its decision-making processes operate

and that they must be examined and addressed. However, that must happen deliberately, collectively and through agreed and existing structures. We are in a dire economic situation, and we need to intervene quickly and creatively to deal effectively with the serious consequences of the job losses and the financial declines that are now occurring. However, the provision of emergency additional moneys to address fuel poverty, and, in particular, to provide for the winter fuel allowance, is already supported by well-functioning structures. Why do we suddenly need new ones, and how would such a change be financially efficient?

To my mind, the consequences of accelerated passage have not been clearly explained, as it is unclear how often, and when, the legislation will be invoked. Its terms of use remain vague; we all expect that it will be used in the immediate term to deliver the additional financial assistance that was proposed in December, but what about after that? When, and under what circumstances, will it be used again? At best, the legislation is unconvincing; at worst, it is anti-democratic and control freakery in the extreme. It appears to be a classic case of using a critical situation to mask a power grab. I do not support the motion.

The deputy First Minister (Mr M McGuinness): Go raibh maith agat, a LeasCheann Comhairle. I have listened very carefully to the views that Members have expressed, and I am grateful for the constructive tone that was struck, and by the queries raised.

Danny Kennedy and Naomi Long's contributions demonstrated that they are anxious to be helpful and constructive. They made reasoned points, which were diametrically opposed to the bit of a rant that some SDLP Members went on. I express my appreciation to the members of the OFMDFM Committee for supporting the Bill's accelerated passage.

I will now address the key concerns and questions that have been raised. I will focus on the issues that relate to the accelerated passage of the Bill, as there will be an opportunity to address questions and comments on the policy in the debate on the Bill's Second Stage.

Danny Kennedy raised the issue of full consultation with Executive Ministers. Following consultation with our Executive colleagues and our departmental Committee, and in light of the views that they expressed, we have recommended to the Executive a series of amendments to the Bill. Those amendments cover the approval role of the Assembly in regard to schemes under clause 2, the timing of the making of the regulations and the duration of schemes. Although it is not appropriate to discuss the detail today, we will advise our Committee of the amendments and consider them in detail at the Executive meeting on Thursday 15 January.

Mr Ford: I am grateful to the deputy First Minister for giving way. He said that it is not appropriate to provide details of the proposed amendments. However, given that the Bill has been tabled for debate in the Assembly today, before it was taken to the Executive Committee, why is it not appropriate to explain in detail, or to publish the details of, those amendments?

The deputy First Minister: The appropriate approach is for us to first discuss the proposed amendments with our Executive colleagues.

Mr O’Loan: The deputy First Minister indicated that he is minded to table at least one amendment, and he mentioned giving some rights to the Assembly. I find it very strange that the First Minister made frequent interjections during my speech, and other Members’ speeches, about the nonsense that we were speaking, when it is clear that even he and the deputy First Minister feel that the Bill requires amendment.

The Bill has been printed and has reached its First Stage in the Assembly, and the First Minister and deputy First Minister are already telling us that amendments are necessary. That tells me that the Bill is a half-baked piece of legislation, which should never have come to the House in its present form.

The deputy First Minister: That is not a helpful contribution. Given the nature of the situation that the Bill seeks to address, it is important that we face up to the challenges that lie out there for our people and ensure that the Bill receives accelerated passage so that we can ensure that people are assisted and helped. The approach that Declan O’Loan adopted suggests clearly that he wants to put that day off, which the public would not welcome.

Mr Kennedy: I am grateful to the deputy First Minister for giving way and for his statement that amendments are being tabled and will be considered at the Executive meeting on Thursday. Given that the deadline for Members to table amendments is 4.30 pm on Thursday, it would be helpful, in the spirit of co-operation, if the deputy First Minister considered giving some type of briefing to the OFMDFM Committee at its meeting tomorrow afternoon, so that we know what to expect in regard to the agreed or proposed amendments to the Bill.

The deputy First Minister: We will consider that, and I am sympathetic to the point that the Member makes.

I want to emphasise that the Bill will not impact on departmental budget management. Any financial requirements arising from the exercise of powers onto the Bill will be handled through the normal budgetary processes.

Dolores Kelly, Danny Kennedy and Stephen Farry raised the issue of the five-month impasse during which the Executive did not meet. Some people may

not want to believe it, but work on the deteriorating economic situation continued over the summer. The First Minister and I held a series of meetings with key stakeholders, including banks, the business sector, trade unions, the community and voluntary sector, community representatives, the construction industry, energy companies and the energy regulator.

After that series of meetings, we presented a package of measures dealing with the credit crunch and the economic downturn to the Executive, which was subsequently presented to the Assembly on 15 December 2008.

The need for accelerated passage comes from the Executive’s desire to make fuel payments available as quickly as possible. On 15 December, the Executive meeting on the December monitoring round agreed to fund such a scheme. We then moved to prepare the Bill over the Christmas period so that it could be introduced at the earliest opportunity after the Assembly’s return from recess.

Some Members said that the Bill concentrates greater power on OFMDFM, but it is not intended to have that effect. In fact, the Bill is intended to improve the Executive’s collective decision-making. We cannot envisage circumstances in which Departments would not prioritise addressing hardship or poverty. The Bill is also aimed at responding to exceptional circumstances and will work with the agreement of the Executive. The Bill is about managing public expenditure.

Mr O’Loan: I have already made the point that the word “Executive” does not appear anywhere in the Bill. In light of what the deputy First Minister has just said, will he bring an amendment that will contain reference to agreement by the Executive? I note that the First Minister is intervening to say no.

The deputy First Minister: For some time, Members have spoken about cohesion and about the Executive’s ability to work collectively. As Minister of Education, I was a member of an Executive that was led by David Trimble and Séamus Mallon. On countless occasions, at countless Executive meetings, Séamus Mallon, as deputy First Minister, emphasised, at every opportunity, the responsibility on individual Ministers to deliver their parties for Executive decisions. However, the SDLP’s general approach to the Executive now seems to be the total opposite of that, and it repudiates what Séamus Mallon said. *[Interruption.]*

With respect, I wish to finish my point. On 15 December, the First Minister and I attended the Executive meeting to discuss the December monitoring round, and I did not hear the SDLP Minister oppose the decision or vote against the Executive’s decision. However, she then ran out to the media and accused the Executive of being involved in a smash-and-grab raid —

Mrs D Kelly: Will the deputy First Minister give way?

The deputy First Minister: No, I will not give way. The Member is trying to prevent me from making my point, but I am going to make it anyway. When a Minister sits mute at an Executive meeting and then, at the first opportunity, runs out to the media and claims that there was a smash-and-grab raid on her Department — which was total and absolute nonsense — it makes me have serious concerns about the role being played by the SDLP in the Assembly and in the Executive.

Mrs Long: The deputy First Minister reflected on his time as a member of the Executive when Sinn Féin was one of the smaller parties and other parties were in charge, and I wish to comment on that point.

When they appeared before the Committee, the First Minister and the junior Ministers stressed that the ministerial code, as contained in the Northern Ireland Act 1998 and amended at St Andrews, prevents the Office of the First Minister and deputy First Minister from intervening in individual ministerial business without due regard to the views of Ministers. Furthermore, any changes would have to go through the Executive.

11.45 am

I accept entirely that that gives protection to Sinn Féin and DUP Ministers. However, it does not make clear, for example, whether a scheme initiated by the First Minister and the deputy First Minister and administered through OFMDFM — which the Bill would allow them to do — but which would interfere with the remit of the Departments of Health, Employment and Learning or Social Development could be approved by the Executive without the acceptance or agreement of the Ministers concerned.

I asked at the time whether I could have some detail on the relevant parts of the ministerial code.

[*Interruption.*]

The First Minister is interjecting; perhaps it would have been more helpful if he had picked up the telephone and told me this when I asked. I wrote to the First Minister and asked whether he could indicate what would prevent such interference from happening, because that is one of my party's key concerns about the structure of the Bill. Can someone — preferably the deputy First Minister, given that he is addressing the issue — give us the assurances that we are looking for and show us the details? It is not a very important point for his party in its current position, but it was a key Sinn Féin negotiating point in 1998 to ensure that Sinn Féin Ministers were protected within their departmental autonomy. That is one of the issues that the other parties are concerned about.

The deputy First Minister: I fully understand the Member's point, and I agree with her. When it comes to implementing the decisions that will flow from the proposed legislation, it comes down to our motivation as the leaders of the two largest parties in the Executive

and the Assembly. There have been attempts to engage in scaremongering. I do not attribute it to the Ulster Unionist Party or the Alliance Party, but there have been attempts to impugn my motives and those of the First Minister for bringing this legislation to the Executive. That is a ridiculous approach, particularly in the context of the dire economic circumstances.

The Bill is about managing expenditure at Executive level and ensuring, with Executive agreement, that resources are directed in response to exceptional circumstances and to address urgent unmet social need. The decisions to be taken on those provisions will, almost invariably, be cross-cutting; therefore, they will have to be taken by the Executive Committee. As we have already explained, we intend to amend the ministerial code in order to make it explicitly clear that any proposal for a determination or a designation must be agreed by the Executive. The rights of smaller parties must be at the forefront of the minds of Executive Ministers.

Dolores Kelly said that DSD could have made the payments in December. The fact of the matter is that the Social Development Minister did not have the legislative powers to make fuel poverty payments. This legislation will provide the necessary powers.

Naomi Long raised the issue of the use of accelerated passage for the powers that are included in clause 2 of the Bill. The Bill's purpose is to urgently address hardships that arise as a result of unforeseen circumstances, or from a person's experience of poverty, deprivation or social exclusion. In our view, the Executive need powers to respond urgently in both situations. Our experience since restoration has shown that the Executive need to be in a position to react quickly to unforeseen events.

Mr Ford: Surely the point made by Naomi Long and others is not about whether the Executive need powers to respond urgently, but whether the Executive urgently need powers without proper scrutiny?

The deputy First Minister: As I said, our experience since restoration has shown that the Executive need to be in a position to react quickly to unforeseen events. There have been quite a number of unforeseen events over the course of recent years. The Bill provides us with the legislative basis on which to deal with such eventualities, and it is important that the Bill be enacted at the earliest possible opportunity.

Under the provisions of the Bill, the Executive will be involved fully in all decision-making, the relevant Committees will perform their normal scrutiny role, and the Assembly will have control of the scheme that will be created under the regulations. Therefore, protections are clearly in place.

Naomi Long asked whether the Bill could have been introduced earlier, thereby avoiding the need for

accelerated passage. With the benefit of hindsight, any legislative proposal that is designed to improve local conditions could be criticised for not being thought of earlier. The need to have a legislative basis through which fuel payments can be made is the catalyst for the Bill. It was only as recently as 15 December that the Executive reached agreement on funding such a scheme and the consequent need for urgent legislation for it.

Mrs D Kelly: I thank the deputy First Minister for giving away. Will the deputy First Minister confirm that the Minister for Social Development had intended to introduce proposals at an Executive meeting that was scheduled for September but was cancelled?

Ms Ní Chuilín: These interventions are actually more robust than the supplementary questions that are asked during Question Time.

The fact is that the Committee for Social Development did not even have a copy of the necessary budget in order to scrutinise what was discussed at the December monitoring round because the Minister for Social Development was incapable of providing it.

Mrs D Kelly: That is nonsense.

Ms Ní Chuilín: No, that is true; it is a fact.

Mrs Long: I appreciate that the deputy First Minister has given away to many Members, so I thank him for giving away to me also.

With due respect, the benefit of hindsight does not apply, because during the summer, it was noted that there was a lack of legislative cover to allow for fuel payments. At that point, the Department for Social Development produced draft legislation. As I mentioned earlier, OFMDFM and the Executive felt quite rightly that it was better to provide cover not simply for one Department, but for all Departments simultaneously. That need was identified in August or September, but OFMDFM drafted no legislation in the intervening three months.

My point is that the benefit of hindsight does not apply. I accept the First Minister's interjection about funds becoming available only through the December monitoring round. However, proper legislative cover to allow for the distribution of payments could have been introduced in the three months before December. Therefore, my point is that the problem was actually identified much earlier than December.

The deputy First Minister: I thank my party colleague for answering the SDLP's question; it saves me repeating her remarks.

The First Minister: Will the deputy First Minister give way? *[Laughter.]* Does the deputy First Minister recall the Minister for Social Development telling the Executive that she had the power to allocate the money when clearly she did not?

The deputy First Minister: I confirm what the First Minister said. Dawn Purvis raised this issue. The reality is that the Department for Social Development did not propose draft legislation. To give the impression that it did is totally and absolutely erroneous.

In response to Declan O'Loan, I emphasise that the Executive must be at the heart of this process. The Bill is designed to give the Executive the flexibility to allocate and distribute funds across all Departments so that they can respond to any crisis or hardship situation.

Harking back to what Mrs Long said, OFMDFM decided that it had to implement legislation that would allow it to deal comprehensively with any situation with which it might be confronted; for example, we had to deal with the floods and concerns about the safety of cattle and pork consumption. We are confronted with those types of situations almost annually, so it is important that we can deal with them.

Prior to making any determination or designation on fuel payments, the First Minister and I will bring the matter to the Executive for consideration and agreement — although that is required already under the current ministerial code — in order to put this aspect of the process beyond doubt. On 15 January, the First Minister and I will ask the Executive to agree a proposed draft amendment to the ministerial code that will require all future proposed designations and determinations under the Bill to be brought to the Executive for consideration and agreement.

Subject to Executive agreement, the draft amendment to the ministerial code will be brought to the Assembly for approval by cross-community support. However, it is not appropriate to seek the Assembly's agreement to the amendment until the Bill has received Royal Assent. As I explained earlier, I confirm that any proposals that are required under the legislation before the code is amended will be brought to the Executive, as is required by the current ministerial code.

Mr B McCrea: The Ulster Unionist Party feels a bit left out of the discussion, because we have tried to take a fairly responsible attitude. Earlier, I spoke about the need for appropriate language, but I have been surprised by the tenor that the debate has taken. Perhaps the deputy First Minister will address that issue. Will he assure the House that, when he brings those matters to Executive colleagues, he will specifically address the concerns of the smaller parties in the Executive, particularly as they have the larger chunks of the Budget to manage? I heard him say that he understood that position. Such an assurance would go some way to helping us through that issue.

The deputy First Minister: I am willing to give that assurance. I was a member of a previous Executive in which Sinn Féin was not one of the larger parties, so I understand the situation that is faced by Ministers

Empey, McGimpsey and Ritchie. It is important that the Office of the First Minister and deputy First Minister and the other Ministers recognise that. I want a harmonious situation in the Executive, because that is what the public want. I want all Ministers to behave positively and constructively, and that includes the First Minister and the deputy First Minister. We have a duty and a responsibility to lead the Executive in a way that enables them to produce results for the people whom they represent.

Stephen Farry talked about the issue of breaching parity. He seemed to be suggesting that we should not assist our communities because others are failing to help their communities. That is a mistake; the Bill is concerned with devolved Government working for our people.

I thank all Members who spoke in the debate. I look forward to discussing the issues further during the onward passage of the Financial Assistance Bill.

Question put and agreed to.

Resolved (with cross-community support):

That the Financial Assistance Bill [NIA 4/08] proceed under the accelerated passage procedure, in accordance with Standing Order 40(4).

Financial Assistance Bill

Second Stage

Mr Deputy Speaker: I remind Members that interventions must be made through the Chair. In the previous debate, 31 interventions were made through the Chair, and a countless number were made across the Floor of the House. I remind Members that there is no accelerated passage for that practice. I hope that the debate runs smoothly, through the Chair.

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

That the Second Stage of the Financial Assistance Bill [NIA 4/08] be agreed.

We meet today as Members of a local Assembly that has been elected by the community that we all serve. In return for the votes that the people of Northern Ireland gave us, we promised that devolved Government would put their needs first. The Financial Assistance Bill is an important milestone in delivering upon those promises.

12.00 noon

Governments, especially devolved Governments such as ours, must be able to act swiftly and decisively and we must use our expert local knowledge to deliver in a way that the direct rule Administration did not and could not.

Every day, we strive to provide shelter where there is homelessness, heat where there is cold and food where there is hunger. The rights to shelter, heat and food are basic and inalienable, and it is our duty to protect them. Protecting such rights at all times is the essence of the Financial Assistance Bill. It will ensure that, for the first time, immediate action can be taken in the face of any emergency. The Bill will provide the legislative framework to ensure that — no matter what situation should arise — all the elements of Government can co-ordinate to provide immediate respite.

The biggest crime that any Government can commit is to procrastinate in the face of a crisis. It is an even greater crime if such procrastination is the result of bureaucracy and red tape. The Financial Assistance Bill will ensure that the Executive will be able to act immediately to provide financial assistance regardless of the situation or emergency faced.

Emergencies and crises are not new to us; we have dealt with them in the past. The flooding in 2008 left many households with repair bills that they could not afford. Sudden increases in fuel costs left many older people with the choice of either heating or eating. The crisis in meat production at the end of the year had the potential to threaten the jobs and livelihoods of those who depend on the agrifood industries.

The Executive dealt with each of those situations in the best possible way, but not always in a manner that the people deserved. All too often, assistance has been delayed. We must have the ability to act quickly, effectively and decisively at the moment when action is most needed. At present, we cannot do that. We do not deny that, in some instances, responsibility for a crisis will fall to a single Department, which may have the legislative cover necessary to provide appropriate financial assistance. Crises may, however, impact on more than one Department and the legislative cover necessary to provide an appropriate financial response may not exist. Even when the emergency is the responsibility of a single Department, that Department may not have the necessary legislative authority to meet the needs that arise.

The Bill will fill the hole that currently exists in local legislation. It will ensure that the Executive can, for the first time, work as a unit to tackle the hardship that arises out of any crisis and target resources at specific areas of need and deliver to those at greatest risk.

There has been much speculation regarding the exact nature and intention of the Bill. I take the opportunity to correct some of the wildly ill-informed conjecture that we heard from some quarters. The Member for North Antrim Declan O'Loan has now absented himself from the Chamber. That is unfortunate, and I will hold back some of my remarks that relate to his comments on the off chance that he will return.

The Executive will use the Bill to determine when an emergency has arisen and when financial assistance should be provided. I said "the Executive". Where there are no arrangements for providing assistance, or where existing arrangements are — or are likely to be — ineffective, inadequate or unsatisfactory, the Bill will give the designated Department or Departments power to make a scheme that will provide financial assistance in exceptional circumstances. Crises are often the responsibility of several Departments. When that is the case, the Bill will allow the Executive to designate OFMDFM as the lead Department, in order that it can develop a scheme.

It is important, when putting together legislation to deal with emergency situations, to be as flexible as possible. For that reason, the Bill allows for financial assistance to be given in any form — grant, loan or guarantee — and for it to be direct or indirect. The Bill also provides for any scheme to be made by means of regulations, subject to negative resolution, and to provide for the matters to be included in a scheme.

This Bill will provide the First Minister and deputy First Minister — as the heads of the Executive — with the necessary statutory powers to take remedial action to respond to any crisis that the Executive agree

warrants rapid and effective intervention, where current arrangements for doing so do not exist.

Again, the House will note that I have indicated that the Executive should agree. The Member for North Antrim Declan O'Loan has expressed his views, but he clearly does not understand the present legislative position. Under the Northern Ireland (St Andrews Agreement) Act 2006, there is a statutory basis for the ministerial code, and that ministerial code requires Ministers to bring any novel or contentious issues before the Executive. Therefore, even though the word "Executive" is not contained in the Bill, all these matters would have already come — by way of the ministerial code — to the Executive. There is no need to have the word "Executive" inserted as the legislation is already in place that requires these matters to come to the Executive.

However, to put it beyond any doubt — and as the deputy First Minister has indicated — we are currently improving the ministerial code with a proposal, which we will putting to our Executive colleagues, to expressly cite this Bill as a requirement for any scheme to be brought before the Executive for agreement. Therefore, the Executive, at all times, would be asked to examine and agree to the matters contained as a result of schemes in this legislation.

The Bill introduces an element of flexibility, desperately needed in any emergency, to allow the allocation and distribution of resources across all Departments. That will allow the Executive to respond to any future crisis or hardship situation.

I am aware that many Members have concerns in relation to the breadth of the Bill; those concerns are legitimate and should be addressed. The Bill will not diminish or override the authority of individual Ministers to allocate resources. Furthermore, it does not touch upon the responsibility of the Finance Minister to carry out his normal role in relation to spending plans. Moreover, it will not cut across the relationship between individual Ministers and their accounting officers in respect of the management of public funds. The Bill is enabling legislation, not a spending proposal.

