
OFFICIAL REPORT

(HANSARD)

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NORTHERN IRELAND ASSEMBLY

MINISTERIAL STATEMENT

Public Expenditure: 2008 Strategic Stocktake

Tuesday 20 January 2009

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

Members observed two minutes' silence.

ASSEMBLY BUSINESS

Mr Attwood: On a point of order, Mr Deputy Speaker. Following the questions to the Minister of Education on her statement yesterday, Mr Basil McCrea and I raised points of order. As Deputy Speaker, you — quite properly, in my view — said that you would raise those matters with the Speaker. I know that it is premature to expect a ruling on any of those matters today, but, further to that point of order, I wish to raise an associated matter. At Question Time on 24 November 2008, the Minister of Education addressed questions for oral answer. On that occasion, questions to the Minister of Education lasted 29 and a half minutes, but 23 and a half minutes of that time were spent by the Minister in answering Members' questions. One of her answers took three minutes and 20 seconds.

When the Speaker is considering yesterday's points of order, will you ensure that that issue is raised? How is it that during Question Time, a Minister can be given such latitude that she is allowed to speak for such a long time without being asked by the Speaker — or any of the Deputy Speakers — at any time to bring her remarks to a close, address the question, keep her answer relevant or to stick to the point? I ask that you also raise that matter with the Speaker.

Mr Deputy Speaker: You make your point well, Mr Attwood. As you know, that is a matter for the Speaker and for the Committee on Procedures. Indeed, that Committee is considering the point.

Mr Deputy Speaker: I have received notice from the Minister of Finance and Personnel that he wishes to make a statement on public expenditure with respect to the 2008 strategic stocktake.

The Minister of Finance and Personnel (Mr Dodds): I wish to make a statement regarding the outcome of the strategic stocktake of the Northern Ireland Executive's expenditure plans for the financial years 2009-2010 and 2010-11, which the Executive considered last Thursday.

The strategic stocktake was also informed by the submission of the Committee for Finance and Personnel, and it incorporates the views of the other Assembly Committees. I am grateful for the constructive input of the Committee for Finance and Personnel throughout the strategic stocktake process, and in this statement, I will attempt to address as many of the Committee's comments as I can.

In January 2008, after the outcome of the UK-wide comprehensive spending review of October 2007, the Assembly approved the expenditure plans for Northern Ireland Departments for 2008-09 to 2010-11. Those plans were drawn up in line with the Executive's Programme for Government, and included provision for a range of measures to be developed. Those included extending free public transport to everyone aged 60 and over; improvements in mental-health and learning-disability services; moving 70,000 working-age benefit clients into employment by March 2011; reducing red tape by 25% in the agri-food sector by 2013; a more than 40% growth of the tourism industry by 2011; and reducing the maximum waiting time for hospital treatment to nine weeks for outpatients, and to 17 weeks for inpatients.

Those final Budget plans, which are at annex A of my statement, were agreed after the publication of draft plans in October 2007, and 10 weeks' public consultation during which some 10,000 written responses were received, and high attendances were achieved at consultation events across Northern Ireland. In response to issues raised, additional funding was made available for mental health, children and youth services, the arts and social housing. The process began as far back as July 2005 when the Treasury announced its intention to conduct a comprehensive review of spending plans and priorities in 2007, rather than the normal biennial spending review.

One of the key features of the 2007 Budget process was the slowdown in growth in public spending at national level. That meant that the increase in the

Executive's block grant from the Treasury, under the 2007 comprehensive spending review, was significantly lower than in previous spending reviews, and the financial position has deteriorated further since then. The latest Treasury projections as set out in the 2008 pre-Budget report imply a further slowdown over the next spending review period, highlighting the difficult choices that will have to be made nationally and locally.

Following on from the 2007 Budget process — and on the basis that there was no expectation of any material additional resources becoming available for the financial years 2009-2010 and 2010-11 — the Executive agreed in March 2008 that there would be little to be gained from commissioning a comprehensive local Budget process for 2008-09. However, it was recognised that Northern Ireland Departments would have emerging financial issues of which early sight would be useful when considering the strategic approach to the 2009-2010 in-year process. Therefore, the Executive agreed to conduct a strategic stocktake of the Budget position for forward years in order to allow Departments to review progress against their three-year plans to date, and to register any easements or pressures for next year and the following year against Budget allocations. In setting firm expenditure plans in January 2008 for the financial years 2008-09 to 2010-11, the Executive fulfilled their legal obligations in that respect for each of the following three years. However, periodic reviews of expenditure plans for Northern Ireland Departments remain essential, and that is one of the reasons for this strategic stocktake.