As joint chairpersons of the Executive, the deputy First Minister and I will be responsible for determining the situations that warrant intervention under the legislation. We will also have the authority to determine the most appropriate Department or Departments to develop schemes. That process will be carried out in consultation with, and with the agreement of, the Executive as already provided for in the ministerial code. To make that absolutely clear, we have made the necessary proposal for an amendment in respect of this legislation.

The Financial Assistance Bill does not attempt, in any way, to bypass the normal Assembly scrutiny procedures. Once a designation has been made, the subsequent scheme or schemes and associated regulations will be subject to the normal process of Committee and Assembly scrutiny.

The OFMDFM Committee and other departmental Committees have stressed the need for urgent and decisive action in the face of the current economic downturn, and addressing fuel poverty among the most vulnerable is clearly an area where urgent action is needed. That is particularly the case given the unacceptably high levels of fuel poverty in Northern Ireland, the increases in fuel bills and the sustained period of cold weather that we have experienced. However, we cannot legislate for each situation as it arises, and this Bill provides the enabling legislation so that unforeseen circumstances can be responded to by the Executive quickly, effectively and — it is important to say — legally. Therefore, this Bill provides us with the capability to respond more effectively to unforeseen circumstances, to mitigate financial hardship and to provide a more effective, co-ordinated response.

The Financial Assistance Bill is the most important piece of legislation to be tabled since the return of devolved Government. The Bill will ensure that, for the first time, the Northern Ireland Executive have the ability to examine the wider picture and the problems that we face as a single, dynamic unit, and to flex and shape around the challenges that arise.

In direct response to the comments that were made by Mrs Naomi Long, representing the Alliance Party, I assure the Assembly that this Bill increases the collectivity of the Executive and puts the Executive at the centre of the decisions that will be taken, particularly those when emergencies arise. We live in unprecedented times, in which there is great uncertainty. Over the coming months, many people will face hardship that has not been experienced in, perhaps, two generations. Make no mistake: the man and woman on the street are afraid and are looking to their elected representatives and to the Assembly for answers.

This Bill provides the leadership and security for which the community is looking. In times of crisis, Northern Ireland was often placed low on a direct rule Government's list of priorities. Devolution means that that is no longer the case — locally elected politicians are securing and delivering what is needed by local people. No one could have predicted the events that have unfolded, and we certainly cannot predict what lies ahead, but we can, and should, be ready for whatever the future throws at us. I commend the Bill to the Assembly.

The Chairperson of the Committee for the Office of the First Minister and deputy First Minister (Mr Kennedy): I am grateful again for the opportunity to contribute to the debate. Initially, I will speak as Chairperson of the Committee for the Office of the First Minister and deputy First Minister and will then make some observations on the Ulster Unionist Party position.

As the First Minister outlined, the Bill provides powers that will regularise the allocation and distribution of funds in response to any crisis or hardship situation, and extend the Executive's powers to deal effectively with poverty.

On Monday, 5 January, the junior Ministers briefed the Committee on the proposals in the Bill, for which the Committee is grateful. The need for such legislation has been prompted, principally, by the need to provide a statutory basis for the fuel payments that were announced as part of the Executive's response to the economic downturn. That will authorise fuel poverty payments totalling £15 million being made to those who are most in need. The Committee wishes to see those payments made as quickly as possible to help to alleviate the difficulties of those who are experiencing fuel poverty.

The OFMDFM Committee was advised that the Bill provides a firm statutory basis for the Executive to respond to future exceptional circumstances. Such circumstances may involve hardship for specific groups or individuals, or a situation arising that is related to the Executive's response to poverty, social exclusion or deprivation, and which requires financial intervention but for which arrangements do not exist or are not fit for purpose.

During the briefing by the junior Ministers, members of the Committee asked a number of questions and sought clarification on the Bill and its clauses. Committee members queried the definition of the term "exceptional circumstances" and how that would be interpreted by the First Minister and deputy First Minister. The Committee also asked about the decision-making process and how individual Ministers, the Assembly and the Assembly Committees can raise an issue of concern under the term "exceptional circumstances", which is in the Bill.

The Committee asked about the position of individual Ministers and the Executive in relation to decisions to use the clauses in the Bill. The junior Ministers reiterated the importance of the Executive's agreement when deciding whether the term "exceptional circumstances" applied, and they advised that there would be an amendment to the ministerial code to take the Financial Assistance Bill into account.

The junior Ministers — as OFMDFM did today — gave an undertaking to the Committee that it will have sight of changes to the ministerial code as soon as

possible. The junior Ministers also advised that they wished to ensure that when the legislation is fully enacted, the changes to the ministerial code will be in place. I hope that the Ministers from OFMDFM can take the opportunity provided by this debate to assure us that that will be the case and is their intention.

The Committee has written to the First Minister and deputy First Minister seeking further information on the amendment to the ministerial code and on the decision-making process in the Executive in relation to the Financial Assistance Bill.

Members asked a number of questions about the delivery of such financial assistance schemes and, in particular, the fuel poverty scheme. The junior Ministers advised that it would be more than likely that the Department for Social Development would be in charge of the fuel poverty scheme and that the Executive are considering all options for payment of the £15 million that is available.

12.15 pm

The Committee questioned the junior Ministers on discussions that had taken place with the Treasury about parity with social security payments. The junior Ministers confirmed that the scheme would not contravene the principle of parity. Members also questioned the junior Ministers about scrutiny arrangements for the use of the Bill should an exceptional circumstance apply and also the mechanism to discuss that matter with the Committee when required. The junior Ministers assured members that there is no intention to exclude the scrutiny role of the Committee in relation to either the exceptional circumstance provision or the poverty, social exclusion and deprivation aspects of the Bill. It would be helpful if that point could be reiterated today.

The Committee has been advised that the First Minister and deputy First Minister have proposed amendments to the Bill and to the ministerial code. I welcome the indication from the deputy First Minister that the Committee will have the opportunity to consider those proposed amendments at its regular meeting tomorrow afternoon. That would afford members the opportunity to make further comment at Consideration Stage of the Bill next week.

I turn now to observations made on behalf of the Ulster Unionist Party. My party fully supports the intentions of the Bill. The need for the Bill has been amply demonstrated by the hardships caused over the past year through the impact of the vast rise in food and fuel costs. The suffering of those most in need has been palpable. Although those prices are now declining, and food and fuel are becoming more affordable, the legacy is increased debt for those who can least afford it. Our hope is that the Bill will contribute, and is necessary, to the proposal that additional relief from fuel poverty be provided urgently.

As the fast-moving economic crisis develops and deepens, there will undoubtedly be other emergency financial measures that will need to be enacted under the provisions of the Bill. It is worth saying that had these powers been in place in 2008, the Executive may have been able to act in order to obviate the most adverse effects of the vast rise in the prices of life's necessities; or perhaps they would not have done so, given that the Executive did not meet for five months during the most critical period of that year.

Although my party supports the intentions of the Bill and its accelerated passage, it is concerned. I have listened, and continue to listen, carefully to the responses given by the First Minister and deputy First Minister in the debate. I have been quietly surprised at the rank bad form that the First Minister appears to be in, but, nonetheless, I am interested in his responses to this important debate. We are concerned that the Bill should be subjected to effective scrutiny and, where appropriate, suitable amendment so that it may prove timely and effective in its operation.

We are also concerned that although the Bill should provide the potential for fast and effective Executive action in emergency situations, it should not be so overbearing that it would provide virtual dictatorial powers to the Office of the First Minister and deputy First Minister.

When the First Minister spoke in the Assembly on 15 December 2008, he advised Members that OFMDFM proposed to bring the Bill to the House. He spoke of how the Bill would extend the Executive's power to deal effectively with poverty and disadvantage. However, it is OFMDFM's powers that the Bill will extend, enabling it to operate without, effectively, reference to the Executive. In parliamentary business, it is known as a Henry VIII measure; in other words, centralising powers in OFMDFM at the expense of the wider Executive. It is worth pondering what poor old Henry might think of this place and this legislation; however, it seems a bit unreasonable to drag him into the debate.

Centralising power in OFMDFM at the expense of the wider Executive is important because we are operating a voluntary coalition, or, to use the First Minister's own words, a four-party mandatory coalition, comprising all the main parties represented in the Executive. *[Interruption.]*

I hear a response from the Alliance Party, which claims to be Her Majesty's — or the Government's — opposition; rather, it appears to be the Government's nuisance factor.

Mrs Long: I thought that that was you.

The Chairperson of the Committee for the Office of the First Minister and deputy First Minister: No.

A voluntary coalition should make for a consensual Government operating without an official opposition. Mr Robinson has continually lectured the SDLP and the Ulster Unionist Party about the responsibilities involved in being part of a four-party mandatory coalition. The Bill highlights that we are part of that coalition perhaps only when it suits Mr Robinson and Mr McGuinness. It is of genuine concern that they are showing such little respect for Executive and parliamentary procedures. The proof of the pudding will be in the eating.

In our view, for effective consensual government at Executive level, there has to be a coming together of the complete Executive in order to create that consensus. The Bill, as it stands, does not appear to meet that necessity. Instead, it provides powers for the First Minister and deputy First Minister to, potentially, dictate to the Executive what will be enacted. Any action taken will be decided by negative resolution, offering no room for debate and, again, highlighting the fact that the DUP and Sinn Féin do not respect parliamentary procedures.

The Bill, potentially, sidesteps the vexed questions of where money will be diverted from in order to fund emergency measures and how the impact of that diversion from existing programmes will be handled. We have forsaken a contingency fund to provide for such emergencies, using, instead, the midterm financial review for such purposes. However, the midterm review procedure is too long-winded and does not facilitate a fast response as is required under this legislation. The likelihood is that OFMDFM will, or could, arbitrarily allocate moneys from other programmes over the heads of the Ministers concerned.

Where will that money come from? It will come from the highest spending Departments of course, which are, respectively, Education, Health, and Employment and Learning, followed by the Department for Social Development. When decisions to reallocate resources are made at short notice — decisions that will affect the execution of existing programmes — it is absolutely necessary that they are taken by the whole Executive. I am not arguing that money should not be reallocated in response to a crisis or a hardship situation; I am simply arguing that any reallocations should be made in a way that limits collateral damage.

The First Minister: Will the Member give way?

The Chairperson of the Committee for the Office of the First Minister and deputy First Minister: No, the First Minister will have an opportunity to respond later.

The reallocation of money must be done in such a way that limits collateral damage, lest a second crisis is created and hardship is deeper than that which we seek to alleviate.

I will give way to the First Minister.

The First Minister: It is clear that the Member's speech was written before he listened to anything that has been said during the debate. The deputy First Minister and I have made it clear that all those matters must be brought before the Executive. They are already required to be brought before the Executive under the current ministerial code.

In order to put the issue beyond doubt, I reiterate that the ministerial code is to be changed. A proposal to that effect will be put to the Executive on 15 January 2009. Although the issue will be brought to the Executive, the Member continues to argue that the First Minister and the deputy First Minister will make a decision on it without reference to the Executive. Why does he continue to make that point when he has been told that the Executive will make decisions on all those matters?

The Chairperson of the Committee for the Office of the First Minister and deputy First Minister: I am pleased that the First Minister has taken the opportunity to, apparently, put the issue beyond doubt, which should be the position. However, although that response is helpful, in the absence of sight of changes to the ministerial code and of direct confirmation that those changes will be in place before the legislation is enacted, I have to say that the proof of the pudding will be in the eating.

Mrs D Kelly: Given that it is not explicit in the legislation that the Executive will be required to give prior approval — which is, after all, by negative resolution — the comments of the First Minister and the deputy First Minister are all fine and well. Why, however, is that not explicit in legislation? Why must the ministerial code be changed? Why not change the legislation?

The Chairperson of the Committee for the Office of the First Minister and deputy First Minister: Again, events will unfold —

The First Minister: I thank the Member for giving way. In fact, I asked the legislative draftsmen that question in order to determine whether the matter could be put beyond doubt in legislation. I was told immediately that such matters cannot be put into legislation because they are already the legal position. That is a duplication of legislation. The ministerial code is already legislated for and is the legal position. The requirement is already in place. The deputy First Minister and I are putting the matter beyond doubt by expressly referring to this piece of legislation in a new amendment to the ministerial code.

The Chairperson of the Committee for the Office of the First Minister and deputy First Minister: Again, I thank the First Minister for his clarity. I raised the matter at the briefing meeting between the Committee and the junior Ministers. The fact is that my Committee has a role to scrutinise legislation, but not

the ministerial code. It was not brought before us. Therefore, the clarity that the First Minister provides is helpful. The Committee will seek to measure it.

Finally, I reiterate my party's support for the need for the Bill and, indeed, the necessity of accelerated passage. However, I point to potential pitfalls in how the Bill's powers are, or could be, concentrated in OFMDFM at the expense of the wider Executive, and the need for any amendment to make the Bill acceptable to the spirit of democracy, freedoms and liberties that the Assembly should embody.

Mr Deputy Speaker: It is normal practice to suspend business at 12.30 pm for a Business Committee meeting. However, the Speaker has asked that the debate continue until 1.00 pm. Before I call Mr Shannon, I ask Members to stick as closely as possible to the subject of the debate. A mention of Henry VIII is probably all right; however, his six wives do not need to be mentioned as well.

Mr Shannon: Unlike Henry VIII, I have only one wife, which is enough for me.

I want to put on record my support for the Financial Assistance Bill and for the need to have this legislation in place as soon as possible. I thank the First Minister for his clarification of matters. I hope that the Members who queried them — some of whom seem to have vacated the Chamber — have taken note of what he said.

Members do not need to stand in the Chamber and elaborate on the causes of the economic crisis or discuss to whom the fault for it belongs. It is enough to know that everyone feels its effects. We understand that it is real. It adversely affects the lives of people throughout the Province.

It is our duty to alleviate those effects as much as we can; we have all been elected to make a practical difference.

12.30 pm

Fuel poverty is a major issue in the Province, especially during this cold winter. The 2006 house condition survey found that 34% of Northern Ireland households were in fuel poverty at that time. That was before the recent 33% hike in electricity, gas and oil prices. The price of gas has now been cut by some 10%, but that still leaves people with over 20% more to pay than last year.

With money so much tighter, people have been left in a shocking predicament. The Executive have recognised that fact, among other issues, and decided that this is a time of crisis in which there may be deaths due to some people being unable to eat healthily or pay for fuel.

It wasnae sae lang ago that a' redd hoo twau oardinary pensioners, haein paed fer fid, haetin an fer whut they needit, wur left wi' only £2, er wor, wi' jist 47 pence tae dae them tha rest o' tha week. It's hard tae tak in whun ye think this tuk place afoar tha reacint hike in price.

It canny be a' 'Tak in oan tha chin' tiem fer them yins whua wull undootably hae reel herdship wi' this new rise. As Help tha Aged hae scrivven en noted, whun we strip awaw aw tha blether, tha elderly er left tae ither dae wi'oot a' meal er pit oan anither jumper an tichts, er sit in tha coul.

A while ago, I read about two pensioners who, having paid for food, heating and the bare essentials, were left with £2 and 47p respectively to do them for the rest of the week. Those were average pensioners who could have been anywhere in the Province. Indeed, that situation is even more unbelievable and shocking in that it occurred even before the most recent price hike.

People who will have major difficulties cannot be left simply to take the new price rise on the chin. As Help the Aged has noted, when the rhetoric is stripped away, elderly people are left to choose between not eating a meal or putting on another jumper or a pair of tights and sitting in the cold. The situation is that simple and that frightening. The thought of someone in Northern Ireland dying due to a lack of heating can never be tolerated.

The Department for Social Development's 2004 document, 'Ending Fuel Poverty: A Strategy for Northern Ireland', states the Government's intent to eradicate fuel poverty in vulnerable households by 2010, and in all households by 2016. It will be impossible for that, or any other, Government target to be met if we do not step in and make a practical difference. The purpose of this Bill is to allow us to step in and make that practical difference before it is too late.

We have had other problems and catastrophes in the past, such as the pork crisis just before Christmas, the beef crisis about a year ago and the flooding calamities. We will hear calls in the Chamber — both later today and in the future — that every motion needs to be dissected, discussed and debated, and there is no doubting that that is true.

However, every crisis needs an urgent response. That is why we are implementing measures to ensure that the Executive can make warranted, rapid and effective financial interventions in times of need. It is not a diversion of democracy; it is a path to provision. We are passing a measure that every Member agrees with and that will help people in times of trouble. None of us would refuse help that is available to our constituents, and we all fight for them as hard as we can. Therefore, I see no point in not backing a Bill that is designed simply to implement measures to allow needs to be met at the time when they are greatest.

I try to be positive in my attitude to life, and I am a firm believer that there is light at the end of the tunnel. However, some people in the Province are so financially weighed down that they cannot lift their head long

enough to see, or hold on to, that light. It is our job to guide those people towards the light, and the Financial Assistance Bill is a signpost in the tunnel to indicate that the light is coming closer.

Accelerated passage should not be used simply to cut out the middlemen. It should only be used in exceptional circumstances. The financial situation in the Province, and in the UK as a whole, will lead us all to the conclusion that these are exceptional times that require exceptional legislation. We must be prepared to meet the needs of our people in these times of trouble.

Members of the OFMDFM Committee are tasked with tackling many issues, such as child poverty, fuel poverty and our constituents' quality of life.

The Bill will help people in greatest need when they need it most — not after they have been floored by the burden. I support the Bill and its accelerated passage, and ask Members to do the same.

Ms Anderson: Go raibh míle maith agat. I welcome the opportunity to speak during the Second Stage of the Bill, which has the potential to make a real difference to people in the North.

It is important to reflect on the reality of life for our constituents, which is the reason for the introduction of the legislation. We are debating the Second Stage of the Financial Assistance Bill during one of the coldest winters in memory and when our economy and our people face a recession that will devastate many businesses, communities and families. Against that bleak background, people are, rightly, seeking assistance from their political representatives. There is an onus on all Members to do everything in their power to provide the necessary help and assistance as quickly as possible. Therefore, I welcome the Bill and hope that it passes swiftly through the legislative process.

I welcome the Bill's headline-grabbing initiative — the £150 fuel poverty payments. I am sure that all Members have been dealing with constituents who have been crippled by the recent scandalous hike in the cost of heating their homes. The phrase "heat or eat" is not a campaign slogan for countless families in the North, rather a stark and devastating reality for many of them. People in our community — a western twenty-first-century society — cannot afford to heat their homes and put food on the table. That should, and does, shame all of us.

The Bill alone will not alleviate all those problems, and I am conscious that the Assembly's lack of fiscal sovereignty limits its power to intervene. We will be unable to implement the changes that the people demand and deserve until all parties are prepared to take control of our economic destiny, realise the full potential of all-Ireland economic co-operation and cut the threadbare purse strings with Britain. Nevertheless, given the Assembly's operational parameters, the Bill

is a step in the right direction. Therefore, I was surprised and disappointed that the SDLP failed to support the accelerated passage process at last week's meeting of the Committee for the Office of the First Minister and deputy First Minister.

Mrs D Kelly: On a point of order, Mr Deputy Speaker, Ms Anderson is incorrect. There was no opposition noted. The information is misleading.

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

Ms Anderson: It is not a point of order. The reality is that the SDLP did not support the Bill in the OFMDFM Committee — that is a fact.

The people of the North are crying out for power-sharing to work and to make a real difference to people's lives, and the Bill is intended to do just that, as well as enabling the Executive to issue the fuel hardship payment. Furthermore, it will create powers to make similar interventions in the future.

I particularly welcome clause 2, and I believe that many in civic society will do so, too. The Committee heard evidence from many groups and organisations that are struggling, and clause 2 gives the First Minister and deputy First Minister — acting jointly — the power to determine situations whereby financial assistance needs to be provided in order to tackle poverty, social exclusion or patterns of deprivation.

I welcome, too, the assurance given by the First Minister and deputy First Minister on the proposed amendment to the ministerial code, which will ensure that determination of schemes must be agreed by the Executive.

I note also the comments that were made about the Assembly's role in the approval of such a proposed scheme, as well as the guarantees that Ministers will determine their own budgetary priorities.

The present funding arrangements are clearly unsatisfactory. The Executive have no power to intervene and provide financial assistance to tackle poverty, social exclusion or deprivation when it is determined that such a situation exists. The new legislation will change all of that. It will allow effective intervention, including financial assistance, to be made when the Office of the First Minister and deputy First Minister determines that any given situation requires it. That is a significant sea change, with the potential to help make a real difference to those who are in greatest need.

Mr B McCrea: Will the Member give way?

Ms Anderson: There have been enough unhelpful comments today; I do not intend to subject us to any more.

I believe that people of all communities and constituencies will welcome that sea change. The Bill will close a capability gap that existed throughout the

lifetime of the last Executive — the UUP and SDLP First and deputy First Ministers did not address it. Thankfully, the First Minister and deputy First Minister of this Executive have done so, and I commend them both. Go raibh maith agat.

Mr B McCrea: On a point of order, Mr Deputy Speaker. I distinctly heard you say at the start of this discussion that Members should try to keep to the point of the Bill, and should discuss what is actually in front of us. Ms Anderson, who is now seated, proceeded to discuss a completely different Bill — one that will be used at the whim of the Executive to change all sorts of spending priorities. That is not what this Bill is about, and the Member did not stick to the point.

Mr Deputy Speaker: Order. I am sure that Members will take my advice and stick to discussing the Bill. For information, when it is clear that a Member does not wish to give way, that decision should be respected.

Mrs D Kelly: Although I want to discuss the Bill, I cannot let the opportunity pass without correcting Ms Anderson, who seeks to misrepresent the SDLP. The SDLP did not vote against accelerated passage; in fact, no vote was taken. *[Interruption.]*

Mr Deputy Speaker: Order. I have asked Members, several times, to respect the Chair and to speak through it. I am repeating that request again.

Mrs D Kelly: It is rich that members of Sinn Féin who held up progress and measures to deal with the economic downturn are asking us to be responsible. It was Sinn Féin that would not allow the Executive to meet. The First Minister — I did not realise that he was at the side of the Chamber — said last autumn that he had passed some 24 papers to the deputy First Minister for approval. Where are they now? The momentum that they tried to gain in their meetings before Christmas now seems to be lost.

I wish to make some points about the Financial Assistance Bill. The SDLP welcomes the principle that there must be some action to enable the Executive to help to alleviate the effects of emergency or hardship situations through financial assistance. In particular, the Bill seems to be an appropriate vehicle for the introduction of the fuel credit scheme. However, there are a number of points on which I would welcome clarity, or which merit further consideration.

In view of the potentially sweeping powers contained in the Bill, and the potential financial implications of schemes that may be established under its authority, I would have expected the Assembly procedure to be affirmative, rather than negative, resolution.

Mr B McCrea: Having just mentioned the sweeping powers of the Bill, does the Member share my surprise at the apparent split in the Sinn Féin position? The deputy First Minister clearly gave an undertaking that

he was sensitive to the needs of the smaller parties in the Executive and that the Bill would be used only in extremis. Yet his party colleague, Ms Anderson, appeared to say that it would be a fundamental change in our relationship. In fact, I think that I heard the First Minister say that it was the most significant form of legislation to come before the House. Does she share my surprise that there appears to be a dichotomy in that position? Will she seek further clarification on that point?

12.45 pm

Mrs D Kelly: The Member has expressed concerns that were articulated earlier. Non-explicit terms lead people to suspect the motives of other parties — particularly when not everybody trusts the motives of other parties.

However, I will return to my script. The SDLP is concerned that there are potential resource implications of schemes — made under the authority of this Bill — that we would have expected to have required DFP consent, rather than just the approval of OFMDFM. As drafted, it seems that the intent of the Bill is that the determinations of the First Minister and the deputy First Minister will not require the consent or agreement of the Executive or the relevant Minister.

I urge the First Minister to further expand on what level of consultation and consent is required from the Minister of the relevant Department. It is difficult for the other Members of this House to work in a vacuum and to make assumptions about what might be contained in the amendments to the ministerial code. We can deal only with what is before us. We do not have details of the amendments in writing, although the First Minister has made some attempts —

The First Minister: There is no requirement for the Member to continue on her current trail, so I will save her some energy. This piece of legislation is not in isolation; it is part of an overall statute book that already states that the Executive will consider any legislation that requires controversial or novel decisions. Therefore, all the schemes in this Bill would normally have come before the Executive.

To put it beyond doubt, we are expressly including that in the ministerial code in terms that are being drawn up by the draftsmen. The statute book already contains the requirement for us to bring those schemes before the Executive. Therefore, there is no power grab — neither I nor the deputy First Minister are taking decisions ourselves. All those matters will be decided by the Executive, which will increase their collective decision-making power.

Mrs D Kelly: I thank the First Minister for his time-saving exercise on my behalf. However, clause 2 of the Bill — which is the most problematic clause and the one that most concerns our party — states that it enables the First Minister and the deputy First Minister,

acting jointly, to designate a Northern Ireland Department to establish, by regulations, a scheme to provide financial assistance to:

“tackle poverty, social exclusion or patterns of deprivation based on objective need”.

The First Minister said that the legislation on the statute books is not required to double up, so one wonders why that clause is needed, given that the Good Friday Agreement and St Andrews legislation put a statutory commitment and requirement on the Executive to tackle deprivation, poverty and social exclusion.

At a Committee meeting last week, the junior Ministers stated that some Departments needed to sharpen up their practices of tackling poverty. That was somewhat rich, as it came from a Department that has yet to publish its anti-poverty strategy and action plan and its cohesion, sharing and integration strategy and action plan. That strategy, by junior Minister Kelly’s own admission, should have been before this House by the end of November 2008.

The majority of people who are living in poverty are women, including women with dependants and older female pensioners. However, that Department has not, to date, published an action plan for the gender-equality strategy. The group that was established on a cross-departmental basis by the Department’s equality unit has not met since May 2008. One wonders what level of urgency is given to tackling poverty by OFMDFM.

Ms Ní Chuilín: On a point of order, Mr Deputy Speaker.

Mrs Long: Does the Member agree that it would be helpful were OFMDFM to position itself to respond to —

Mr Deputy Speaker: There is a point of order.

Ms Ní Chuilín: Although I do not wish to challenge your status, Mr Deputy Speaker, you stated clearly that Members should stick to discussing the Bill. Although I am enjoying Mrs Kelly’s rhetoric, I have not heard much that is associated with the Bill under discussion.

Mr Deputy Speaker: The Member will be pleased to note that I was about to draw Mrs Kelly’s attention to that point; however, she had returned to the subject of the Bill. Once again, I remind Members to stick to the subject in question.

Mrs D Kelly: With all due respect, Mr Deputy Speaker, clause 2 refers to:

“patterns of deprivation based on objective need”.

Furthermore, under clause 2, we are dealing with special measures to tackle poverty, so OFMDFM has not done its homework in order to develop an action plan to tackle poverty.

Mrs Long: The Member’s point about tackling patterns of social and economic deprivation is important,

because the inquiry into child poverty that the OFMDFM Committee undertook resulted in recommendations on two fronts: first, on how to tackle child poverty; and, secondly, on the departmental levers that are available to ensure policy delivery from OFMDFM. Does the Member agree that it would have been helpful to have received a formal response to that inquiry before inserting the clause 2 provisions into the Bill?

Mrs D Kelly: I must support Mrs Long’s comments. Perhaps the First Minister — who is in a position to know — can tell us whether his Department’s failure to respond to that inquiry is because of a lack of agreement between the two largest parties, or has its response been delayed as a result of the backlog that the Executive’s failure to meet for five months created?

Dr Farry: I am grateful to the Member for giving way. Would she care to speculate about the rationale underlying clause 2? That limits the Bill to tackling:

“poverty, social exclusion or patterns of deprivation”.

Although tackling those matters is a cross-cutting theme for the Executive, there are other important themes, such as co-ordinating the economy — the top theme — community relations, and so on. Is it not strange that such areas, in which additional spending might be required in certain circumstances, have not been included in clause 2?

Mrs D Kelly: I was going to ask the First Minister to illustrate, using examples, how clause 2 might be used. Such a response might address Dr Farry’s concerns.

There is much concern in our party, and in other parties, that Departments’ budgets will be raided to fund particular parties’ pet projects. Although such concerns are not explicit in the cases mentioned in the Bill, real concerns exist. When the Committee for the Office of the First Minister and deputy First Minister asked the junior Ministers to define “exceptional circumstances”, they were unable to do so.
[*Interruption.*]

Mr Deputy Speaker: The Member has the Floor. Two conversations are going on, and that is not fair.

Ms Ní Chuilín: I was having a conversation with Martina.

Mr Deputy Speaker: I hope that no one is questioning my ruling. Please continue, Mrs Kelly.

Mrs D Kelly: Apart from on spending powers, the SDLP has some concerns with other provisions in the Bill. There is no mention of budgets or of potential resource implications that might arise from schemes proposed under the authority of the Bill, particularly those that concern compliance with the requirements of managing public money. Therefore, I would appreciate some clarification about intentions, particularly on whether it is envisaged that money to fund schemes

that might be created to deal with extraordinary circumstances would come from additional, centrally supplied funding or from within existing departmental budgets. That key point requires clarification.

Regardless of earlier comments, a great deal of concern about the Bill remains, particularly about clause 2, and it would be helpful were the First Minister to inform Members whether his, or the deputy first Minister's, intended amendments will result in a decoupling of clause 1 and clause 2. The SDLP fully appreciates the hardship that communities and individuals are facing, and, therefore, it did not entirely oppose the Bill's receiving accelerated passage.

However, the SDLP has many concerns, particularly those that I raised about clause 2, and we will table amendments for the Bill's Consideration Stage.

Mr Deputy Speaker: The Business Committee has arranged to meet immediately on the lunchtime suspension. I propose, therefore, by leave of the Assembly, to suspend the sitting until 2.00 pm. Naomi Long will be the first Member to speak on resumption of the debate.

The sitting was suspended at 12.55 pm.

On resuming (Mr Speaker in the Chair) —

2.00 pm

Mr Long: Word of my impending speech must have permeated the corridors; hence there is a low turnout.

I speak as deputy leader of the Alliance Party, which has endeavoured, over the past several years, to provide constructive opposition in the House. Mr Kennedy, in labelling the Alliance Party the "Government's nuisance factor", demonstrated that he does not appreciate that concept or recognise the need for opposition in the House. I contend that those who are in Government and, at the same time, think that they can be the opposition are the greater nuisance factor. Perhaps it would be better for them to resolve that issue rather than casting aspersions on others.

However, I want to deal now with the general content of the Bill. All Members who spoke in today's debates on accelerated passage for, and Second Stage of, the Bill mentioned the exceptional financial hardships and the global economic downturn. Both have, undoubtedly, had a direct and negative effect on our constituents across the board. In particular, people who were already experiencing social and economic deprivation have felt the squeeze more intensely than others.

No one would dispute that the serious issue must be addressed in a timely way. The deputy First Minister's concluding remarks in the previous debate, and his interpretation of my colleague Dr Farry's comments on parity were, to put it mildly, ungenerous. The Alliance Party did not suggest that the principle of parity should be used as an excuse not to intervene to assist those who are in dire financial straits.

However, it is important for the Assembly to maintain a good relationship with the Treasury to ensure that its Budget is sufficient to facilitate continued interventions. Therefore, the Alliance Party's concern that the Assembly should not be seen to breach parity is a valid one, particularly given that clause 2 of the Bill refers specifically to matters that would traditionally be addressed through the social security system. The Alliance Party raised the issue simply to ensure that the Assembly does not do anything to breach parity or to jeopardise the sensitive relationship with the Treasury. I doubt, frankly, that anyone in the Executive who had time to think the matter through would have done other than to consider that issue carefully. The Alliance Party felt that it was important to raise the matter, but it is not an excuse for a "do nothing" attitude.

The Alliance Party is not opposed to the general thrust of what clause 1 of the Bill seeks to achieve and is not opposed to those provisions being made available. We recognise the need to empower the Executive to act swiftly in exceptional circumstances,

and we could, and will, debate how best to achieve that. However, we have concerns about the mechanism to be used.

I listened carefully to interventions from the deputy First Minister and the First Minister on the extent of such powers, their curtailment under the Northern Ireland Act 1998 and subsequent amendments made to that Act at St Andrews. Although any legislation made by the House can overrule its previous legislation, it remains subordinate to that Act, and I accept the point that was made about that.

The First Minister rightly said that the 1998 Act and the ministerial code require any proposals that make explicit reference to the Executive to be brought before that body. The point that I made in my earlier speech on accelerated passage is, however, slightly more subtle. I pointed out to the deputy First Minister that my party's concern is not such matters being required to come before the Executive, but the extent to which the Executive would be in position to accept or reject them.

Moreover, the majority of the Executive are members of the two parties that hold the positions of First Minister and deputy First Minister. Therefore, they could, essentially, agree to a package of measures that was opposed by a Minister from a minority party, despite the fact that it may affect that Minister's Department.

The First Minister, despite his extensive parliamentary experience, seems intent on making all his interventions from a sedentary position. I am happy to give way if he wishes me to do so.

The First Minister: I thank the Member for giving way. We can do all those things already with existing legislation. The Executive, through its ministerial code, requires every Minister to accept the decisions of the Executive; therefore, the Executive, by their numbers at present and without this piece of legislation, could decide what would happen in any Department, and the relevant Minister would be legally bound to follow.

Mrs Long: What the Executive cannot do at the moment is intervene directly with financial assistance — and that is the purpose of this legislation. That is not in their gift; otherwise we would not be having this debate. The Executive would be able to make such direct financial assistance without regard to the relevant Ministers.

Mrs D Kelly: The First Minister's explanation of how Ministers are bound to agree to the decisions of the Executive is exactly the reason why other Ministers who disagree with the Executive's decision have to agree to it during the Executive meeting; otherwise they will be hounded out of office. Furthermore, if all those powers are already possible under legislation, what is the purpose of clause 2?

Mrs Long: That is precisely the point that I will come to; however, I want to stick with clause 1 for the moment.

The First Minister: I am grateful to the Member's generosity in giving way; however, I must respond to the nonsensical intervention of the SDLP. Because a Minister has to agree with an outcome does not mean that that Minister has to agree with it during an Executive meeting. The point that was raised by the deputy First Minister was that the SDLP's Minister agreed during the Executive meeting with the proposition and disagreed with it outside. If there is a disagreement with the proposal before the meeting, that is where the disagreement should be aired — not outside afterwards having remained silent inside.

Mrs Long: My understanding of the legislation is that it is in the gift of any Minister to vote against a proposal in the Executive without breaching the ministerial code, but that it is not in his or her gift to frustrate the delivery of an Executive decision once that decision has been taken. That is my understanding of the matter, but I am not in the Executive so that is irrelevant. However, I seem to be better informed than some parties with Members in the Executive.

The first issue that I have with the Bill is that the threshold for "exceptional" is determined by OFMDFM. There are issues around that, but they are less important than the issue of delivery. The delivery of the financial scheme can be with any Department or with a third party. Therefore, OFMDFM can intervene directly in what would normally be delivered by another Department.

The First Minister is correct that the Executive can overrule the view of a Minister. However, that Minister would then have to deliver those decisions within his or her own departmental remit. That is giving power to OFMDFM to intervene and deliver a financial package that would affect a Minister's departmental remit without his or her agreement, which is a significant change. Therefore, I am concerned with some of the issues involved.

I raise the matter because the Alliance Party has not championed the arrangements for Government here. I make no excuse for that, because they are a contrived and, at times, ridiculous way of doing business. Nevertheless, they are there for a purpose: to provide protection for people who felt that their position in Government might be exploited and ignored by others in a more powerful position. This piece of legislation changes significantly that position in that some of the autonomy given to Ministers has been ceded. In principle, I do not object to that. I believe that it would be better if Ministers were less autonomous and more collective.

However, I am not convinced that the Bill proposes a move from autonomy to collectivity. I think that Danny Kennedy suggested that it proposed a sort of directional form of leadership, almost akin to dictatorship. That is not collectivity, and that is where my issue with the balance lies.

Neither I nor my colleagues dispute that there is an issue with the delivery of cross-cutting themes within OFMDFM. The policy drivers lie with OFMDFM, but the delivery mechanisms lie with other Departments. The Committee for the Office of the First Minister and deputy First Minister has debated the matter ad nauseum, and we have debated it at length with the First Minister and deputy First Minister and the junior Ministers. In fact, the topic has become something of a hobby horse of mine. Thus, it is not in dispute that there are issues. However, every time that the Committee and I have raised the issue, we have been told that the current legislative framework and mechanisms and ministerial code are sufficient to ensure that Ministers deliver on those cross-cutting agendas. It, therefore, seems bizarre that we are now accepting that more needs to be done.

That said, my issue with clause 2 really comes down to delivery. I accept that there is a need to deal with cross-cutting measures in a more appropriate way, but there are other mechanisms for doing that, and they should have been considered. For example, the Minister of Finance and Personnel can choose to ring-fence proportions of budgets for specific purposes; that is what happens in other places, and that mechanism may be appropriate here. The Executive programme funds are a mechanism that has been tried, tested and abandoned, but similar mechanisms are used in Scotland, Wales and other places, where Ministers pool resources to follow a particular agenda.

I am concerned that the measures in the Bill tackle only one aspect of the cross-cutting nature of OFMDFM. I am saddened that the opportunity has not been taken to consider the delivery of cross-cutting themes more widely; for example, themes such as sustainability, equality, community relations and good relations. Consideration could have been given to how they will be delivered and what policy and financial levers are in place to ensure that Departments deliver on those policies. When I raised that point, the answer that I received was that no Minister would resist such action, which begs the question why special powers are needed. However, I will set that issue aside, because we could go round in circles forever.

Careful consideration must be given to the issue of autonomy for individual Departments, specifically when the Ministers in question are from the smaller parties in the Executive, because their degree of protection in the Executive is much weaker. That sensitivity must be accepted and acknowledged by all.

It is not much of a response to say that it is OK because we can simply ride roughshod over them now.

When I raised that issue with the deputy First Minister, he indicated that, to some degree, we are dependent on the trust — so to speak — in the goodwill of the First Minister and deputy First Minister. Far be it from me to suggest that that trust is not universally given, but it is not just a matter of trust in the two individuals in question, nor is it even about trust in their two parties; it is a matter of trusting in perpetuity that anyone who holds those posts is a trustworthy and well-meaning individual. That is quite a different issue when it comes to the legislation. It is not a matter of understanding.

It is frustrating that Members completely fixate on the first use of the Bill rather than the Bill itself, because the debate is not just about trusting the motivation behind clause 1, it is also about knowing that it will not be used for other purposes. The issue is not necessarily about the lack of trust in the two individuals who, in the initial stages of the legislation, will hold the post of First Minister and deputy First Minister; it is about the general concern about where powers lie within the Executive and the Assembly.

Again, that matter could be resolved through amendment. I have written a letter to the First Minister and the deputy Minister in which I have expanded on the points that I am making today. I am not, in any way, suggesting that I do not accept the reassurances that were given to the Committee. Junior Ministers Donaldson and Kelly were insistent that the Bill was not intended to be a power grab. I do not dispute their motivation, but if the legislation could be used for other purposes, we should be sensitive to that and take full cognisance of it when we decide how to proceed.

2.15 pm

The First Minister said that the Bill was enabling legislation, not a spending proposal. Unfortunately, some Members have become fixated on the spending proposal and the benefits that will accrue from the Bill, and they have lost sight of the enabling powers that it contains. That is the concern. However, I accept that the First Minister made that point after he said that there would not always be money available and that the powers would not be as open to abuse as some Members had suggested.

I want to raise an issue from the viewpoint of the protection of OFMDFM. It is conceivable that an incompetent Minister, having failed to deliver within his or her departmental remit for the public, could formulate bizarre proposals for financial assistance. That Minister would wish OFMDFM to be the perpetual bad guy who says no in every situation — although that might come more naturally to some than to others, people could be put in a very difficult

situation. Therefore, the co-operation and the collectivity between the Departments and OFMDFM is crucial and goes far below the surface of the Executive, because, as I said, it would be possible for people to exploit the powers in the Bill in that way if they so wished. That would be detrimental to collectivity, harmony and good government, and it is another concern.

I appreciate that the First Minister and the deputy First Minister have been present throughout the debate and have responded and made some helpful interventions. That has been a useful part of the debate.

I am concerned that the ministerial code provisions are to be strengthened but have not yet been agreed by the Executive. I understand the timing issue, because the ministerial code cannot refer to a piece of legislation that has not been passed. However, the proposed changes have not even been agreed at an Executive meeting, which leaves — for want of a better term — a confidence gap. Despite the good will of the First Minister and the deputy First Minister, the Executive could reject the proposed changes. Therefore, there is an issue about the Assembly making decisions on the Bill in, essentially, a gap period in which no formal decisions have been made.

I referred earlier to the notion of the Bill as a potential Trojan Horse. I do not want the Bill to be seen as a Trojan Horse. The Bill can be tied down in such a way as to eliminate that allegation, which has been bandied about. It would be to everyone's benefit if amendments were to be respectfully considered and responded to fully, because the opportunity to close down the fear surrounding the Bill would be helpful.