On 2 April 2008, my officials informed the Committee for Finance and Personnel of the Executive's intended approach, and no opposing views were put forward at that time, when it would have been appropriate to do so. It was intended originally that the review of expenditure plans would be based on an assessment of progress to date against the targets set out in the Programme for Government, as well as the implementation of efficiency-delivery plans. In light of the short period that had passed since the start of the new financial year, it was not possible to review actual performance. Instead, the focus was on ensuring that sufficient systems were in place to ensure delivery.

With regard to the Programme for Government targets, the available evidence suggests that although some good progress has been made in developing the overall delivery frameworks in respect of most public service agreements, further work is required in order to provide the necessary assurances that services are being delivered as planned. That is an area of concern for the Committee for Finance and Personnel, and I hope that it will be taken forward as soon as possible by the respective Departments.

Regarding achieving the Executive's 3% per annum efficiency savings targets, there is concern at the delay in publishing efficiency delivery plans, and at the level of detail provided in some cases.

Therefore, further work will be required by Departments to provide sufficient assurance to the Assembly and the wider public that savings are being achieved through carefully planned measures to improve efficiency, rather than crude cuts in public services. The Assembly Committees have a key role, in that respect, to ensure that efficiency delivery plans are publicly available and to challenge Departments on the contents and subsequent delivery of their plans.

In relation to the strategic stocktake, I will first turn to the resources that are potentially available to the Executive over the next two years, beginning with the Barnett consequential from UK Budgets, which — as Members will be aware — represents by far the largest source of funding to the Executive. In light of the slowdown in economic growth across the globe, the expectation is that there will be a net reduction in our block grant over the period 2009-2011, relative to the position when the Budget was agreed last January.

In addition to allocations from the 2008 Budget and pre-Budget reports, the Northern Ireland Executive have also been provided with the flexibility to accelerate £76.8 million worth of capital investment into 2009-2010, as announced in the pre-Budget report. However, if the Executive decide to avail themselves of that opportunity, that funding would not be available in 2010-11.

A further consideration that was highlighted by the Committee for Finance and Personnel is the capacity of Departments to deliver accelerated capital investment projects, although I hope that the apparent improved performance for this financial year will provide some assurance in that respect. However, the potentially more significant provision in the pre-Budget report was the £5 billion increase in efficiency savings for Whitehall Departments in 2010-11, which the Treasury intends to reflect in the level of funding to the Executive.

Although the Committee for Finance and Personnel has asked for further detail as to whether the Executive intend to increase the targeted level of efficiencies as a result, I am sure that the Committee — and the House — will appreciate that that decision must wait until we have greater certainty regarding the impact on the block grant for 2010-11, which is expected to be provided in the Chancellor's Budget in the spring. In addition, I intend to challenge the Chancellor of the Exchequer to the effect that our comprehensive spending review 2007 settlement should be honoured in full and, hence, the additional efficiencies for

Whitehall Departments should not impact on the Northern Ireland Executive.

However, Members will be all too aware of the current situation at Whitehall, with Conservatives proposing that further savings of around £5 billion be made in the next financial year; that is, 2009-2010. Similarly, in the Republic of Ireland, reductions in public-sector pay and staffing levels are being considered as part of plans to deliver a further €2 billion of savings for 2009. To put that in context, that would be equivalent to over £700 million in additional savings for 2009-2010 for Northern Ireland Departments, adjusting for differences in population. That sets the context in which our discussions with the Treasury will take place.

In relation to other potential sources of income, the current financial situation means that there will be further constraints on the level of access to our outstanding stock of end-year flexibility. In relation to the disposal of surplus assets, the main emphasis for Northern Ireland Departments will be on ensuring the delivery of existing plans rather than seeking additional income, a point that was recognised by the Committee for Finance and Personnel.

Therefore, the overall level of resources available to the Executive over the next two years is expected to reduce rather than increase. That being the case, my ministerial colleagues and I will need to focus our efforts on making the best uses of the available resources. In that context, the main source of funding to address emerging pressures is expected to come from the resources that were allocated in the Budget process but that are no longer required for the purpose, and over the time frame, that was initially intended.