In one of his interventions, the First Minister said that the Bill would be used in cases where powers did not already exist or were insufficient. It is worth drawing to the attention of the House that clause 4(5) states:

“Financial assistance may be provided under this Act even though other powers to provide financial assistance exist.”

Therefore, the powers will not be used exclusively in cases where powers do not exist or are shoddy.

The Bill could be used in circumstances where that is not the case. That is a catch-all term, because there could, to be fair, be a provision of which Ministers or officials are unaware, and they could be caught foul of it if it were not there. Therefore, I am not disputing it. However, it is important that we debate the issue in sufficient detail and that we do not make broad-sweep comments that are less than accurate. I would like clarification that the issue around the definition of the threshold for it to be an exceptional circumstance would have to be agreed fully by the Executive. They have indicated that, for action to be taken, the issue would have to be agreed fully by the Executive, but I would like clarification on that.

We have not had sight of the amendments that the Executive are proposing, but we intend to bring amendments to deal with some of the issues that we have suggested. We do it not in any way to unpick what is happening, but because we believe that there are significant issues here.

The significant issue about clause 2 is that it should be considered in much more detail. I would like it to be deleted and dealt with — not over a protracted period, because we recognise the importance of dealing with the issue in a timely way, but quickly, with a proper Committee Stage — even a short one — to allow those measures to be addressed.

The measures in clause 1 would allow the First Minister and deputy First Minister to undertake whatever interventions they wish in the interim while the Bill is being subjected to a Committee Stage. Therefore, I do not believe that it undermines the power of the Executive to act and intervene.

Finally, the role of the Assembly has been raised in relation to the issue. There have been a lot of interventions, and I apologise if I am attributing them to the wrong individuals — it is not with malign intent — but I think that it was the deputy First Minister who said that there may be amendments to the Bill. One of the issues was the timing of schemes and another, I believe, was the approval role of the Assembly.

There has been some debate about the Bill being subject to negative resolution, which, in my understanding, does not necessarily preclude debate on it, but it does change the context slightly. However, regulations will be brought forward, and, normally, they would be retrospectively considered by Committees and the Assembly. In that case, it is worth noting that people should not be fixated on the opportunity to deal with the regulations, because, essentially, they would be dealt with retrospectively. The Assembly needs to be conscious that when the powers are being granted, much of this will move away from the Floor of the House to be dealt with by the Executive directly and by Committees only retrospectively.

Mr Moutray: I support the Financial Assistance Bill. It is a timely and appropriate Bill that will help people in our society who have been worst affected by the global economic downturn. I welcome the fact that the Bill has been prompted by the need to provide a statutory basis for the fuel payments announcement as part of the Executive's response to the economic downturn. I also welcome the fact that the legislation will award the Executive with powers to react swiftly in response to any circumstances that they agree warrant express and effectual action. The legislation will grant the Executive the flexibility to deal with those who are at risk of poverty or social exclusion

owing to exceptional circumstances or because of inadequate or unsatisfactory funding arrangements.

The Bill provides the ability to respond to not only the prevailing climate, but to circumstances that could and may arise. The Bill will help to protect local interests and provide the legislative framework that will allow the Office of the First Minister and deputy First Minister and, indeed, other Departments to work and provide rapid and effective financial intervention to arising circumstances. There is no doubt that that is what our local economy needs.

We are living in exceptional circumstances, and witnessing at first hand a situation in which many are struggling to survive with sudden financial strain. However, I have no need to tell Members about that, as I am sure that they hear it day and daily from concerned constituents who are facing the strain and squeeze that many are experiencing.

I am glad that the Bill will allow us to deliver to people on the ground. It will allow the Executive to get down to business and disburse the £15 million that will address fuel poverty by providing payments to some of those who are most in need at this time. For too long under direct rule we were unable to take action; this legislation will enable us to intervene financially and assist the most vulnerable in society. The Bill will allow the Executive to manage public expenditure and ensure that resources are directed in response to exceptional circumstances and in such a way that addresses urgent and unmet social need.

The Bill will also allow Departments to respond promptly with financial assistance where the Executive warrant it. Departments must utilise the Bill to do whatever they can to alleviate any hardships that may arise. There are dark days ahead for many in society, and I believe that the Bill will allow the Executive to intervene financially both rapidly and effectively.

I welcome the accelerated passage of the Bill, and I encourage its continued momentum. It is important that we proceed speedily with this action, given that the Bill will benefit many of our constituents who are suffering at this time. The Bill has the potential to have a positive impact on those individuals, groups or areas that could suffer from poverty or social exclusion. I commend the Office of the First Minister and deputy First Minister for the swift production of the Bill, and I look forward to seeing it being used to its full potential.

Mr B McCrea: When I was speaking about the Bill's accelerated passage, I intimated that we were mindful of the good intent behind the Bill and the need to tackle some of the issues that are before us, but I also suggested that concerns had been raised about how the Bill might be used inappropriately in future. However, the more that I listen to the contributions

from Members from both the major parties, the more concerned I become.

Although there was a reassurance from the First Minister and the deputy First Minister that this was not an attempt to grab power or an initiative that was designed to centralise power, other Members appear to see the good, as they put it, that the Bill might do. Mr Moutray has just spoken about the dark days to come, and I agree that many challenges lie ahead of us, but surely that was not the purpose of this legislation — it was designed to deal with any unexpected emergencies to which we could respond quickly.

Mrs Long: I thank the Member for giving way. That is precisely the point that my party colleagues and I made. The provisions to deal with exceptional circumstances are contained in clause 1 of the Bill. One could choose to intervene routinely under the provisions of clause 2; the two clauses are clearly distinct.

Mr B McCrea: I thank the Member for her intervention. Not for the first time she has been able to put her finger on the points that cause great concern. I am sorry if I cause her some embarrassment, and I promise not to do it too frequently, but I share her concerns about clause 2. The provisions of the Bill that seek to sort out immediate problems will, of course, have the full support of the House. However, to look in general for nebulous things that might go wrong and prepare ourselves to respond to them on a sixpence will require either a great deal more thought, or the ability to deal with them under existing provisions.

Ms Anderson is not in the Chamber, but I listen to her contributions on many subjects during Policing Board meetings. I was somewhat disheartened to hear her talk about the need to break the threadbare economic relationship with the United Kingdom. It seemed to be a much bigger political stance than that which I was prepared for. It is not the wisest course of action to try to ally ourselves with people who are also facing significant financial pressures.

When the time comes to make amendments to the Bill, I will look for some reassurance that, as the First Minister and the deputy First Minister said, it is not a Trojan Horse, nor is it calculated to take power away, but that it will enable sensible decisions to be made in the right manner.

2.30 pm

I come to Mrs Long's point about clause 2. I am not sure why, in clause 2 (a), we decide:

“to tackle poverty, social exclusion or patterns of deprivation based on objective need”.

Surely, other issues could be included, or fewer issues included. It seems that the clause is worded in an unnecessarily specific way. In fact, the whole of clause 2 causes me some angst.

The key issue is confidence. The conditions for confidence required to give this Bill accelerated passage without proper scrutiny do not exist. Whether for the right or wrong reasons, the Executive did not meet for 154 days. I am not saying that both sides did not have their reasons, but that did cause a considerable amount of concern in the country.

I hope that I do not embarrass the deputy First Minister in the way that I did Mrs Long, but I do share with him a view that the country wants to see all parties getting together collectively to tackle these very real problems as a corporate body. It is disappointing when these issues are used divisively. Therefore, the question is: can we frame this legislation, and, indeed, this debate, in a way that reassures people that, collectively, we will tackle these problems while being mindful of the powers of those Ministers who have specific responsibility?

I make my next point gently and reasonably: the difficulties that the Minister for Social Development had with the budget, fuel payments and suchlike did not go unnoticed and caused concern. Surely, there is a better way to deal with such issues, because we are trying to work for the good of all.

Another factor that undermines confidence relates to education. I do not hold that the Minister of Education cannot take different views, but the country is crying out for us to reach some form of decision on that matter. It does look, collectively, to —

Mr Speaker: Order, I would want the Member to try to come back to the Bill, if possible.

Mr B McCrea: Thank you, Mr Speaker. I stand corrected. I thought that I wavered for only a fraction, but your eagle eye obviously spotted it.

The issue is about moving forward with some form of collective responsibility. I asked, when accelerated passage was being considered, that those Members moving the motion would heed legitimate concerns that were put properly. Those concerns have been expressed. I say with some reluctance that the Bill in its current form would pose some difficulties in gaining support. However, with a bit of imagination and by working together, I am sure that we could find provisions that would satisfy all concerned. That would be a useful proposal.

The Ulster Unionist Party fully supports the initiative of finding ways to get money to those in poverty, particularly in fuel poverty, and understands the need for a proper legal mechanism with which to do that. However, it asks respectfully of the House that we find a way of doing so that builds confidence and community consensus in a proper manner.

Mr O'Loan: We are debating the principle of the Bill, and I support the principle of a Bill that deals

with emergency procedures such as the situation created by fuel poverty. There is a need for legislation, and there is a need for the right legislation. This Bill is not the right legislation. Despite what was said by the First Minister and the deputy First Minister, serious concerns about the Bill remain.

The First Minister said:

“the Financial Assistance Bill is the most important piece of legislation to be tabled since the return of devolved Government”.

Those are his words, not mine.

He said that the Bill would give a local Administration the real powers to deal with our local problems, which is a clear indication that the right mechanisms have not been in place to create local solutions to local problems. If that is the case, it suggests that the Bill is not merely concerned with the introduction of emergency powers for occasional use. Rather, it suggests that the Bill is concerned with the introduction of a mechanism for OFMDFM to circumvent the existing, agreed processes of Government. Perhaps it will be used as a way for OFMDFM to create its own measures for its favourite schemes. Members are entitled to have serious concerns about the Bill and the way in which it has been presented to them.

As other Members have stated, the most serious concerns arise from clause 2, which relates to “unsatisfactory funding arrangements”. Once again, it confers powers on the First Minister and deputy First Minister. Why are those powers not conferred on the Executive? We were told not to be silly, because all the powers would come with the agreement of the Executive, and I shall say more about that later. If that is the case, why is that not stated on the face of the Bill?

The powers in the Bill are exercisable when:

“a situation exists which requires financial assistance to be provided to tackle poverty, social exclusion or patterns of deprivation based on objective need”.

I am not surprised, therefore, that Stephen Farry said that other powers may be included — for example, to rescue the economy. Who knows what other powers might be included? I can see why his mind moved in that direction. If special powers are to be introduced around a wide sphere of action, that begs a very serious question.

I wonder whether any of that reminds Members of the debate that took place on the Programme for Government and the attendant Budget. The Programme for Government and the Budget were created out of a considerable process involving widespread consultation with the Assembly and the wider public, through representative groups and individuals who were given an opportunity to comment on an annual Budget. I will talk about my view that the Budget ought to be annual, but the Programme for Government and the Budget have legitimate processes that are

clearly laid down. Why, then, should a substitute process be introduced, which the Bill gives every appearance of creating.

I also remind the House of the existing processes to deal with changes to the political, social and economic environment during the year. There are three-monthly monitoring rounds. Those have a due process, under which all Ministers can bid for any funds that have been released, and they can make a case for those funds based on need. The Department of Finance and Personnel and the Minister of Finance and Personnel reflect on that in order to bring proposals to the Executive, where a decision is made. That is the proper way to do business, and I doubt that there is not proper legal cover for that. Therefore, the procedures that are governed by the Bill need to be used only when those normal procedures are not adequate. I see no protections to say that those would be used only in exceptional or extreme circumstances.

Members will remember that the Minister of Finance and Personnel has refused to table a revised Budget for 2009-10 in the Assembly. The most to which he would yield was a strategic stocktake and, very grudgingly, an Assembly debate on his statement. We wanted a proper revised Budget that would give proper consideration to issues such as poverty, social exclusion and patterns of deprivation. The same Ministers who would not carry out a proper process on a Budget for next year say that the situation is so extreme that extreme measures are needed. There is a fundamental contradiction in what the Ministers tell us.

Even if there is no proper Budget for next year, in his stocktake I presume that the Finance Minister will bring to the Executive his best call on the reallocation of resources to address these issues. However, to accept this Bill, Members must believe that there is some emergency on the horizon that will face us very soon in these policy areas and that will need the railroading through the Assembly of a measure that gives the entire power to the First Minister and deputy First Minister.

This morning, we were reminded that, under the ministerial code, any such matters would have to come before the Executive in any case, and asked what we were worried about. The process in front of us is open to political chicanery; of that, there is no doubt. Under it, OFMDFM can bring a proposal to the Executive. There must be serious concern for the smaller parties in the Executive, because the parties of OFMDFM hold the majority of seats in the Executive. That situation was reflected upon this morning by the First Minister. He used the word “trust” as the ultimate defence of these proposals. The SDLP’s experience in the Executive has tested whether that Committee is operated in a collective fashion, and that makes us ask whether we can depend on trust. Most Members would

prefer to examine the letter of the Bill and to place their trust there.

I turn to the phrase used in the Bill: “based on objective need”. How can OFMDFM possibly assess objective need across policy areas that rest in other Departments? That is simply not convincing. Assessing objective need requires substantive analytical work — probably involving several Departments — and that is not within the capacity of the Office of the First Minister and deputy First Minister. Furthermore, data sharing is a serious and major issue. Departments may not be legally empowered to share personal data collected for a particular purpose. Those issues are not addressed in the Bill.

There is an extraordinary failure in the Bill: namely, to refer to the role of DFP and the Minister of Finance and Personnel. No other financial decision can be made without such reference. There is no clarity as to where the money will come from.

The First Minister referred this morning to the proposals made, some considerable time ago, by the Minister for Social Development to deal with fuel poverty. The First Minister said that the money was not there. However, what was needed at the time was the creation of a scheme and regulations to support it, and after that, the First Minister said, the money would be available. He said that it was not available until the December monitoring round, which means it was available at the December monitoring round. Had the Executive been meeting, they would have been perfectly capable of stating that that extreme situation would have first call on moneys released — as they were — in the December monitoring round. That was perfectly possible, and it had been done for the Department of Health, Social Services and Public Safety in the Budget at the start of the year.

The First Minister knows perfectly well that that was a possible way of dealing with the situation. OFMDFM failed to come up with that remedy, yet it now comes before the House and claims that there is such urgency that it needs this incorrect set of proposals.

I have serious concerns about the Bill. The SDLP will table amendments to it, once it sees what amendments Ministers themselves bring forward. The First Minister claims that the SDLP Minister and other individual Ministers enjoy total protection under the ministerial code with respect to this Bill. To test that, the SDLP may table an amendment to the effect that the First Minister and deputy First Minister in conjunction with the relevant Department will determine whether financial assistance may be provided. However, we will have to formulate the wording of our amendments with due consideration and in the light of any others put forward.

If the First Minister and the deputy First Minister are serious about not attempting to overrule any individual Minister, the SDLP is interested in the reaction to such a proposal.

2.45 pm

The SDLP is very sceptical about the need for clause 2 at all. Furthermore, we endorse the point that Danny Kennedy made that all Members should be entitled to see the ministerial amendments well before the deadline for Members tabling amendments for Consideration Stage. That all points to the unacceptably rushed procedure of:

“the most important piece of legislation to be tabled since the return of devolved Government.”

By the manner in which they have handled the detail of the Bill, the First Minister and the deputy First Minister have not provided a proper service to the Assembly.

Mr McCallister: I am pleased to speak to the Bill, and I am also pleased that the First Minister and the deputy First Minister have helped speed its progress through the Assembly. Although I welcome the Bill in general, it is not ideal.

I am sure that every Member in the Chamber still laments the loss of the 154 days in which the Executive did not meet. Not only could those people who have suffered have had their problems resolved by now, but we now face dealing with another other potentially contentious and, it appears, ill thought-out Bill.

The Bill will place unique and unprecedented power in the hands of the First Minister and the deputy First Minister. If the decision was made by design, it is another example of the desire of the DUP and Sinn Féin to accumulate power. If it is by defect, it highlights the rushed nature of the legislation. Either way, although I support the Bill's intentions, it will not deliver good or effective government in its current form.

I was very surprised when I was informed that no powers and no system were in place to distribute the fuel payments announced as part of the December monitoring round. I find that difficult to accept, particularly given that two successful rounds of hardship-relief payments to householders who had their homes flooded had previously been made, the second of which was paid just a few months ago, in August 2008.

On 15 December 2008, the First Minister announced that his Office would introduce a Bill to:

“provide for permissive powers to implement remedial action in response to any circumstance that the Executive agree warrants rapid and effective action. That power is intended to regularise the allocation and distribution of funds in response to any crisis or hardship situation.” — [*Official Report, Vol 36, No 3, p122, col 1*].

However, this Bill does not mention the need for Executive consent. The deputy First Minister mentioned the change to the ministerial code, but the Bill itself does not mention the Executive at all. All powers to initiate such remedial action are placed with the First Minister and the deputy First Minister, acting jointly. All powers to decide what those exceptional circumstances are, as well as the power to designate a Department to tackle those circumstances through financial aid, also lie with them. The allocation of such powers could be to the detriment of smaller parties in the Executive.

Clause 2(1)(b) states that the powers conferred are exercisable if the First Minister and deputy First Minister, acting jointly, determine:

“that arrangements to provide such financial assistance are not in place, or that such arrangements as are in place for that purpose are, or are likely to be, ineffective, inadequate or for any reason unsatisfactory”.

That paragraph has serious implications for the ability of Ministers and departmental accounting officers to manage their departmental budgets autonomously. An accounting officer's ability to balance a Department's books effectively is one of the founding principles of the administration of government in the United Kingdom. Therefore, the impact of the Bill should not be underestimated.

Where the money comes from is also a major issue. The financial package agreed in December was sourced from a monitoring round, which, at the Minister of Finance and Personnel's discretion, is usually subject to Executive approval, in the procedure at least.

However, there is no stipulation in the Bill designating where the money should come from. It appears that, in its current form, the Bill allows the First and deputy First Ministers to redirect moneys within departmental budgets, thereby overriding departmental Ministers and diminishing the role of the Minister of Finance and Personnel.

The Bill has the potential to create much hostility between Ministers and to allow the larger parties to dictate the workings of Departments that are run by Ministers from smaller parties. In short, the Bill takes a step away from power sharing between all parties toward a two-party diktat.

There is a need to ensure that the Bill is based on the consent of the entire Executive, especially the Department that will have to deliver, and potentially pay for, remedial action. There needs to be clear procedures concerning where the money will come from and transparency regarding what constitutes a crisis or hardship situation. In its present form, this is an imperfect Bill that will potentially damage the workings of the Executive.

The Bill will help us to implement the fuel payments. Much has been made of that when explaining the reasoning behind the Bill and, in particular, the need for accelerated passage, which I believe is right and proper for that reason. However, this Bill has far-reaching and long-standing implications for the decision-making process of the Northern Ireland Executive and the Assembly. We are told to trust this process and are presented with the threat of not getting fuel payments out to those who need them — I hope that that matter is not being used as a scare tactic to get this extensive Bill through the Assembly.

Some intentions of the Bill are extremely commendable, and a mechanism to help the most vulnerable in our society in times of crisis is also very necessary. However, we must ensure that we get the correct mechanism, rather than one that does not facilitate good Government.

Dr Farry: The Alliance Party will not frustrate the Second Stage of the Bill; however, we are very far from being satisfied with its contents. In particular, we have major reservations regarding clause 2. We feel we can support — or, rather, not frustrate — the Second Stage on the basis that we look forward to seeking to decouple clause 2 from the Bill and to the Department bringing that matter back to the Committee for full scrutiny at a future stage.

I appreciate the need for a special emergency fund to be set up and the associated powers put in place. It is important that we decouple that principle from any proposed use of the fund — we have been in danger of confusing those two issues during today's debates. However, it goes without saying that we cannot anticipate the future. We do not know what lies around the corner and cannot foresee what social or economic problems, or what natural or man-made disasters, may afflict our society. Therefore, it is wise that we prepare for such eventualities — that argument has been well made and, essentially, won. That is accepted.

That leads to the issue of parity, which has been bounced around this morning. It is important to recognise that, as things stand, winter fuel payments must go ahead. We are where we are; people need financial assistance. We have, perhaps, lost the opportunity to do something a little more creative with the funds involved, owing to the delays over the past months. We must get payments out to people in order to see them through this winter as best we can.

That said, it is important to appreciate the arguments regarding how that money could be used better. The funds could be used to improve the insulation and energy efficiency of the homes of vulnerable people in society. Rather than a one-off payment being made to see them through this winter, such investment could provide people with assistance for a number of

winters. If we were to roll out that level of funding on an annual basis, we could make a lot of progress.

I think that the proposed expenditure has to be placed in its proper context. However, with respect to our current situation, we need to proceed with the payments: that is accepted.

Clause 2 is causing the most controversy for Members, and I have a number of concerns about the implications that lie before us. The terms of reference for the special emergency fund are essentially open-ended, which may be perfectly logical, because we cannot anticipate the emergencies that may confront us. However, clause 2 is defined by poverty, social exclusion and patterns of deprivation. I recognise the importance of those issues, but why have other issues not been considered within the same framework? Other important matters cut across Departments: a number of important cross-cutting themes have already been highlighted in the Programme for Government.

Indeed, the economy has — quite rightly — been highlighted as the number-one priority in our society. It is easy to make the argument that the Government must provide special assistance measures to address the current economic downturn. Indeed, the First Minister can recite the different measures that were announced by himself and the Finance Minister immediately before Christmas. However, there is still a frustration in society about the lack of a coherent and sufficient level of response from the Executive, especially when one compares the degrees of responses that have come from different jurisdictions; not just on these islands, but elsewhere.

There may be a situation in which Departments are either not able or not willing to play their role in a co-ordinated and effective joined-up response by the Executive to dealing with the economy. The clause may need to be reconsidered in order to include other areas, such as the economy or tackling a shared future, which again cut across all Departments, or, indeed, tackling the environment and combating climate change. That, again, is a challenge for all aspects of Government, as is how we engage with the green economy, which involves several Departments in a situation in which some may be willing while others are not.

Clause 2 may have its uses, but my question is this: why has it been defined in such a narrow way when there are so many challenges facing Government that require a joined-up response?

The second issue relates to the role of the Finance Minister. The Finance Minister may not always come from the same parties as the First Minister and deputy First Minister, and issues regarding co-ordination among the different parties involved may need to be considered in the future.

Members have asked where the money will come from for this. Presumably, two things could happen: first, money could be ringfenced from the annual Budget — which begs the question how much? Secondly, money could be surrendered through the monitoring rounds, with the first call on resources going to this special fund in order to deliver financial assistance to a number of different schemes. The danger in that type of approach is that it risks jeopardising and distorting the existing patterns of funding through the Departments. How much distortion from the current provision of funding is anticipated by the First Minister and deputy First Minister, bearing in mind that our budgets are currently very tight?

Mrs Long: Does the Member agree that it would be helpful to get clarification about whether the funding to facilitate the packages has to be, as is anticipated for the first use, from a special pot of surrendered money, or whether the powers could be used to direct spending within departmental budgets in future?

Dr Farry: The last point is the bigger concern — whether there would be powers of direction whereby ministerial decisions made about spending priorities in Departments could be overruled.

I am concerned about the implications of the Bill for the nature of power sharing in our society. Power sharing is a concept that most of us support and appreciate the need for, although there are different forms; from voluntary coalition to the current mandatory four-party coalition.

3.00 pm

I am frustrated by the current system of government, whereby parties pick up different portfolios based on the lucky dip of d'Hondt. Policy outcomes can be heavily skewed, depending on which Minister holds a relevant post. To give an example, with the Speaker's indulgence: the Sinn Féin Minister of Education has a particular viewpoint, which is resisted by other parties in the Chamber. Equally, on the other side of the fence, the Minister of the Environment has adopted a policy towards an environmental protection agency that is supported only by his own party. I understand that that can be deeply frustrating for parties in the Executive.

In any Government, people do not surrender their interest in the outcome of portfolios that they do not directly control. In joined-up government, everything must be knitted together to provide co-ordinated and cohesive solutions for society. There is a problem with the very nature of the Government, which exposes some of the contradictions of mandatory coalition. The Bill may go some way to correcting that problem by bringing more cohesion to Government, and I would welcome the greater sense of collectivity that that would bring to the Executive.

However, is that the wisest way to proceed? Perhaps a more comprehensive approach is required — through the Assembly and Executive Review Committee — in order to examine the nature of the Government rather than matters being conducted in a piecemeal fashion that could potentially lead to more acrimony and disagreement in the Executive, especially if individual Ministers find that things are being done over their heads or without their direct consent. In a voluntary coalition, everyone signs up to a single programme for government, so those contradictions do not exist. However, the debate has demonstrated the contradictions of a mandatory coalition.

How the money is spent has implications for Northern Ireland's wider relationship within these islands, particularly its relationship with the UK Treasury. The expenditure that is provided for under clause 1 or clause 2 could result in measures that lead to the financial assistance given to citizens in Northern Ireland being more generous than that given in the rest of the United Kingdom.

The parity principle has been very dear to the Assembly and to its predecessors, from the late 1940s onwards. A relatively low tax base has enabled the citizens of Northern Ireland to have the same level of social protection as their counterparts elsewhere in the UK. Although it is true that, under devolution, we are free to break that parity principle, we do so at our peril. I appreciate that Members have been told — by the First Minister and deputy First Minister, and the Chairperson of the Committee — that there is no threat to parity from the proposed funding for warm homes, and I will take that at face value. However, the potential exists for the introduction of other measures that will create difficulties. Even if, strictly speaking, the parity principle is not broken, that could still cause problems with the UK Treasury.

There is a debate about the relationship between the Scottish Government and the UK Parliament, and a number of English MPs have expressed their unease. Northern Ireland has escaped much of that scrutiny, largely due to the peace process. However, some caution must be exercised about how money is spent — which leads to those differential outcomes — lest it come back to bite us in the future. That is the case, particularly when there is uncertainty in the UK about wider financial settlements, and issues such as revisions of the Barnett formula are being discussed. As we move towards a more normal and stable society, those risks may become more acute. We need to be somewhat cautious about how quickly we jump into certain funding measures, and all implications must be properly assessed.

All Members who contributed to the debate recognise that the Bill is a very important piece of legislation.

Obviously, some Members have expressed their intent to have the matter dealt with speedily. Other Members have urged a degree of caution when dealing with certain aspects of the legislation. Elements of the Bill are to be welcomed. I envisage that they will be progressed rapidly, which will be good for society.

Equally, we must pause for a moment in order to have much greater debate in the Committee on issues that range from the nature of power sharing to the implications for the system of financial management and the purposes for which special financial assistance can and cannot be provided. Those important debates affect all aspects of Government, and we should not rush those discussions. Those issues can be dealt with through amendments during the Consideration Stage of the Bill.

The First Minister: I suppose that it is the nature of politics that a Second Stage can deal with the detail of a Bill, rather than what it should deal with — its general principles. The purpose of Second Stage is to reach agreement on a Bill's general principles. Details are supposed to be dealt with at Consideration Stage.

For the most part, Members' contributions have been constructive. I welcome those that have clearly supported the Bill. Members who have not given unqualified support to the Bill fall into two categories. First, there are those who have put forward their concerns in a constructive manner — I include the Member who has just resumed his seat in that category. Secondly, there are those who have gone out of their way deliberately to make a party-political rant; to attempt to throw in red herrings; to engage in scaremongering; and to tell what might be described — if I were permitted to do so — as half-truths or worse.

It is clear that those Members have no interest in what the Bill says and means, as opposed to what they want the public to believe when it reads the newspaper headlines that they attempt to create. It is clear who belongs in that category. I will deal with those Members more directly as I continue my speech.

If he were present, I would tell the Chairman of the Committee, who considers me to be in "rank bad form", that I arrived at the Chamber in very good form. Certain Members' contributions to the debate changed that. I consider the behaviour of some Members, who are prepared to allow people who are in poverty and deprivation to be secondary to their party-political point-scoring, to be rank bad form. That is pretty despicable.

During the course of the debate, it became clear that certain Members, or their research assistants, had written their speeches beforehand and had them typed up nicely. Even though the facts became clear during the debate, those Members were not quick enough to amend their speeches and, therefore, spewed out the

inaccuracies that were already contained in them; in particular, the Ulster Unionist Party Member for South Down came out with the greatest lot of drivel that I have ever heard in the Chamber. Had he listened during the debate, he would have recognised the inaccuracies that he repeated. I hope that he examines the Bill and discovers just how wrong the points are at which he has arrived.

The Chairman of the Committee, who is not present, seemed to assume the form of a Jekyll-and-Hyde character in the debate. He divided himself when he indicated that he would speak first as the Chairman of the Committee, and then as an Ulster Unionist Party Member. He is a much nicer person when he is the Chairman of the Committee. Perhaps, next time, he would concentrate more on that role than the other.

Several Members, including the Chairperson of the Committee, raised the issue of the Executive's role in decision-making under this legislation. I have repeatedly made it clear that the existing legislation states that decisions on these issues will be taken by the Executive. Despite that, Members continued to speak as if I had not repeatedly made that point. I would have expected Members to be familiar with the laws that determine how decisions are made in Northern Ireland since the changes were made to the St Andrews Agreement. However, lest there be any doubt, I will set out the position clearly.

Section 28A(1) of the Northern Ireland Act 1998 makes it clear that a Minister:

"shall act in accordance with the provisions of the Ministerial Code".

The present ministerial code was agreed by the Assembly on 20 March 2007. In paragraph 2.4, under the heading "Duty to bring matters to the attention of the Executive Committee", it states, *inter alia*:

"Any matter which:-

(i) cuts across the responsibilities of two or more Ministers;"

and

(v) is significant or controversial and is clearly outside the scope of the agreed programme referred to in paragraph 20 of Strand One of the Agreement;"

— that is the Programme for Government —

"shall be brought to the attention of the Executive Committee by the responsible Minister to be considered by the Committee".

The ministerial code goes on to make it clear:

"no expenditure can be properly incurred without the approval of the Department of Finance and Personnel".

That deals with two issues about which we have been talking: the role of the Department of Finance and Personnel and the role of the Executive. It is abundantly clear that any schemes under this legislation would be crosscutting or, by definition, significant or controversial, and would, therefore,

require Executive approval. Indeed, section 28A(10) indicates that a Minister has:

“no Ministerial authority to take any decision in contravention of a provision of the Ministerial Code made under subsection (5)”.

That subsection requires Ministers to bring matters to the Executive. Therefore, it is clear that the law already requires Executive approval for any scheme that would be made under this Bill. The amendment to the ministerial code that we are now contemplating is merely to make that explicit in case there should be any doubt in the mind of any Member or any Minister. Given that, it would not be appropriate to refer to the Executive on the face of the Bill because it is already in legislation and in our ministerial code.

The way in which our legislation operates is to confer powers on Departments, but to make those powers subject to the agreement of the Executive. If OFMDFM was interested in a power grab, which was referred to by several Members, it could utilise the powers that it already enjoys under section 17 of the Northern Ireland Act 1998 to determine the functions to be exercisable by each Department. In short, we do not need new legislation if we wanted to put powers into the Office of the First Minister and the deputy First Minister, or to take functions away from any other Minister. If we wanted to have a power grab, the necessary legislation is already on the statute book.

Several Members referred to parity. If we were merely to adhere to parity on all issues, devolution would be unnecessary and a lot of people here would be redundant. The benefit of devolution is that it allows those directly elected by the people of Northern Ireland to respond to the needs of the people of Northern Ireland. Does any Member in the Chamber seriously believe that the kind of use that we intend to make of this legislation in its first use would have been made by direct rule Ministers if we did not have the provisions of the devolution settlement? It would not have been, nor has it been anywhere else in the United Kingdom. Let us be very clear, therefore: devolution allows a local administration to tailor its own policies and public expenditure to best meet the needs of that local community.

If Members really believe that parity in all matters is of the uppermost importance, they will vote against the Bill and they will publicly tell people on income support and old-age pensioners, who might benefit from fuel-poverty payments, that they believe in parity and that given that other people in the UK are not receiving those payments they should not receive them either. That is the logical extension of their case, which will deny the people of Northern Ireland the benefits of our announcements. That tenable and legitimate argument supports total integration. However, I suspect that, in the present circumstances, few recipients of the fuel-poverty payments will support that view.

3.15 pm

I will discuss the Bill's purpose. Many Members have said that clause 1 is jolly good and will be supported but that they will not support clause 2. We must be clear about the direction and terminology of the Bill. Clause 1 deals with unforeseen hardship whereas clause 2 deals with hardship that has been identified in the Programme for Government. Therefore, we are dealing with hardship.

When Dr Farry asks whether environmental and economic issues should be included, my answer is that the Bill deals with how the Executive respond to hardship. Although everything could be thrown into the Bill, it has not been designed with the intention of resolving all the problems of Government across the panoply of ministerial responsibilities. The deputy First Minister and I have no intention of using clause 2 for any purpose other than to realise the agreed goals in the Programme for Government.

I am sorry that the deputy leader of the Alliance Party is not in the Chamber to listen my comments. At the moment, OFMDFM does have a responsibility when it comes to poverty issues, and so on. In fact, the terminology with which the SDLP Member for North Antrim was unhappy arose directly from the St Andrews document. It was not something that we dreamed up: it was a duty placed upon us following St Andrews, and the terminology used in the Bill is the exact terminology that was used then.

It is clear that although OFMDFM has a role to play in dealing with those issues, a mechanism is required to enable it to do so, because they are cross-cutting issues. Such a mechanism has been put into place in clause 2, which will bring the matter to the Executive. It will be for the Executive to decide whether to proceed on the recommendations of the First Minister and deputy First Minister.

Members mentioned the Finance Minister, who I am glad to see is in the Chamber. None of the terms of the legislation interfere with his role. All of his responsibilities to find the money that the Executive might decide they want to spend will remain with him. It is right to say that he will carry out those responsibilities through the in-year monitoring rounds, or he might be able to squeeze new money from the Treasury, which can be a difficult task. It could also be achieved through reprioritisation within Departments or between one Department and another. Those are his options. Clearly, when schemes are brought to the Executive, it will be up to the Finance Minister to indicate whether he can find the money for them and from where that money will be found.

Those are the normal issues in which the Executive, and the Finance Minister in particular, have a role to play.

There is no Machiavellian plot for the deputy First Minister and I to “suck out” — I think that that was the term that was used — functions and powers from various Departments and to make their decisions for them. I suspect that that refers to the three Departments that are not under the control of the deputy First Minister and me. Those Ministers are bound already by the ministerial code. Therefore, they are bound already by the Executive’s decisions. If the Executive, yesterday, today, or at any time before the Bill receives Royal Assent, were to make a decision on a matter that relates to any of those Departments, the relevant Ministers are required by the ministerial code to accept and to act upon that decision.

There is nothing new in relation to the roles and responsibilities of Ministers. Ministers will still be under the authority of the decision that is made collectively by the Executive. As I said earlier in response to an intervention — there were perhaps one too many interventions earlier — the legislation will improve the collectivity of the Executive massively.

I accept the criticisms that have come from several quarters — they have certainly been offered by my colleagues on this side of the House — about the system of government. However, we have to deal with the system of government that we have. It is not an ideal situation; I do not believe that anybody thinks that mandatory coalition is the best possible form of government. We take many of the steps that we have to because of the odd system of government within which we have to work. If there were a voluntary coalition, there would effectively be no need to take some of the steps that are outlined in clause 2 of the Bill.

I think that one of the SDLP Members indicated that the difference between the systems is that in a voluntary coalition, everyone would have signed up to the Programme for Government. Let me make it very clear: everybody in this mandatory coalition signed up to the Programme for Government. That Programme for Government, having been signed up to unanimously by every Minister in the Executive, was brought before the Assembly and signed up to by the Assembly. Therefore, the Programme for Government has all the greater authority because it has the Assembly’s support.

Some of the required changes are necessary because of the awkward system of Government that we have. However, even if we had a voluntary coalition, we would not have the powers that the Bill will give us to deal with emergency circumstances. To that extent, the Bill will provide us with the enabling power to spend money in circumstances where the Executive agree that it should be spent.

Mrs Kelly, a Member for Upper Bann, raised the issue of resource implications. She is right; the Bill

does not provide additional funding for particular schemes. The purpose of the Bill is not to provide; it is to enable the Finance Minister and the Executive to be able to allocate funding if the case merits it and if there is an emergency. It should not be any surprise that the Bill itself does not indicate how money should be either gathered or spent. That is a role that has been decided already and one that the Finance Minister will exercise. Therefore, DFP remains responsible for those issues and will report to the Executive when their decision is made. The Minister for Finance and Personnel is as responsible as any other Minister for the decisions that the Executive make, but I think that he would soon tell the Executive if they are making a decision on a matter for which he cannot find the money. I do not believe that any Executive Minister would wish to get into that situation.

The Chairperson of the Committee for the Office of the First Minister and deputy First Minister, a Member for Newry and Armagh, requested details of the amendments to the Bill. I hope that my reply will be a sufficient response to Basil McCrea, the absent Member UUP from Lagan Valley, who wanted to hear assurances and to be convinced that we are willing to consider amendments to the Bill and to have it improved. I hope that he is listening in his office, as he is not in the Chamber.

The SDLP Member for North Antrim said that he was appalled that we were considering amendments to this Bill at its Second Stage. That was a remarkable comment. We consider it a duty on ourselves to listen to the Committee, which made suggestions about changes that could be made, as did ministerial colleagues — including the SDLP Minister. We will propose to our Executive colleagues that some changes should be made to the Bill. I hope that those changes will improve the Bill and, perhaps, allay some of the concerns that Ministers and Members have.

As far as the Committee being given details of those amendments is concerned, the deputy First Minister and I have always been co-operative with the Committee. The deputy First Minister indicated that he sees good sense in assisting the Committee. As I speak, a letter is in the final stages of being drafted that will provide Mr O’Loan with the information that he seeks.

I find it somewhat strange that the people who most readily state that these issues should be dealt with by the Executive — and who ask where the Executive’s name is in the Bill — are the ones who are asking us to give answers before we consult with our Executive colleagues. I enter the caveat that, while we will provide the Committee with the details of what we propose to the Executive, we listen to our Executive colleagues, and it will be them who collectively take the decision. They may want to make other amendments, they may not want some of the current

amendments, or they may want to modify some of the amendments that we make. In that context, we are happy to provide that information to assist the Committee in doing its job.

Mr O'Loan also complained that while the Committee will have a role in scrutinising legislation relating to OFMDFM, it will not have a role in relation to any amendment that we might make or consider regarding the ministerial code. Just as the ministerial code was approved by the Assembly, any change to it must be approved by the Assembly. Therefore, Assembly Members will see and, no doubt, debate those changes. If it wishes, the Assembly can set up a Committee. Mr Speaker, I am sure that you will be able to draw Members' attention to the procedures if they want to set up a Committee to consider that issue.

The leader of the Alliance Party said that several other issues of Government needed consideration. I have canvassed for an Alliance Party place on the Assembly and Executive Review Committee. That party should have had that place from the beginning — I agree with him on that matter. I will seek his support for changes to improve the way that we govern in Northern Ireland. I hope that we will be able to convince colleagues around this Chamber of the need to constantly improve and reform the way that we do business in the Assembly.

I will touch on a further issue that was raised by Mrs Kelly: the strategy to tackle poverty. Anybody who wandered into the Chamber or the Galleries would have thought that nothing had happened in OFMDFM in relation to that matter. Of course, the St Andrews Agreement already deals with the subject matter of clause 2 of the Bill by placing a duty on the Executive to tackle poverty.

Mrs D Kelly: I said that.

The First Minister: The Member did not say all that I will say, so I advise her to listen further.

The St Andrews Agreement places a duty on the Executive to adopt a strategy to tackle poverty. After devolution, one of our first actions was to examine Lifetime Opportunities, the anti-poverty strategy. We revised that strategy and included a new proposal for a ministerial subcommittee on poverty. The Member should have been aware of that; she considered that proposal as a member of the OFMDFM Committee some time ago. Last year, the Executive endorsed that strategy.

3.30 pm

In addition, the Member referred to the Executive's response to the anti-poverty inquiry, which was co-ordinated across all Departments and was agreed by the Executive on 11 December 2008. The following day, the response was forwarded to the Committee for

the Office of the First Minister and deputy First Minister for consideration, which I understand has been scheduled for 28 January 2009.

The Member for Newry and Armagh Mr Kennedy — I am not sure whether he was speaking in his Dr Jekyll or Mr Hyde mode, although I suspect it was in his less pleasant form — mentioned the potential removal of Assembly scrutiny powers, and several other Members raised the negative resolution procedure. Without saying anything about what the deputy First Minister and I might propose in relation to negative or affirmative resolution matters, it is sufficient to say on this occasion that, even under negative resolution, the Assembly has the power to annul resolutions made as a result of this legislation. Members will probably accept that there is a stronger case for negative resolution powers — which are, by nature, emergency powers — for clause 1, and we will want to further consider clause 2.