In their strategic stocktake returns, Departments declared £29.6 million in current expenditure reduced requirements for next year and a further £21.1 million for the year after. Further details are set out in my statement, which also shows that only £1.2 million of capital expenditure reduced requirements were declared by Departments. However, the Department of the Environment (DOE) has indicated that there will also be slippage in strategic waste infrastructure projects from 2010-11 into future years.

I expect further reduced requirements to be declared as we move into the respective in-year monitoring processes, particularly in respect of capital projects as market conditions provide increased value-for-money opportunities in the public procurement of capital projects. That matter was highlighted by the Committee for Finance and Personnel.

10.45 am

Although the relatively low level of reduced requirements declared by Departments means that the Executive would be able to make additional allocations at this time only by imposing significant reductions on

existing budgets, it is still important that the Executive be aware of the emerging pressures identified by Departments. It is important to stress at the outset that not all the costs identified by Departments are inescapable; nor, from previous experience, would they be expected to materialise to the full extent that has been suggested. The first source of funding in respect of emerging pressures should come from the Department's resources.

That reflects the concern of the Committee for Finance and Personnel, which has suggested that Departments had provided insufficient detail in their strategic stocktake returns on how they intend to address the emerging pressures that they had identified. Departments have identified £233 million of current expenditure pressures in 2009-2010 in total, and £301.7 million in 2010-11, as detailed in my statement.

Departments will be happy to note that most Assembly Committees were broadly in agreement with the pressures that have been identified, although I urge Committees to be more challenging in respect of the prioritisation of proposals. The most significant pressures have been identified by the Department of Education (DE), the Department of Agriculture and Rural Development (DARD), and the Department for Regional Development (DRD). The Department for Regional Development is mainly pressured by the lost income from the deferral of water charges in 2009-2010. That is an additional cost over and above the non-cash costs being covered by the Treasury for 2008-09 and 2009-10.

Although the pressures identified by Departments appear to be significant in absolute terms, in relative terms the House should be aware that they are equivalent to 2.7% to 3.4% of their budget settlements for 2009-2011. That compares with the 4.8% of resources declared by Departments as surplus in reduced requirements and underspend in the 2007-08 financial year alone.

Departments have also identified £175.6 million of capital expenditure pressures in 2009-2010, and £435.4 million in 2010-11. The most significant pressures have been identified in shortfalls in capital receipts in respect of the Crossnacreevy site by DARD, and the housing programme. That reflects the concerns of the Committee for Finance and Personnel regarding the overall delivery of planned capital receipts, although I expect that the respective Departments will take all action possible in order to address any shortfalls internally as a necessary condition for support from the Executive.

In addition to departmental-specific pressures, the most significant issue facing the Executive is the equal pay claim for junior members of the Northern Ireland Civil Service. Although the Prime Minister has recently provided access to £100 million of current

expenditure for either 2008-09 or 2009-2010 to help to address the spending pressures faced by the Executive, it needs to be clearly recognised that the extent to which the one-off cost exceeds this amount will represent a call on the Executive's available resources at a time when the overall financial position is severely constrained. There may also be recurrent costs as the pay structures are revised to ensure that they comply with the requirements of equal pay legislation.

In addition, the enhanced access to current expenditure will have implications because it is comprised of additional borrowing power and early access to the block grant. There are a number of other less significant cross-departmental pressures, including the residual funding commitment associated with the integrated development fund; increased rating relief, as we implement further reforms to the rating system and absorb the impact of the economic downturn; and the consequences of previous overpayments of UK public-sector pensions.

The economic downturn is already having an impact on the demand for the broad range of public services, particularly as a result of the increase in the level of unemployment. The precise impact of that will only be known as the position develops. In recognition of the importance of the Assembly in relation to financial matters, the Committee for Finance and Personnel was invited to submit its own assessment of the strategic stocktake position so that it could be taken into consideration as part of this exercise.

The substantive return from the Committee incorporates the co-ordinated views of other Assembly Committees. I have already touched on many of the Committee's points, but a number of additional matters were raised, including a request for further clarification on the recently announced financial package — which I hope has been addressed — and a concern about the ability of Departments to deliver the planned level of resources from the disposal of surplus assets and efficiency savings. There are concerns at the difference between the scale of emerging pressures, as identified by Departments, and the level of available resources. However, I remind Members that it is in the nature of budgetary exercises for Departments to bid for significantly more than is available.