I was touched when the deputy leader of the Alliance Party, Mrs Long, adopted the mode of wishing to protect OFMDFM from irresponsible Ministers who might wish to use the force of the legislation to blame the First Minister and the deputy First Minister for failing to agree to some proposition that he or she might have in mind. The ability to say no comes with the territory and with politics. The Member for East Belfast probably knows that it is every Minister's responsibility to take such decisions; they must have the ability to say no when it is appropriate to do so, rather than pass the buck.

However, although irresponsible Ministers could use the legislation to pass the buck to the First Minister and the deputy First Minister, those same irresponsible Ministers could publicly — as has happened in the past — call for measures to be taken that they know they have neither the power nor the money to take, and, therefore, leave it for other people to say no. So, introducing the legislation will save us from few problems, because Ministers will continue to publicly claim that something should be done in his or her Department and that, if only those terrible fellows and girls in the Executive would not stop it from happening, he or she would be happy to do it. In fact, Ministers have been acting in that manner, which the deputy leader of the Alliance Party described as irresponsible. I will not add to her definition of irresponsible; nevertheless, under the present circumstances, those Ministers can still act irresponsibly. If someone intends to act irresponsibly, he or she will do so regardless of whether the legislation is introduced.

The deputy leader of the Ulster Unionist Party, who has now returned to the Chamber, made some other points. His position in the party may change now that it has been taken over by the Tory Party. If we follow the Tory example, we will not be talking about dishing out money as a result of this legislation; cuts will be

coming from the Ulster Unionist Party/Conservative Party alignment, because, no doubt, the Ulster Unionist Party will adopt the planned Tory cuts and will, therefore, be happy to tell the Minister of Health, Social Services and Public Safety that his budget will be reduced as a consequence of the new tie-up. I hope that Danny Kennedy has a greater knowledge of legislation than he has of the Henry VIII powers to which he referred.

Obviously, he does not know what Henry VIII powers are. If he did, he would not have said that OFMDFM had given itself those powers in relation to the Financial Assistance Bill. The Member should know that Henry VIII powers apply to cases in which a Minister succeeds in getting a piece of legislation passed that he or she can subsequently amend or repeal. There is no such provision in the Financial Assistance Bill. Therefore, Henry can stay at rest; he has no role in this legislation. The Member knows as much about Tudor monarchs as he does about Tudor crisps. *[Laughter.]*

I hope that the Member reads the Hansard report tomorrow to see what I said about him before he came into the Chamber.

Mr Kennedy: I can hardly wait.

The First Minister: I provided advice on how he could be a nicer person.

The Member for East Belfast Naomi Long said that clause 2 is not required for cross-departmental working because existing arrangements should suffice. If the member reads clause 2, she will see that determinations will be made only in the event of existing arrangements being unsatisfactory. If existing arrangements are unsatisfactory, they are not sufficient; therefore, determinations will not be used if the existing arrangements are satisfactory.

I have dealt with the Member for Lagan Valley Basil McCrea's concerns that the wording of clause 2 is too specific. The wording of the clause is the same as that of the Northern Ireland (St Andrews Agreement) Act 2007, which requires the Executive to agree a strategy to tackle poverty, social exclusion and patterns of deprivation based on objective need.

I trust that I have dealt with all the main concerns that were raised during the debate. Today, we are dealing with the principle of the Bill, for which there is, from what I have heard today, general support; although some Members may wish to propose amendments. Indeed, they may wish to support the amendments that the deputy First Minister and I hope to table. Notwithstanding Members' concerns and queries, I sense that there is broad appreciation for the need for the provision in the Bill that will enable us to deal decisively and urgently with the financial hardship of the most vulnerable.

I have attempted to address Members' concerns, but I — or my officials — will trawl through the Hansard report lest I have missed anything; if I have, I will reply directly to the Member. I commend the Bill to the Assembly.

Question put and agreed to.

Resolved:

That the Second Stage of the Financial Assistance Bill [NIA 11/07] be agreed.

Mr Speaker: That concludes the Second Stage of the Financial Assistance Bill. Members may take their ease as we move quickly to the next item of business.

EXECUTIVE COMMITTEE BUSINESS

Building Regulations (Amendment) Bill

Consideration Stage

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

The first debate will be on amendment No 1, which deals with enhancing the duty of district councils in relation to protected buildings. The second debate will be on the Minister's opposition to clause 10, which deals with maintaining civil liability procedures for breach of building regulations. Consequential technical amendment Nos 3 to 5 are included in this grouping, as well as amendment No 2, which deals with repeals. Amendment Nos 3 to 5 are consequent on clause 10 falling, so I will only call them if that is the case.

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

Clause 1 ordered to stand part of the Bill.

Clause 2 (Protected buildings)

Mr Speaker: We now come to the first group of amendments for debate. There is only one amendment, amendment No 1, which deals with strengthening the duty on district councils in relation to protected buildings.

The Minister of Finance and Personnel (Mr Dodds): I beg to move amendment No 1: In page 2, line 28, leave out "have regard to" and insert

"take account of".

The amendment reflects the proposal made by the Committee for Finance and Personnel. I record my gratitude to the Committee for its thorough scrutiny of the Bill during Committee Stage and particularly for its conclusions in relation to this clause. I agree with the proposal, and I have tabled the amendment on the basis that "take account of" strengthens the statutory duty on district councils and makes them more accountable in relation to preserving the character of protected buildings.

The Chairperson of the Committee for Finance and Personnel (Mr McLaughlin): A Cheann Comhairle. I want to recount briefly the Committee's work on the Committee Stage of the Bill. As part of its scrutiny of the Bill, the Committee took oral evidence from 14 key stakeholders, including professional bodies, environmental groups and building control practitioners from this and other jurisdictions. Several witnesses proposed specific amendments to clauses, as well as further amendments to the Building Regulations Order 1979. In addition, concerns were raised on important policy issues, including the debate on mandatory microgeneration. Those policy issues are an important part of the wider remit of building regulations, but they did not engage specific clauses in the Bill.

At a later stage in the legislative process, I shall detail the issues outlined in the Committee's report on the Bill, including the various commitments that the Department has given to address its concerns.

I want to put on record the Committee's gratitude to the various stakeholder bodies that provided evidence, and to the Minister, his predecessor and their officials who worked with the Committee on the Bill.

The Committee broadly welcomes the provisions of the Bill, not least because they extend the general principles of the primary legislation to reflect the increasing significance of energy conservation, sustainable development and environmental protection.

I turn now to the proposed amendment to clause 2, as outlined by the Minister. The Committee agreed to reflect a call from Building Control and the Association of Building Engineers to strengthen the statutory duty on district councils to preserve the character of protected buildings. The Department, having liaised with the Office of the Legislative Counsel, responded positively, as the Minister outlined.

The Committee, therefore, welcomes the Department's acknowledgement of the calls for the appropriate strengthening of that statutory duty on councils. On behalf of the Committee, I support amendment No 1 to clause 2, on which the Committee and the Department had previously agreed.

3.45 pm

Mr Hamilton: I support amendment No 1. I echo the comments of the Chairman of the Committee for Finance and Personnel. I welcome and support the Department's amendment to change "have regard to" to "take account of". That was one of the issues that was teased out during the Committee's evidence sessions, as it was not as strong in its wording and, therefore, as strong in its duty, as the Committee would have liked. At that time, the Committee was grateful to hear that the Department was tabling the amendment, as it toughens up the stronger duty that will be placed on local government building control departments not

to dismiss the character of listed buildings, but to seriously weigh up and examine such character and consider carefully any proposed alterations to a building in the context of why it has been listed.

It can sometimes be forgotten that our built environment is an important part of our heritage. We have all seen examples in our own and other Members' constituencies of fantastic listed buildings — buildings with history and heritage — that have been destroyed. The amendment, however, does not relate to that aspect. Buildings can still be destroyed, and unique character can be removed by alterations that are not in keeping with the building and why it was listed in the first place. With that in mind, I support the amendment and look forward to seeing local government building control departments take account of the character of listed buildings. I hope that that power will allow them to exercise the duty to step in, where necessary, to stop alterations that will damage our built heritage.

Mr O'Loan: I support amendment No 1. Anything that gives local authorities slightly stronger powers to protect listed buildings is desirable.

I take this opportunity to comment briefly on one or two other matters in the report. It is right to put on record the many hours that the Committee spent examining the Bill. I always look forward to the votes piling up at the next election, when I know that my electorate will be remembering with great gratitude the many hours that I spent listening to debate on this Bill. It is a typical example of much of the Assembly's work, of which many members of the public are unaware. However, it was important for the Committee to take evidence and to relay it to the Department through its report. That report will feed through into this and future legislation.

The Committee has suggested the need to update the legislation on dangerous buildings and places, and the Department has agreed to progress that. An important and tricky issue surrounds the varying building control standards between here and Britain and between here and the Republic of Ireland. That has particular relevance on the island, because the same builder can operate both North and South of the border and must work with two sets of regulations, which can create difficulties. There is quite a lot of co-operation between the bodies; nevertheless, the Committee has made some recommendations.

The matter that most exercised the Committee and the witnesses was the energy efficiency of buildings. The Committee is concerned that the legislation applies only to buildings of the future, and it is most anxious to see an enhancement of the energy efficiency of existing buildings. The Committee asks the

Department to pay serious attention to its recommendations.

The Minister of Finance and Personnel: I welcome the Members' support for amendment No 1, and I reiterate my thanks to the Committee for its scrutiny of the Bill. This is a sensible amendment. Although Mr O'Loan said that he supports anything that gives greater powers to local councils, it is worth reiterating that the amendment strengthens the duty on district councils and will make them more accountable for preserving the character of protected buildings.

With that clarification, I am happy to take on board some of the wider comments that have been made. Again, I thank the Committee for its contribution, particularly on the issue of enhancing the duty of councils on protected buildings.

Amendment No 1 agreed to.

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

Clauses 3 to 9 ordered to stand part of the Bill.

Clause 10 (Civil liability)

Mr Speaker: We now come to the second group of amendments for debate, which is the opposition to clause 10's standing part of the Bill. The clause deals with civil liability for breach of building regulations. The group also includes consequential technical amendment Nos 3 to 5, which would amend clause 16 and the schedule, and amendment No 2, which deals with the related matter of repeals.

The Minister of Finance and Personnel gives notice of his intention to oppose the Question that clause 10 stand part of the Bill.

The following amendments stood on the Marshalled List:

No 2: In clause 16, page 7, line 17, leave out "repeal of paragraphs (8), (9) and (13) of" and insert

"repeals relating to". — [*The Minister of Finance and Personnel (Mr Dodds).*]

No 3: In clause 16, page 7, line 22, leave out from "repeal" to "Article" in line 23, and insert

"repeals relating to Article 22 of the principal Order". — [*The Minister of Finance and Personnel (Mr Dodds).*]

No 4: In the schedule, page 8, leave out line 14.

— [*The Minister of Finance and Personnel (Mr Dodds).*]

No 5: In the schedule, page 8, line 15, leave out "paragraphs (3) and (4)" and insert

"paragraph (3)". — [*The Minister of Finance and Personnel (Mr Dodds).*]

The Minister of Finance and Personnel: I oppose clause 10 because I have agreed that the civil liability provisions in the Building Regulations (Northern

Ireland) Order 1979 should be retained. That decision reflects comments that the Executive made before the Bill's First Stage to the effect that such provisions may aid compliance with the building regulations by allowing non-compliance to be used to support a claim for injury or damages. Amendment Nos 2 to 5 are consequential on the decision to retain the civil liability provisions and to simplify the wording of the commencement provisions.

The Chairperson of the Committee for Finance and Personnel: I shall comment on the Committee's consideration of clause 10, which relates to civil liability. That clause was not agreed to, because the Committee accepted the Department's proposal to remove the clause and, therefore, retain the provision for civil liability for breach of duty imposed by building regulations, which is currently contained in article 20 of the principal Order. In that regard, the Committee noted OFMDFM's views that the retention and commencement of the existing article 20 is preferable as a measure to encourage compliance with the regulations.

The Committee also noted that the decision not to repeal article 20 would result in consequential amendments to clause 16, which deals with commencement, and to the schedule of repeals. Committee members were also content with that. I, therefore, oppose the Question that clause 10 stand part of the Bill, and I support the consequential amendments to clause 16 and the schedule. Go raibh maith agat.

The Minister of Finance and Personnel: I want to thank formally the Committee and its Chairperson for their work and for their contribution on that issue.

Mr Speaker: The Question is that clause 10 stand part of the Bill. All those in favour say Aye.

Some Members: Aye.

Mr Speaker: Contrary, if any, No.

The Minister of Finance and Personnel: On a point of order, Mr Speaker. You asked whether clause 10 should stand part of the Bill, but the proposal is that clause 10 should not stand part of the Bill.

Mr Speaker: It is for the House to oppose clause 10; it is up to Members to say No.

The Minister of Finance and Personnel: That should be easy.

Mr Speaker: Let me put the Question again.

Clause 10 disagreed to.

Clauses 11 to 15 ordered to stand part of the Bill.

Clause 16 (Commencement)

Amendment No 2 made: In page 7, line 17, leave out "repeal of paragraphs (8), (9) and (13) of" and insert

"repeals relating to". — [*The Minister of Finance and Personnel (Mr Dodds).*]

Amendment No 3 made: In page 7, line 22, leave out from "repeal" to "Article" in line 23, and insert

"repeals relating to Article 22 of the principal Order". — [*The Minister of Finance and Personnel (Mr Dodds).*]

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

Clause 17 ordered to stand part of the Bill.

Schedule (Repeals)

Amendment No 4 made: In page 8, leave out line 14. — [*The Minister of Finance and Personnel (Mr Dodds).*]

Amendment No 5 made: In page 8, line 15, leave out "paragraphs (3) and (4)" and insert

"paragraph (3)". — [*The Minister of Finance and Personnel (Mr Dodds).*]

Schedule, as amended, agreed to.

Long title agreed to.

Mr Speaker: That concludes the Consideration Stage of the Building Regulations (Amendment) Bill. The Bill stands referred to the Speaker.

PRIVATE MEMBERS' BUSINESS

Rural School Closures

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

Mr Gallagher: I beg to move

That this Assembly calls on the Minister of Education to halt rural school closures, other than those where agreement has been reached locally, until the Sustainable School policy is agreed and implemented; and to ensure that rural proofing of that policy is underpinned with school viability criteria that are appropriate for schools serving rural communities.

The motion was tabled because of the deep concerns of many people over the fate of small schools and, in particular, the impact of the closure of small rural schools. I thank the Chairperson and the Deputy Chairperson of the Committee for Education, Mervyn Storey and my colleague Dominic Bradley, for supporting the motion and adding their names to it.

The Bain Report, which was published in 2006, examined in detail the emerging problem of the marked decline in school enrolments in almost all schools across Northern Ireland as well as the issue of provision. Whatever view one takes of the Bain Report — and there are some parts of it that I do not agree with — it had a stark message for the Department of Education about the development of a strategy framework. The report states:

“This is a vital leadership task for DE. DE’s policy approach on ‘sustainable schools’ will be a key element of an overall framework.”

As Members know, no policy had emerged when we went home last night. However, a policy emerged overnight. I will say no more about that coincidence other than that we are debating a very serious issue, which deeply affects families and communities, and the Minister and her officials should treat it in an appropriate, professional way.

4.00 pm

A vacuum has existed since the publication of the Bain Report: small schools have felt very vulnerable; some were threatened with closure, and some have even closed. The loss that some communities have felt as a result of those closures, or threats of closure, has caused damage that will not be repaired easily. Such loss has been experienced across the political spectrum.

In an area close to my home, two post-primary schools have provided excellent education for generations of children: the Duke of Westminster High School closed some years ago, and St Mary’s High School in Brollagh has recently been threatened with

closure. Members in other constituencies will no doubt be aware of similar situations.

It is not possible to overstate the role that good schools can play in rural communities. St Mary’s High School, Brollagh, is the local secondary school, and it has been at the centre of the community not only in providing first-rate education for students and enabling them to achieve excellent examination results, but in playing a key role in providing community cohesion and in facilitating economic, social and cultural development in a rural area. Sport, music and drama are central to that school, not only for the young people but for the adult population, as it provides opportunities for lifelong learning and skill improvements.

The Executive are theoretically committed to developing sustainable rural communities. The Department of Agriculture and Rural Development is preparing a rural White Paper and preparing submissions on rural proofing.

Rural schools are central to rural communities. Many rural areas are witnessing a steady decline in services; more and more public services are being removed, and each decision is taken without any consideration of the consequences that it will have. A coherent vision for the long-term future of sustainable rural communities will take cognisance of the role of the rural school in influencing families to remain in an area, in attracting new families, in providing new skills and in creating new investment in that area.

I have highlighted the school’s role in the community. However, more important, I wish to highlight the impact that being educated in a small school has on educational achievement. The outcome of a recent Scottish consultation tells us something about the link between educational attainment and the rurality of a school. Research showed that Key Stage 4 attainment appears highest in rural schools and lowest in large urban areas. The results showed that out of every 100 school leavers, six more go on to higher education from remote rural schools compared with the average Scottish school. The same research draws attention to the advantages of smaller classes, such as the fact that pupils are well known to all the staff and they feel a sense of security in a smaller school.

Due to time constraints, I cannot deal with journey times for pupils, but there are issues around hardship and safety. In some cases, the question now facing children in rural areas is whether they will have to make a 50- or 60-mile round trip to get to school.

Mr Storey: Will the Member give way?

Mr Gallagher: I will give way for a short time.

Mr Storey: The Member will get more time as a result.

The Member knows that when we visited Brollagh, in his constituency, it was made clear that one pupil who lived closer to Enniskillen was still able to get to Brollagh more quickly, conveniently and safely than to Enniskillen because of the traffic there. Transport and access issues must also be taken into consideration.

Mr Speaker: The Member will not get any extra time.

Mr Gallagher: I understand that, Mr Speaker; that is why I am rushing ahead. I might try to get my own back later.

From 2009, all post-primary schools must provide access to 24 subject areas; that will pose significant challenges of co-operation and collaboration with other schools. The education partners, in striving to secure the future of small schools, are coming together to explore opportunities on a cross-sectoral basis, and there are positive signs in the controlled and maintained sectors that arrangements that can deliver the curriculum can be put in place.

The rationalisation that is required in our school system as a result of falling enrolments and curriculum challenges must ensure equality of opportunity and accessibility to education. The latter aspect is mentioned in the new sustainable schools policy; however, I note that equality of opportunity is not given as one of the policy's criteria. Those criteria can be met only in a system based on a strong network of rural schools.

My constituency is in the west and is served by the Western Education and Library Board. One hundred and eighty-seven primary schools are open in that board area. If we applied the Bain criteria, 50% of primary schools — every second primary school in the Western Board area — would face closure. One in four post-primary schools in the Western Board area fails to meet the Bain criteria, which set a 300-pupil enrolment.

In order to ensure the real stability of our rural schools, the Assembly must replicate the action of the Scottish Parliament and introduce a rural schools Bill; such a Bill would provide the best support and security for our rural schools. That does not mean that schools will not close; however, at least widespread consultation will take place before any do.

The Chairperson of the Committee for Education (Mr Storey): My initial comments will be made as the Chairperson of the Committee for Education. It is good that the House be made aware of the process that the Committee has embarked on with regard to the examination of policies.

The Committee received the policy paper on 3 July 2008 and a follow-up briefing from departmental officials in September 2008. Individual parties forwarded their responses to the Minister. On 22 December 2008, in her response to the Committee's concerns, the Minister agreed that:

“enrolment figures are only one aspect”

of schools' sustainability. The policy will read more positively for small schools where it is demonstrated that there is no alternative but to maintain one. For example, the Minister says that the finalised policy document will agree that:

“support should be made available, if required, to ensure that the school is educationally sustainable.”

The issue of better performance of school-leavers who receive free school meals and who live in rural areas or who attend rural schools compared with an urban school has been clarified. The Minister contends that pupils receiving free school meals in rural areas were only marginally better performers at GCSE level, and schools may contain a mix of rural and urban pupils. The Minister also agreed that:

“accessibility is an important issue in many communities and will need to be considered on an area basis that takes account of pupil travel patterns.”

The Minister also points out that the accessibility times indicators in the initial policy document are for guidance only, and are not “absolutely prescriptive”.

I take off my Education Chairperson's hat to speak in my capacity as the DUP spokesperson for education. I welcome the fact that two parties — the SDLP and the DUP — tabled this motion. That underlines the point that education in Northern Ireland should not be about a pupil's skin colour or religious denomination. Our children are of the utmost importance. Young people regularly visit this House, and I am delighted that there are some here today. I trust that their visit is profitable and that they will not go home with a bad view of what happens in the Chamber.

Rural schools play a key role in local communities, particularly where small, isolated communities live alongside one another. Such schools are often the focal point for communities, and their proposed closure causes concern among the people who live there.

It is regrettable that the Minister of Education resorted to an old-fashioned republican activity of working at night. In the darkness, the Minister decided to put on her educational balaclava and bring this policy document into the light. I hope that she learns the lesson that this debate is about ensuring that we have a policy that is fit for purpose, rather than skulduggery, which is the way in which the document was released last night. However, that is enough on that issue.

Some rural settlements have become polarised and their demographic make-up has changed over time, often because of the terrorist campaign that we endured. A school is sometimes seen as the last manifestation of a community's identity in a particular area. I had the privilege and opportunity to visit St Mary's High School in Brollagh, Co Fermanagh, with

members of the SDLP. I visited other schools in Fermanagh, including Lisnaskea High School, and across Northern Ireland. I have seen the important part that small rural schools, even in the post-primary sector, play in the future of our educational system.

Of course schools require a critical mass to provide pupils with the best education, including a broad range of extra-curricular activities. That is crucial, because a school should be about more than just the lessons that are offered to its pupils. We appreciate that if pupil numbers fall, schools can incur extra financial pressures. Schools with small pupil numbers can be forced to rely on composite classes, which may not be ideal.

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

The Chairperson of the Committee for

Education: It is difficult for schools to deliver the entire curriculum. We welcome elements of the policy; however, much work remains to be done to protect our rural schools.

Mr O'Dowd: Go raibh maith agat, a Cheann Comhairle. I support today's motion. My party might have signed the motion, had it been asked to do so, but, unfortunately, it was not. Had all parties been asked, the motion could have received all-party support before it reached the Floor of the Chamber. Perhaps, that is a lesson for the future.

The motion came about as the result of the campaign to save St Mary's High School in Brollagh. I say fair play to the parents from that community who campaigned to save the school. In December, I too visited the school and met a large group of parents and community activists from the area. I was very impressed by their enthusiasm for the school and by the fact that the school played a part not only in the education of the local community, but in the local community itself.

It is worth noting that the process of re-evaluating schools, which included St Mary's in Brollagh, was begun by the Council for Catholic Maintained Schools (CCMS). It began a wide-scale examination of its school estate not only in Fermanagh, but across the North. The Western Education and Library Board is also involved in a wide-scale examination of its estate in Fermanagh.

What is the main driving force behind falling pupil numbers at rural secondary schools in Fermanagh? The answer is grammar schools in Enniskillen. Those schools are sucking the lifeblood out of secondary schools in rural Fermanagh.

When the Chairperson of the Education Committee visited Brollagh, I doubt whether he pointed out the fact that, every day, hundreds of pupils are being bussed, free of charge, past St Mary's — a perfectly

good school, which delivers excellent academic results year on year — to be educated in Enniskillen, which is 26 miles away. Therefore, the grammar sector —

4.15 pm

Mr Storey: Will the Member give way?

Mr O'Dowd: I will not, because I have only five minutes.

The grammar school sector in Enniskillen is a major part of the problem. One of the bishops said that one of the schools was acting in a selfish manner. That is correct; they were looking after their own backyard, rather than looking after the entire school estate, which the Western Board and the CCMS are doing.

The issue of sustainable schools has been widely debated since the Bain Report was published. The current draft policy was first sent out in January 2007. The draft for the next policy was sent to the Education Committee in July 2008. It is worth noting that none of the party responses stated that closures of rural schools should stop. Many of the responses mentioned the need to support rural communities, which I am 100% behind.

The policy states:

“The policy will be of assistance to all those involved with schools, including Boards of Governors, teachers and the local community in helping to assess the position at the school and whether early intervention is required.”

Early intervention is the key to sustainable schools. Today, one of the education correspondents said that:

“alarm bells are likely to ring if a school fails to meet a number of the criteria.”

However, the important point is what to do when an alarm bell rings. People can stand back and watch the building burn down or they can call the fire brigade. The sustainable schools policy is about calling the fire brigade. It is about ensuring that boards of governors, teachers and the local community know what is expected of their school and how their school can be supported, not only by the local community but by the CCMS or, in the future, the education and skills authority (ESA) and the Department of Education. If a school can be made sustainable, it must not be left too late so that the numbers fall so low that staff and pupil morale is affected and the local community stop sending their children to the school because rumour mill states that that school is to close.

As its title suggests, the sustainable schools policy is about sustaining schools. However, the fact that there are 50,000 empty school desks — with an expected 4% fall in coming years — cannot be ignored. Urban areas are also affected; a 17% fall is predicted in the Castlereagh area. We cannot turn our eyes away from that or hope that the problem goes away.

In the future, difficult decisions will be made on schools. I will support any community that defends its

school, but schools are about education and educating young people. That principle must be defended; the education of young people in those schools is paramount. If boards of governors and local communities use the sustainable schools document to intervene early, more schools can become sustainable and can continue to be a part of the education system. Go raibh maith agat.

Mr B McCrea: If the Ulster Unionist Party had been asked, it might also have been able to support the motion. There is an interesting contrast with the discussion that took place two debates ago. Let us see whether we can find some consensus on the way forward.

To contradict Mr O'Dowd's comments, the Ulster Unionist Party's submissions to the Minister show that we do not think that efficiency and financial matters are the pre-eminent issues. We think that a rural school offers much more than that alone. Rural schools form the bedrock of the community, and other issues must be considered, such as whether it is reasonable for children to have to travel a long distance to school. Those factors should be taken into consideration.

We are a little disappointed that it has taken so long for the report on sustainable schools to be published. I do not see much in it that is new, so why was it not published earlier? People will worry at the lack of change. The Bain Report states that 60·4% of rural primary schools will fall below the required threshold of 105 pupils, and 77% of rural secondary schools will fall below the threshold of 500 pupils. That is a massive change to the cultural infrastructure of Northern Ireland. It is not something to be taken lightly.

When the Minister responded to us, we asked her to consider cases — not in the abstract or in some mechanistic value-pot — but in a reasonable way that best deals with them. She said that she would proceed on a case-by-case basis. Unfortunately, when things are considered on a case-by-case basis, strange anomalies are produced, and we must find a way of fixing them. I refer to the case of Maghera High School: it is an excellent school, with an excellent record of looking after children with special needs, and is thoroughly integrated into the community. It is a small school but is nevertheless an integral part of that region and society.

I make the following point to the Minister of Education, though it will probably go unheeded: her policy appears to be one-size-fits-all. That is a failed, direct rule policy. We need to find a way for local politicians and people to take local decisions. In our submission, we asked the Minister whether she would consider setting up area-based planning that included a range of stakeholders encompassing the transferors and others, to try to sort things out through some form of resolution. However, that was not to be.

The nub of my argument — and I thank the proposer of the motion for the opportunity to make it — is the issue of distance. In the Minister's now notorious proposals for post-primary transfer, much is made of community comprehensives, whereby, as the Minister states, "from 2010 the criteria" for transfer —

"will include community, geographical and family criteria."

However, when, in response to the sustainable schools policy, we pressed the Minister on accessibility issues and the legitimate right of parents to place their children in a post-primary school of their choice, the Minister stated in her comments that a distance indicator is not relevant in the case of post-primary schools, as parents choose to send their children further afield.

Mr Kennedy: Does the Member accept that a further criterion should be added to those listed, one which is political with a small "p" and which ensures that small schools, situated either in overwhelmingly nationalist or unionist areas, should be afforded the chance to survive on the basis that, in a shared and better future, it is better that they continue to exist?

Mr B McCrea: I am grateful to my colleague for that point. It is a sign of political maturity when we realise that not every community fits neatly into boxes, such as the Department of Education would like them to. We must find ways of making sure that small, modest, rural schools, supporting and reflecting the community in which they are based, are accommodated in our education system. That is the key point: its acceptance shows political maturity and is what the House should aim at.

I ask the Minister: will her commitment to distance mean the death of the community comprehensive, and what ramifications does that have for her area-based planning?

The Ulster Unionist Party is keen to work with all parties. We recognise that there are legitimate concerns, but a one-size-fits-all mechanical process, based solely on economic and financial efficiency, cannot be the right way forward.

Mr Speaker: Will the Member please bring his remarks to a close?

Mr B McCrea: Mr Speaker, I thank you for your indulgence. We ask the whole House to work together to resolve this issue.

Mr Lunn: I support the motion. The Alliance Party would be more enthusiastic about it had our amendment, which sought to advance the area-based planning debate and recognise the potential of the integrated sector to help solve those problems, been accepted. However, it is not easy to argue against a motion that seeks to put a temporary stop, at least, to rural school closures, so we will be supporting the motion.

In an ideal world schools would not close as new schools offering new options open. However, in a world of budget restrictions, declining populations and 50,000 empty desks — and rising — change is inevitable. We must plan a long-term system to deliver appropriate skills, appropriate provision for parents and the local community within our financial means.

To do that, it is clear to some, if not all, of us that an education system that is pointlessly segregated along religious lines does nothing for us. It divides children from the outset and means that money must be spent on bricks and mortar for two schools where often one would suffice, leaving no money to be spent on pupils. Such a system is unsustainable, given declining roles and changing needs. The Alliance Party acknowledges the legitimate differences of opinion about how to correct that unfortunate and expensive reality. However, anyone who is serious about a shared future will not dispute that the system must change, and it is about time that groups other than the Alliance Party began to acknowledge it.

Some Members: Hear, hear.

Mr Storey: It is interesting that the Member from Sinn Féin, Mr O'Dowd, earlier referred to the document that was brought out in July 2007 — yet it has taken the Minister of Education from 2007 to 2009 to release a document even at night. A shared future is mentioned in the 2007 document but not in this one. Why is that?

Mr Lunn: My memory is not as good as that of the Chairperson of the Committee for Education, and I will have to take his word for that; however, a shared future should be included in the document.

The Alliance Party welcomes the final sustainable schools paper, and we impatiently await the results of the area-based planning deliberations. Ideally, those projects should never have been separate but should have been merged. There seems little point in considering them separately, and it is for the same reason that we have asked for a review of the viability criteria for integrated schools.

Like it or not, the integrated sector, which may in future be defined differently, has a role to play in solving the problem under debate today. The Alliance Party backs today's motion on the assumption that the implementation of the sustainable schools policy proceeds quickly in tandem with the new approach to area-based planning. The potential for an integrated approach, whether through integrated schools or through the integration of existing schools — and not excluding on a cross-sectoral basis — must be acknowledged as part of the solution.

The motion is reasonable in that it seeks to put a stay of execution on rural school closures. However, we must be realistic about maintaining unviable

schools just because they serve the needs of a particular community, and that was the Alliance Party's difficulty with the second part of the motion. If we can proceed in a way that prioritises a shared future over narrow local or sectoral interests, we will have done a service to our children and to the next generation.

In closing, I congratulate Mr Gallagher for tabling the motion. His action appears to have triggered the release of the sustainable schools document. In the light of that success I encourage him to table further motions on post-primary transfer, area-based planning or perhaps the Maze stadium.

A Member: Hear, hear.

Mr Lunn: Many rural schools are an important part of their community, but unless we consider radical solutions those schools will continue to close. Perhaps, as the proposer of the motion suggested, a rural schools Bill based on the Scottish model could help, but educational sustainability is paramount, and that means numbers. We have heard frightening statistics from various Members. However, to do nothing is the worst thing that we could do. Schools will close, but there may be ways to work with the system to maintain them for reasons other than pure numbers. I certainly hope so. The Alliance Party supports the motion.

Mr Irwin: I welcome the motion. Only last week, colleagues and I met the South Eastern Education and Library Board (SEELB) and the staff of Keady Primary School to discuss this issue. Rural schools are an important part of rural life and in many ways bind the rural community together. Parents and staff associated with rural schools are extremely concerned at the possibility that their local primary school may close. Closure would be a step backwards for the community in Keady and for many others in a similar position.

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

In many areas where minority communities exist, the local primary school is a vital part of that community, and in many instances the nearest primary school is a considerable distance away. Closing their local school would greatly disenfranchise those communities.

Moving children to schools in other towns would cause the community that they came from to lose its sense of identity. That applies equally to Protestant and Catholic schools.

4.30 pm

Primary schools in rural areas do not just provide facilities for children; they also allow the community to hold events, which reinforces the foundations of such communities. Closing a rural school that caters for a minority community — especially if the nearest alternative school is some distance away, in another

town or village — is not acceptable, as it does not help to sustain rural communities.

The sustainable schools policy mentions the need to consider smaller, rural schools in a different light to urban, larger schools — that is a welcome acknowledgment of the fact that there is a different situation in rural areas. The Rural Development Council has contributed to the sustainable schools policy and the case for rural proofing. In its publication 'Striking the Balance', that organisation's vision is described as being:

"To promote, enhance and protect the rural assets of a living working countryside so that it makes a significant contribution to the sustainable development of the region for us all".

As someone who represents a largely rural constituency and has firm ties to the rural economy, I support wholeheartedly the vision of sustaining the rural economy and the rural community.

The school viability criteria must be capable of identifying, where appropriate, the need for, and benefit of, maintaining a rural school. We must move away from a position of simply applying the numbers game when deciding which schools stay open and which close. There is much more at stake than just buildings. I support rural schools and I support the motion.

Mrs O'Neill: Go raibh maith agat, a LeasCheann Comhairle. I will speak in favour of the motion even though it is, perhaps, somewhat out of date. I welcome yesterday's publication of the sustainable schools policy, although I am not sure whether all Members welcome it — it seems that people complain if they do not have something and then complain when they get it. Perhaps, Minister, you are damned if you do and damned if you don't.

I also represent a rural constituency and am, therefore, only too aware of the significance of a rural school for those who attend it and for the surrounding area. As other Members have indicated, quite often a rural school is the hub of its community. Therefore, the potential closure of such schools impacts on more than just the educational experience of the children or young people attending them; it impacts also on the wider community.

In recognising that as a crucial element to the sustainable schools policy, I am delighted that the Minister has set out both quantitative and qualitative criteria in that document. The policy sets out six criteria to be considered. Other Members have referred to those, but it is important that we mention them again in order to emphasise that it is not just a numbers game. The other criteria that are going to be included are: the quality of the educational experience; stable enrolment trends; sound financial position; strong leadership and management; accessibility; and strong links with the community.

Those criteria are intended to provide a framework for the early identification of emerging problems, which can then lead to remedial action being taken. As John O'Dowd said, the sustainable schools policy is about calling the fire brigade when there is a fire. It is only in cases when the remedial action cannot rectify a given situation that the matter will need to be opened to a fuller consultation, in order to ensure that all decisions are taken on a case-by-case basis and are fully reflective of local circumstances. Despite Basil McCrea's interpretation of it, the sustainable schools policy is not proposing a blanket approach to our schools' futures, which is something that must be welcomed.

The policy has also adopted enrolment thresholds as recommended in the Bain Report, which recognised that lower enrolment thresholds are necessary for rural schools. The policy also recognises that, when a small school is to be retained, it must be given all the support and resources that it requires to provide a high quality of education.

Given that all areas outside Belfast and Derry city are considered to be rural, we will always have a large number of small rural schools. That is inevitable, and it is unfortunate that one of the biggest threats to our rural schools is that they may not be receiving enough local support. As other Members have mentioned, quite often it is the case that people drive past their local school in favour of another school. We all have a responsibility to keep local schools — and local rural schools — viable.

The motion calls for rural proofing of the sustainable schools policy. I believe that that has happened and that Department officials have consulted the Department of Agriculture and Rural Development (DARD) and the rural proofing checklist published by the Rural Development Council. As far as I am aware, no adverse impact has been identified — perhaps the Minister will tell us more about that.

In conclusion, I support the motion. Decisions on the future of our schools should be taken on the basis of good, qualitative data and other information, and should involve consultation with all concerned. Go raibh maith agat.

Mr McCausland: I support the motion. Although I represent a constituency that is anything but rural, I nevertheless understand the reasons behind the motion and the concerns of people in rural communities.

A school is an important part of the infrastructure of any community. It is right at the heart of that community, and a school's closure can have a devastating effect. That is true for both urban and rural areas, although I think that it is particularly the case for rural communities. The motion calls on the Minister to halt rural school closures — except where there has been

agreement — until the sustainable schools policy has been agreed and implemented.

Yesterday, we did not have a sustainable schools policy. By some remarkable and inexplicable coincidence, it appeared this morning. I received a note telling me that the Committee Clerk had downloaded the policy from the departmental website and had kindly circulated it to the Education Committee. I am grateful to him for doing that. It is very regrettable that it had to be circulated in such a manner and that it could not have been done more appropriately. I think that it shows a lack of respect for the Committee and for the Assembly that it was done in that way and that the policy was in the public domain before the Committee even had a chance to look at it.

Now that I have had the opportunity to examine the document, I note that some points of it are interesting, yet there are elements that give us some cause for concern. I welcome the fact that the document states that:

“Education is central to our future.”

That is true, not just for children and families, but for Northern Ireland as a whole. It is important that we have a good education system, and sustainable schools are a crucial element of that.

The document also provides figures of school size, and it was pointed out that 37% of primary schools currently have fewer than 100 children. That is true, but when that figure is compared — as it is in the document — to those for Scotland and Wales, which would be in many ways comparable to Northern Ireland, the figure for Scotland was 35% and for Wales it was 31%. Therefore, the number of small schools that we have in Northern Ireland is not that much different than the number of such schools in Scotland and Wales. I am, therefore, a little concerned that for those who are looking for a new school, there seems to be an infatuation with the enrolment threshold figures of 105 for rural schools and 140 for urban schools. I understand that there must be some guidance on pupil-intake numbers, but highlighting the figure of 37% of primary schools with fewer than 100 pupils gives me some concern.

I am also concerned, not just about the policy itself, but about how policy in general is implemented and by whom. One can have all sorts of policies, but there is always a certain amount of flexibility in them. That is clearly the case with this policy — the flexibility is there, so given all the restructuring of the education system that is taking place, how will it be implemented and by whom? That also gives me cause for concern.

Having expressed those concerns, I nevertheless welcome the fact that the document has been provided. As the Chairperson of the Committee for Education pointed out, the production of this document has taken rather a long time. If children in school were asked to

produce homework and they operated in the same timescale as the Minister —

Mr Storey: They would have left school.

Mr McCausland: They might have left school, indeed. They would certainly be kept in after school for the tardiness of their work. I do not know whether the Minister should be considered in the same way. Having said that, the document is now with us, the motion is before us, and I hope that the Minister will pay attention to what is said and will abide by what we are proposing. I hope that we will see some security for the rural schools, which are so central to rural communities.

Mr K Robinson: I declare an interest as governor of Whiteabbey Primary School and Hollybank Primary School, both of which are in Newtownabbey, and I am a former principal of a rural, two-teacher school in County Tyrone.

At 10.25 am today, I received a hand-delivered, still-warm copy of the sustainable schools programme in my office. That is what we have come to expect from the Minister of Education, who heads up a Department with a terrible record for responding late to Members questions, and which was involved in the recent confusion over the which-ministerial-statement-are-we-responding-to-today debate.

In Northern Ireland, around one third of the population are rural dwellers; approximately 600,000 people. That represents a significant proportion of the overall population and makes Northern Ireland one of the most rural parts of the UK. The first Northern Ireland Assembly introduced rural-proofing for all legislation as a means to safeguard rural populations from unnecessarily harsh or disproportionate impacts of any new laws which might be promulgated at Stormont.

A neutral observer of the proposals within ‘The Independent Strategic Review of Education’, commonly known as the Bain Report, could not fail to notice that those proposals would result in over 60% of rural primary schools falling below the minimum requirement of 105 pupils, and in 77% of rural secondary schools falling below the minimum threshold. If ever there was a disproportionate impact, surely this is it.

The damage that such a change would cause to the pattern of rural life would be immense. Rural schools play a central role in the bonding of those communities: to dismantle the local school is to dismantle that community. That, I am sure, is the last thing that the Assembly should be seeking to do. It is comparable to the decision to regenerate urban Belfast. The bulldozers moved in, the buildings were demolished, and the heart was torn out of those communities: 30 years on, they have not recovered. If we are not careful we will tear the educational heart out of the rural communities with a similar outcome.