There was a query as to why few of the pressures identified relate to the economic downturn. I suggest that that reflects the priority given to the economy in the 2008-2011 Budget process. However, it is expected that such pressures will increase as the full extent of the downturn feeds through. The Committee raised the issues of financial and project management, baseline reviews and access to the Executive's end-year flexibility stock. I agree that a more constrained level of access to end-year flexibility stock underscores the importance of Departments minimising the level of

end-year underspend; that should not, however, be at the expense of value for money.

Although the pressures identified by Departments as part of the strategic stocktake exceed the resources immediately available, they must be set against the scale of existing allocations and the level of resources that would normally be available to the Executive as part of the in-year monitoring process.

The two main issues for 2009-2010 concern the reduction in income from the deferral of water charges, and the one-off payment — and any initial consequential costs — of the Northern Ireland Civil Service equal pay claim. Those pressures will continue to impact on the overall financial position as we move into 2010-11, as will the reduction in resources available to the Executive as a result of the decision in the pre-Budget report to increase the efficiency target for Whitehall Departments by £5 billion.

The overall financial context for 2009-2010 and 2010-11 that I have described underpins the validity of the Executive's decision in March 2008 not to undertake a full Budget exercise. Instead, the focus will be on managing the emerging financial position as part of next year's in-year monitoring process. That approach will help us to manage the uncertainty that still surrounds some anticipated pressures next year — in particular, the final cost of the Civil Service equal pay settlement and the loss of income associated with the deferral of water charges.

I am sure that Members will have a number of questions regarding the approach that the Executive are adopting. In addition, the Committee for Finance and Personnel will table a take-note motion on the issue. That will provide an important opportunity for Executive Ministers to take into consideration the views of Members in advance of the 2009-2010 in-year monitoring rounds.

Looking forward to 2010-11, we still do not know when the next UK spending review will take place. In light of the pressures that I have detailed and the expected level of resources going into 2010-11, I am giving consideration as to the most appropriate form of process to manage the difficult funding position that we face, while maximising the delivery of public services.

Obviously, the circumstances that we currently face are significantly different to those that existed when the Budget was being finalised, or to any that could have been identified at that time. Clearly, we are still in a position of extreme volatility, with rising unemployment replacing the increased cost of living as the main cause for concern. Although I appreciate the scale of the pressures facing Departments, the current financial position means that the only way in which more resources could have been allocated to a

particular service would have been to scale back other public services. There was no appetite among my ministerial colleagues for such an approach.

I anticipate that many Members will today, and in the take-note debate next week, press the case for additional resources to be allocated at this time to certain public services. I ask that, in doing so, they take into consideration the current financial position and identify which existing service they would cut. That would add real value to such a debate.

External factors have contrived to ensure that the early years of this Executive will be the most challenging. In that context, it is more important than ever that all Members of the Executive, with the support of the Assembly, work together to deliver a better future for all the people of Northern Ireland. I commend to the Assembly the strategic stocktake of the 2009-2010 and 2010-11 expenditure plans of the Northern Ireland Executive.

The Chairperson of the Committee for Finance and Personnel (Mr McLaughlin): Go raibh maith agat, a LeasCheann Comhairle. I thank the Minister for his detailed statement. The breadth and scope of the report that he has delivered to the House describes the challenges that are faced by the Assembly and, in particular, the Executive in meeting the Programme for Government's targets.

The first of two key issues that have exercised the Committee is the question of capital-assets realisation targets. The Executive's Budget for 2008-2011 includes forecast capital receipts of £1.6 billion. What is the estimated out-turn against that target? How will the Executive deal with any deficits? What is the position with regard to the recommendations of the capital-assets realisation task force's report that was agreed in December 2007?

The Minister has dealt with the second issue in some detail in his statement. There is a question about Departments' bids for additional resources. When giving evidence on the stocktake to the Committee, officials from the Department of Finance and Personnel (DFP) said that questions remained about the scale of some bids that have been received from Departments and about whether those bids represent ongoing pressures.