To my mind, it would be better to take the glass half-full approach. Instead of wielding the axe on local primary and secondary schools, it makes more sense to expand their community role by turning them into village and rural development centres, offering not just school-age education, but acting as an arm of the strategic Executive aim to reskill communities, including rural communities.

Perhaps the Minister might take a leaf out of the areas in rural England, including East Anglia, where the concept of the village college has been working very successfully for many years. Such centres can be created in the context of educational — particularly information and communications technology — and cultural resources. Surely that is a much more acceptable vision than the alternative of endless rural school closures and the consequent disintegration of those communities.

The Rural Development Council has put out just such a strategy within the broader social and economic aims of the Northern Ireland 'Sustainable Development Strategy', and the rural development policy agenda. To my mind, that needs to be fleshed out ahead of any major decisions being made about the Bain recommendations.

The important factor to keep in mind is the disproportionate impact that rural school closures will have on children from poorer backgrounds. That was precisely the point made by the Rural Development Council in its submission with regards to the strategy:

"Children from poorer backgrounds are disproportionately affected by travel problems within rural areas. Such children are more likely to be dependent upon the school bus for travel to and from school, and therefore have difficulty in accessing both informal and formal after-school hours activities. Those who are most likely to benefit from homework clubs, access to computers and leisure activities are therefore least likely to be able to participate unless these activities are provided close to their homes."

It is important to realise that when we talk about rural schools and their pupils we are not talking about a marginal number of people. One third of all school pupils — approximately 82,000 — are in rural settings. Ultimately, what is decided on the Bain proposals will have a major impact on one third of all school pupils. The future provision of 562 schools is at stake. Consideration of this issue needs to be central to forward planning and not peripheral to it.

Having taught in a rural school, I can assure Members that the educational experience provided by the staff that I had the pleasure and privilege to work with was one of the best that I ever encountered during 37 years in primary education. I support the motion.

4.45 pm

Mrs D Kelly: I congratulate my colleagues Mr Tommy Gallagher and Mr Dominic Bradley for securing the debate. I want to put on record that the

SDLP is pleased that the Minister has adopted in the document many of the ideas and suggestions for rural-schools provision for which we have long campaigned.

Having attended rural schools — as, indeed, did all of my children — I well understand the contribution that they make to the life of any community. The two rural schools in my own parish of Aghagallon provide children and young people with not only an excellent education, they also provide support for pre-school children, mothers and toddlers, and facilities for sporting organisations, the local Women's Institute, and many of the activities that take place in any parish. I recall that even the drama society met in the school at Aghagallon. Therefore, as many Members have mentioned, rural schools have much to offer local people.

I hope that parents who live in rural areas will support rural schools. I am sure that the Minister will join me in that call. It is up to parents not to bypass the local rural school in order to send their children to schools in towns, but to support, and be fully integrated into, their local community.

Mr Robinson referred to the Rural Development Council's contribution to the consultation, which, as he quite rightly pointed out, was to lead the debate on rural schools. The council made many valid points, one of which was that although no one argues that schools that are attended by children in single numbers, or even in numbers in the teens, should remain open regardless, there must be a vision for rural communities in order for them to be self-sustainable.

Mr Robinson also mentioned rural transport. Recent media coverage suggests that rural transport is to be slashed. That will cause great consternation to many people who rely on local bus services to get to not only the local school, but sometimes to get to the post office, where it is used for more than one purpose. At a time when the Assembly is trying to promote a more active lifestyle and encourage children and parents to walk or cycle to schools using safe routes, not to have a rural school would be a great loss on many fronts.

My party is pleased that a paper has finally arrived and happy that many of our ideas have been adopted. Certainly, I support the continued existence of rural schools because I well understand from personal experience that they are the lifeblood of communities.

Mr Poots: The issue of rural schools is very important for many people in Northern Ireland because many people live in rural communities. Certainly, it was important in my constituency, but most of its rural schools have already been affected.

I have a list of 17 schools that have been closed or amalgamated: Magheraknock Primary School; Ravarnette Primary School; Legacurry Primary School; Cargycroy Primary School; Hillhall Primary

School; Drumbo Primary School; Charley Memorial Primary School; Lambeg Primary School; Hilden Integrated Primary School; Tullymacarette Primary School; Kinallen Primary School; Gransha Boys High School; Newport Primary School; Hillsborough Primary School; St James' Primary School; St John's Primary School and Maze Primary School.

That list may not be exhaustive. It demonstrates that during the past 10 years, all of those schools have been affected by amalgamation or closure, with significant consequences for their local communities.

In other areas, there has not been as significant a rationalisation of the schools estate as there has been in constituencies such as Lagan Valley. Certainly, education and library boards have been more proactive than the CCMS in rationalising the schools estate.

I questioned the Minister on that issue on 11 November 2008, and she indicated that there were a total of 41 school closures and 13 amalgamations in the five-year period from 2003 to 2008. There were 31 closures and six amalgamations in the controlled sector, and nine closures and seven amalgamations in the Catholic maintained sector. Quite clearly, there are far more school closures as a result of education board decisions than there are in the CCMS sector.

There is a challenge to bring about equity. If the Minister's report is to have any meaning, it must be applied equitably. The Minister is very good at talking about equality; let us have delivery of equality in the school estate. Let us not have Irish-language and integrated education set on a pedestal. Children whose parents have sent them to Irish-language or integrated schools must not be in a better, higher or greater class than children who go to school in another sector. If the Minister is to be true to her words of equality, let all children be treated equally.

I know from experience that it is very challenging for many rural schools to meet the required education provision when numbers fall. In some cases, a decision has to be made to either close or amalgamate those schools. I understand and respect the fact that some children are granted greater opportunities by moving to a school that has more children, more teachers, more after-school activities and better facilities. Great cognisance must be given to that fact when a decision that affects a particular school is being made.

I want to ensure that there is equity and fairness in how practices are carried out in the education system. I suggest that that has not been the case to date. I suggest that children in the controlled sector — under the education and library boards — have not been treated as well as children in the CCMS sector, the integrated sector and the Irish-language sector. I trust that the Minister will be prepared to ensure equality. She talks the game of equality, but it has not been very

clearly demonstrated thus far. We await a change in her policy on equality.

The Minister of Education (Ms Ruane): Go raibh maith agat, a LeasCheann Comhairle. I welcome today's debate, as it will help to put the sustainable schools policy, which I have now published, into context. The strategic education landscape is being improved for the benefit of all children, regardless of what school type or sector they are in.

Tá beartas um scoileanna inbhuanaithe ríthábhachtach d'fhorbairt an oideachais amach anseo, lena n-áirítear pleanáil bhunaithe sa cheantair agus soláthar an chreat teidlíochta.

The sustainable schools policy is crucial to the future development of education, including area-based planning, delivering the entitlement framework and post-primary transfer. My Department is also taking forward its school improvement policy, which sets out how we plan to deliver improvement at every level in our education system, with a focus on self-evaluation leading to sustained self-improvement. Those policies will help to ensure that all our children get a first-class education, regardless of their background, where they live, the colour of their skin, or their gender. The policies recognise that we should make best use of the resources available for education.

Díríonn díospóireacht an lae inniu ar scoileanna tuaithe, agus cuirim fáilte roimh an deis seo le míniú a thabhairt ar an dóigh a n-aithníonn an beartas um scoileanna inbhuanaithe na riachtanais ar leith a bhíonn ag pobail tuaithe.

Today's debate focuses on rural schools, and I welcome the opportunity to explain how the sustainable schools policy fully recognises the particular needs of rural communities. My Department consulted with officials from the Department of Agriculture and Rural Development in developing the policy. The policy was also assessed against the Rural Development Council's rural proofing checklist, which is set out in its 'Striking the Balance' report.

The policy outlines six criteria to assess the viability of schools. It is particularly important to rural communities that those criteria are quantitative and qualitative. Factors such as the educational experience of the children, leadership and management, the school's accessibility, financial position, enrolments and community links will be considered. Above all, the overriding consideration must be the provision of a quality education that is based on equality.

The policy incorporates school viability criteria that are appropriate for schools that serve rural communities. A lower enrolment threshold is applied to rural primary schools than to urban primary schools. Moreover, the accessibility criterion and its guidance on home-to-school travel times is particularly

important in a rural setting. Crucial practical questions that matter to parents and pupils — such as whether the distance to schools and pupils' travel times are reasonable, and what transport arrangements are in place — will always be addressed.

I welcome all the parties' concerns that children spend too much time on buses. As I have said in the House previously, under the current system, I have more influence over climate change and transport policy than Conor Murphy and Sammy Wilson collectively. A huge number of children pass each other daily on buses to and from local schools in places such as Enniskillen, Antrim, Armagh, Derry, Down, Fermanagh and Tyrone. The logical conclusion of the comments made by Mervyn Storey, Tommy Gallagher, Basil McCrea and others is that they will support the proposals on post-primary education that I will bring to the Assembly. I look forward to that support.

Ar an triú dul síos, tá critéar “Naisc Láidre leis an Phobal” curtha san áireamh leis an bheartas. Déanann sé seo cinnte go gcuirtear san áireamh aon bhaint atá ag an phobal leis an scoil agus aon chuidiú a thugann an scoil don phobal ó thaobh breithniú a dhéanamh ar inmharthanacht scoile.

The policy includes a criterion to create strong links with the community. That will ensure that local community and parental involvement with the school, and the contribution that the school makes to the community, are included during consideration of a school's viability. I know that there have been concerns about the possibility of a threat to small schools, particularly small rural primary schools, which are often at the heart of their communities and provide valuable resources and facilities. I want to reiterate comments that I have made in the Chamber previously: schools will not be closed simply because they fall below thresholds. Enrolment trends is only one of the six criteria outlined in the policy, which covers a wide range of indicators. Indeed, the policy clarifies that, where a small school is to be retained, additional resources should, if required, be made available to ensure that the school can continue to provide a high-quality education.

The rural nature of the North means that there will always be a significant number of small rural schools. I commend small rural schools' contribution to educational attainment and community cohesion, and I recognise — as we all do — that many small schools encounter difficulties delivering the curriculum and struggle to operate within their budget. Those challenges increase when primary schools use composite classes that encompass more than two age groups. Furthermore, small post-primary schools face several challenges, particularly ensuring the continuing availability of teachers with sufficient specialist experience and qualifications to allow the school to

provide effective teaching and assessment in all areas of the curriculum.

However, I must reiterate that any review of a school's future viability will be handled carefully and sensitively and will consider local circumstances on a case-by-case basis.

Since this institution — as well as the North/South Ministerial Council and the British-Irish Council — was established in May 2007, there have been 30 school closures, encompassing 18 primary schools, two Irish-medium units, two nursery units, two special schools and six post-primary schools. All the primary schools had fewer than 50 pupils at the date of closure, and five of the six post-primary schools had fewer than 100 pupils throughout their entire range of classes. During the same period, a further 22 schools were reduced to 10 schools through amalgamations.

5.00 pm

I would also like to highlight the fact that there is a statutory requirement for a development proposal to be published when a school is being closed, or is undergoing any significant change in size or character, such as amalgamation. The development process provides the opportunity for extensive local consultation. Before a proposal is published, there is a statutory requirement for boards, and subsequently the ESA, to consult with any schools that may be affected by the proposal. There is also a statutory duty on the proposer to consult with the governors, parents and teachers of the schools that are the subject of the proposal.

The publication of the development proposal initiates a statutory two-month period during which representations — including objections — can be made directly to the Department. At the end of that period, I take into account all information pertinent to the development proposal, including the representations received as part of the decision-making process.

There are currently 11 published development proposals. Five of those — involving three primary and two post-primary schools — propose closure. There is no facility in the statutory process to allow for a deferment of a decision on a proposal, nor can the Department place a moratorium on educational bodies or others bringing forward new proposals. I assure the Assembly, however, that the proposals under discussion will be assessed thoroughly against the criteria outlined in the sustainable schools policy.

The sustainable schools policy is a key element of the new area-based approach to education planning. Any review of a school will take place in the context of the area-based approach to education planning. It will centre on the quality of the education that a school provides to its pupils and the particular needs of the local area. It will also explore the way provision can be improved through collaboration and partnership with

neighbouring schools. Area planning and the sustainable schools policy represent a significant change to the way the provision of education is planned.

My objective is to have a strong, sustainable system of schools, planned on an area basis, with equality at its core, to provide a high-quality education for our children and young people. I assure Members that all the sectors will be treated on an equitable basis. I ask that Members do the same and make the point that the integrated and Irish-medium education sectors have the right to be treated in the same way as other sectors. I worry when I hear unnecessary attacks on the Irish-medium and integrated sectors, and I urge all Members to show leadership and to refrain from making those attacks.

Ba mhaith liom a chinntiú go gcuirfear ar fáil do gach páiste an t-oidreachas ardchailíochta atá ar fáil do roinnt daoine óga, i suíomhanna uirbeacha agus suíomhanna tuaithe, agus go gcuirfear ar fáil i gcóiríocht inrochtana, nua-aimseartha atá oiriúnach don fheidhm. Beidh scoileanna láidre, rathúla, inmharthana mar thoradh ar an bheartas um scoileanna inbhuanaithe, agus beidh siad treoraithe ag a gcuid gobharnóirí agus iad mar ionadaithe do riarshalbhoirí áitiúla, do phríomhoidí agus dá bhfoirne.

I want to ensure that the excellent quality of education available to some young people is made available to all, in both urban and rural settings, in accessible, modern, fit-for-purpose accommodation. The sustainable schools policy will produce strong, successful and viable schools, well led by their principals, local stakeholders, governors and staff, but with children at the core. It is a very exciting time in education; a time of immense change.

We have brought forward a revised curriculum, and a significant amount of investment is going into the schools estate, more so than at any other time in the past decades.

Equality will be at the core of the education system so that every child has a fair chance. Under new proposals in relation to transfer from primary to post-primary schools, the admissions criteria will be exactly what I heard from all sides of this House when they reiterated their support for rural schools: community, geography and family.

The new proposals will keep communities and families together, rather than brothers, sisters and neighbours passing each other in buses and going to perhaps 12 different schools in their local area. Go raibh maith agat.

Mr D Bradley: Go raibh míle maith agat, a LeasCheann Comhairle. Tá áthas orm achoimriú a dhéanamh ar an díospóireacht shuimiúil seo. Go deimhin, labhair 14 Chomhalta sa díospóireacht; mar sin, is dócha go raibh seans ag gach uile dhuine a

bharúil a nochtadh. Is maith an rud go bhfuil an tAire anseo lenár gcuid smaointe a chloisteáil, agus tá súil agam go ndéanfaidh sí beart de réir.

I am glad to conclude today's debate. It was an interesting debate in which all interested parties had the opportunity to express their opinions. I am glad that the Minister is present, and I hope that she will take cognisance of the views that were expressed by the 14 Members who spoke — including the Minister and me.

My colleague Mr Gallagher began the debate by proposing the motion. He expressed the deep concern in the community throughout the North of Ireland about this issue. He mentioned that the Bain Report highlighted the effect of declining rolls, and he called on the Department of Education to provide leadership on this issue.

We had to wait a considerable length of time for the sustainable schools policy to be published. Mr Gallagher referred to the somewhat mysterious emergence of the policy last night on the Internet without prior notice being given to any parties or to the Education Committee. Although that is regrettable, we should be glad that we have the policy now at long last.

Mr Gallagher also referred to the closure of the Duke of Westminster High School in his area and of the threat that St Mary's High School in Brollagh faces. In the company of Mr Gallagher, the Chairman of the Committee and I visited St Mary's. We were extremely impressed by the high quality of education that was provided in that school.

In addition, Mr Gallagher highlighted the fact that rural schools and the education that they provide influence families to stay in rural areas and, indeed, attract new families to rural areas. They, therefore, play a very important role in ensuring that rural communities are sustainable. Furthermore, Mr Gallagher referred to research carried out in Scotland, which showed that pupils at Key Stage 4 in rural post-primary schools perform better, largely because the quality of education is better and because of the lower teacher:pupil ratios. We could benefit from that in Northern Ireland.

Mr Gallagher also outlined the fact that 50% of primary schools and a quarter of post-primary schools in the Western Education and Library Board area could face closure if the raw numerical viability quotas of the Bain Report were implemented. Hopefully, that will not be the case. The policy that has emerged from the Minister seems to have somewhat softened the focus on the raw numerical quotas. That is to be welcomed, as is the greater emphasis on qualitative factors.

Mr Storey spoke as the Chairperson of the Education Committee. He underlined the fact that enrolment figures are only one aspect of sustainability. He also referred to the importance of the travel issues that pertain to rural areas.

In his capacity as the DUP's education spokesperson, he underlined the facts that children are vital to our community's future and that rural schools play a key role in sustaining rural communities. Moreover, Mr Storey mentioned small, isolated, minority communities, which are often the last manifestation of a community in a particular geographical area, and, in order to ensure diversity and maintain a shared future, he said that those communities' schools should be given special consideration. Indeed, although that point was mentioned in the Bain Report, it does not appear to have been reflected to the same degree in the Department's published policy, and that is regrettable.

Mr O'Dowd said that Sinn Féin would have supported the motion if it had been given the opportunity to do so, but I remind him that his party was given the opportunity to contribute to the wording of the motion. Mr Gallagher asked Mr O'Dowd to reply with his preferred form of words, but, unfortunately, he failed to do so — a point that I wish to clarify.

Furthermore, Mr O'Dowd referred to experiences in Fermanagh, where he said that grammar schools are sucking the life out of rural post-primary schools. He said that the sustainable schools policy will assist school leaders and will act as a form of early intervention, equating the policy to calling in the Fire Service. Unfortunately, he did not mention that often by the time the Fire Service finishes, a great deal of damage has been done by water and fire. Sometimes the smell of damp never goes away.

He also mentioned the 50,000 empty desks, and that figure is expected to increase by 4% in coming years. All parties recognise that that situation must be dealt with, because it cannot be avoided. Nevertheless, it is the way in which we deal with it that is important. We must not cut a swathe through a third of Northern Ireland's rural schools by starkly implementing the Bain proposals.

Basil McCrea spoke on behalf of the Ulster Unionist Party, and he said that efficiency and financial matters should not be the sole considerations. He called rural schools the bedrock of the community, and he said that 60% of primary schools and 77% of post-primary schools in Northern Ireland fall below the Bain criteria. In particular, he mentioned the role that Maghera High School plays in that community. He also accused the Minister of implementing a one-size-fits-all policy, which he suggested came from the direct rule Administration. Mr McCrea wants a wider range of stakeholders to be involved in area-based planning and the distance issue dealt with properly.

In an intervention, Danny Kennedy reflected what Mr Storey said, and what other Members would go on to say, about minority schools in certain areas being given special consideration in order to retain population diversity.

Trevor Lunn referred to the fact that segregation incurs greater costs and is unsustainable, particularly if we are to have a shared future.

Willie Irwin spoke about the plight of Keady Primary School, which is an example of a rural primary school that represents a minority population struggling to remain open.

Michelle O'Neill mentioned the publication yesterday of the sustainable schools policy; however, she failed to mention the secret manner in which it was released, with no announcement or fanfare. One wonders why the Minister, who usually loves to bask in the glow of publicity, sought to sneak the policy quietly into the public domain. Why was that the case?

Nelson McCausland said that education is central to our future. He said that 35% of schools in Scotland and 31% of schools in Wales are small and rural, with under 100 pupils. The situation in those countries is similar to that in Northern Ireland. In Scotland and England, the policy is to retain those schools, and we should be adopting the same attitude here. Ken Robinson mentioned the disproportionate impact that the closure of rural schools could have here and the cohesive impact of rural schools.

As one would expect, the Minister largely extolled the virtue of her own policy. She mentioned the special considerations that were given to rural communities: lower enrolment thresholds; accessibility; home-to-school travel times; and the community criteria. She also said that decisions to close schools would not be based solely on enrolment numbers, and everyone welcomes that.

All options should be considered in order to sustain rural schools.

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

Mr D Bradley: Rural proofing should include specific financial support to aid sustainability, particularly in relation to schools that are joined in federation. We need specific criteria to help to assess the effectiveness of rural proofing in education. The policy must be implemented with sensitivity to local needs, alongside a vision for quality education. If those two requirements are met, we will do a service to our rural communities. Gabhaim buíochas leat, a LeasCheann Comhairle, agus tá mé réidh anois le suí síos.

Question put and agreed to.

Resolved:

That this Assembly calls on the Minister of Education to halt rural school closures, other than those where agreement has been reached locally, until the Sustainable School policy is agreed and implemented; and to ensure that rural proofing of that policy is underpinned with school viability criteria that are appropriate for schools serving rural communities.

Adjourned at 5.17 pm.

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