That is a particularly crucial and relevant point to make at present. The initial stocktake position that was sent to the Committee showed a gap of approximately £1 billion between the bids that were submitted and the reduced requirements that have been identified for 2009-2011. Is the Minister concerned that Departments seem not to have met the stocktake's terms of reference, which stated that they needed to demonstrate how bids could be met through the adjustment of existing plans and priorities? Is the Minister confident that the major

pressures that have been declared by Departments — those that can be substantiated — can be met?

The Minister of Finance and Personnel: I thank the Committee Chairman for his comments, and I am grateful to the Committee for the work that it has done on that important subject.

Capital receipts are an important issue. Northern Ireland Departments have indicated, across the board, that the downturn in the property market will, of course, have a significant impact on the level of capital receipts in 2009 and in the medium term. It is hoped that at some point during the medium term, that that will turn around. I expect that, initially, all Departments that are affected will take every possible action to deal with shortfalls internally, as a necessary condition — as I said in my statement — to any future support from the Executive.

The Chairman mentioned the capital-assets realisation task force. The experience of the current financial year is that there needs to be greater certainty about the level and timing of forecast receipts before corresponding allocations are made to Departments. Therefore, it is important that Departments are incentivised to realise, where possible, assets that have been identified by the capital-assets realisation task force, and that they understand the implications of not realising those assets.

The Chairman raised the question of bids that have been submitted by Departments and made an important point about the nature of those bids. As I said in my statement, it is not surprising in such a budgeting round that Departments will submit a vast range of bids, not all of which will be inescapable. My Department must consider carefully the nature of those bids. As I indicated to the Assembly, the scale of bids that have been set out and brought forward by Departments are within approximately 3% of budget allocations. When one considers previous experience of underspend, in-year monitoring, reduced requirements, and so on, that is in the range of what is manageable.

Obviously, my Department is engaged in that exercise to take a long-term view of the situation in the next year or two.

11.00 am

However, things are volatile, and that is the purpose and benefit of having an in-year monitoring process that allows us to be flexible in allocating resources throughout the years, as reduced requirements come through. We can also hope to meet, and to help with, other emerging pressures and priorities.

The Deputy Speaker: A considerable number of Members wish to ask questions on the Minister's statement. I would, therefore, ask that Members should

only ask questions in their contributions rather than make statements.

Mr O'Loan: Will you take a point of order?

The Deputy Speaker: No; a point of order can be made after the questions to the Minister.

The Deputy Chairperson of the Committee for Finance and Personnel (Mr Hamilton): I will question the Minister on two areas of real concern to the Committee for Finance and Personnel. The Minister will be aware — from his Department and other Departments — of the difficulty of meeting some of the efficiency targets. The Minister also mentioned the possibility that the Chancellor's Budget in the spring will impose additional efficiency targets on UK Departments. Has his Department quantified how that might impact on Northern Ireland? Can he confirm that the Executive intend to continue with the administration savings in Northern Ireland of 5% in real terms?

Given the economic situation, it would be intolerable to have the historically high levels of underspend, particularly with end-year flexibility stocks being increasingly eaten into by the Treasury. Can the Minister provide an outline of how confident he is that the historical trends of high underspend will not be repeated as we move into increasingly difficult times?

The Minister of Finance and Personnel: I thank the Deputy Chairperson for his questions. As part of the 2008-2011 Budget, a 3% per annum efficiency savings target was agreed by the Executive and endorsed by the House. The pre-Budget report indicated that the efficiency savings for Whitehall Departments would increase by £5 billion in 2010-11. That would have implications for the level of funding available to the Executive, but we must wait for the Chancellor's Budget in the spring to get the details.

Along with my colleagues, I intend to challenge any reduction in our block grant. That is not something that we should simply accept, although we are conscious of the context in which we are operating whereby it is not only the Government that are indicating that there will be increased efficiencies, but the Opposition are indicating that there will be even greater efficiency cuts for 2010-11 and, indeed, efficiencies for 2009-2010. Therefore, the negotiations and discussions will be difficult.

Mr Hamilton pointed out the importance of ensuring that Departments have the minimum underspend possible. Due to the difficulties of gaining access to end-year flexibility, any underspend would be returned to Treasury and lost to Northern Ireland in the immediate future. It is imperative, therefore, to keep underspend to a minimum. The Committee for Finance and Personnel has raised that point and examined it

seriously. Indeed, I am sure that every Assembly Committee is monitoring that situation carefully.

Mr Beggs: Much has changed economically since 2008. The Minister acknowledged some of the difficulties, such as end-year flexibility constraints, fewer resources from the sale of unused assets, and capital pressures of some £611 million. Can the Minister advise whether that figure of £611 million includes the gap that is left from the termination of the 2010 process? Given that there have been such dramatic changes in the economic situations that govern the Executive, does he intend to resume the normal annual budgetary process? Will he enable greater accountability and scrutiny by allowing that process to be resumed?

The Minister of Finance and Personnel: I thank the Member for his question. However, I have not imposed anything: the Executive, which includes Ministers from the Member's own party, and the Assembly agreed to the process. The Member is right to point out that the economic situation — including the property market and the banking system — and the context in which we operate have changed dramatically.

Given what I have said in my statement and given the economic realities, any proposed changes to the Budget will entail Ministers giving up money so that it can be reallocated elsewhere. The Executive will consider that approach if Mr Beggs or any Member who advocates that approach can persuade a Minister of their own party, or any other Minister, to support it. However, I do not know of any Minister in the Executive who supports that idea. In fact, Ministers are entirely resistant to any suggestion of changes to their budgets. The Member, and others who take that view, should raise the matter more generally. It is a matter for other Ministers, not just me.

The Workplace 2010 issue affected capital receipts in this financial year, but it will not impact on the next two years. That will assist us. As a result of the decision to suspend the Workplace 2010 process, the £175 million receipt that was forecast for this year did not materialise. That added to the financial pressure on the Executive. However, it will not be a factor next year, when capital expenditure is forecast to increase by 6% across all Departments. Furthermore, this year's expenditure on capital investment is 40% higher than in 2006-07. That boosts our economy and the construction industry.

Mr O'Loan: I thank the Minister for his statement, although I am disappointed that it contained less detail than a routine monitoring round statement.

How can the Minister describe his statement as being strategic? Members are aware of the changes to the budgetary situation since last year, such as the collapse in asset sales, the change of plans on water

charges, the equal pay issue and the absolute need for the Executive to respond to the massive economic downturn.

Mr Deputy Speaker: Order. As I pointed out, Members must ask questions of the Minister. There are 20 Members —

Mr O'Loan: Why —

Mr Deputy Speaker: Order. Twenty Members want to ask questions. If Members at the beginning of the list use too much time, Members near the end of the list will not have an opportunity to ask questions. Therefore, you must ask a question.

Mr O'Loan: Members need an opportunity to discuss major budgetary issues properly in the House. Where else can we do so?

The Minister referred to a reduced block grant —

Mr Deputy Speaker: Order.

Mr O'Loan: I ask the Minister to —

Mr Deputy Speaker: Order. You must ask a question, or I will move to the next Member.

Mr O'Loan: Why was a full budget statement not provided to the Assembly? In light of the Minister's letter of 9 January to the Minister for Social Development, in which he was genuinely responsive to the decline in house and land sales and the consequent effect on the housing budget and the house-construction industry — and I welcome his responsiveness to that matter — why did he not take any action on that matter and outline how he will strategically supply an adequate social-housing budget for the next year?

The Minister of Finance and Personnel: I am grateful for the Member's question — when he eventually asked it. The point is that the Executive decision not to conduct a formal Budget exercise — which was agreed by the Executive unanimously — was taken because all of the available resources had been allocated for the three years. As I have indicated to the Assembly, it is unlikely that any additional material resources will become available; if anything, there will be pressures on the current position.

The Member mentioned the social-housing budget, and I thank him for his comments about the work carried out by the Minister for Social Development and me in relation to the recent housing position. However, the current financial position means that the only way in which a specific allocation can now be given to any Department — whether it is the Department for Regional Development, the Department for Social Development (DSD), or the Department of Education — is by scaling back other public services. Given the finite Budget available, if the Member is saying that he wants to prioritise social

housing — as we all do — he must say how he intends to fund that.

We never hear the Member tell us how and where he intends to get the money from, and I would love to hear him tell us that and come forward and add real value to the debate.

We will work with DSD, and all the other Departments that face pressures, to ensure that they take internal decisions about reallocations — and I am glad that, eventually, DSD did take measures in that regard, and my Department assisted in allowing it to do that. Then, the Executive would consider the range of issues that arise, the pressures identified and the resources available, and make a strategic decision. Generally speaking, the Executive makes those decisions unanimously.

Members must realise and face up to the fact that if allocations to one Department are to be increased, there must be reduced spending in another Department.

Dr Farry: I thank the Minister for his statement. Will he confirm to the House that he is declaring a funding gap of £450 million over the next two years, and that, rather than being determined by external circumstances, more than half of it is self-inflicted, resulting from the decision to defer water charges for two years? That decision was not planned for in the Programme for Government, or in the Budget that was originally set and agreed by the House. Does the Minister share my frustration that, unlike all other Governments in the world, we are not taking the opportunity to re-examine underlying Budget allocations and refocus our efforts on tackling the economic downturn?

The Minister of Finance and Personnel: I do not accept what the honourable Member says. He is advocating that water charges be imposed at a time of economic hardship — if he does not agree that the decision to defer water charges was correct, the corollary is that the charges should have been introduced. That is the simple logic of what he says. Recently, he disagreed with the decision to freeze the regional rate. We also hear other proposals from that quarter, from time to time, about tax-raising powers.

I was delighted to hear the Member yesterday welcome the announcement I made about the impact on district ratepayers, but he is now back to his usual form of advocating that water charges should have been introduced. I fundamentally disagree with that. It would have been a major imposition of hardship on hard-pressed householders at the current time. Deferring those charges was the right decision.

As regards bids, it is entirely normal for Departments, when asked to identify pressures and easements, to identify a significant level of bids and very few reduced requirements. That has been the case

over the past number of years, and it is all the more certain to happen when one is looking forward two years. There is nothing surprising in what the Member has said, but it must be borne in mind that the £450 million he mentioned is well within the limits of what was declared as underspend in the financial year 2007-08, and it is entirely manageable through the in-year monitoring process.

11.15 am

Mr Weir: I thank the Minister for his statement. What level of reduced requirements does the Minister project will be surrendered by Departments over the next two years?

The Minister of Finance and Personnel: Reduced requirements form a major element of our flexibility and our ability to deal with spending pressures that emerge during the year. As I have just said, it is extremely difficult to predict and measure those pressures with certainty before the start of each financial year — the picture will become much clearer during those years.

However, if recent years are taken as a reasonable guide to future behaviour, then between £150 million and £220 million in current expenditure-reduced requirements, and between £110 million and £260 million of capital investment, have been declared over the last three years. Those figures put the earlier comments about a funding gap into perspective. In relation to in-year reduced requirements and underspends that have been identified by Departments — not all of which are inescapable or will turn out to be genuine pressures — recent history and performance shows that we will be able to manage the situation carefully and prudently as we move forward.

Ms J McCann: Go raibh maith agat, a LeasCheann Comhairle. In his statement and in some of the comments that he made, the Minister said that it was important that Departments minimise their levels of underspend. Will he take any pre-emptive measures to ensure that there is no risk of money going back to the Treasury?

The Minister of Finance and Personnel: The in-year monitoring process is designed to ensure that money that is not needed in particular areas is reallocated to areas in which it can be spent and create value for money. We are all determined to ensure that as little money as possible ends up underspent at the end of the year, as that money would go back to the Treasury. It is a priority for my Department and the Executive, and it should be a priority for every Minister and Department.

I heard a suggestion that we should have a contingency fund in case there is a black hole in the Budget. The danger of taking that approach is that unspent money could be sitting in a fund as we approach the end of a financial year. That money

would be very difficult to spend as Departments would not have been able to use it during the year, and a lot of it could end up returning to the Treasury.

The best approach is the one that we have adopted, which is to use the in-year monitoring process. That approach has been tried and tested over many years. As we reach the end of a financial year, we very carefully monitor the situation to ensure that money that will not be spent is declared as early as possible so that it can be reallocated to areas in which it can be spent. I think that Members will agree that that is the message that I have consistently spelt out publicly, in the Assembly, in the Executive and to Ministers.

Mr McQuillan: I thank the Minister for his statement. Despite what others say, I think that it was a very good statement. I know that the Minister touched on the matter during his statement, but what is the current position on the issue of equal pay in the Civil Service?

The Minister of Finance and Personnel: Equal pay for junior members of the Civil Service is probably one of the most significant issues facing the Executive, as a whole, in addition to Department-specific pressures. Negotiations are continuing with the Northern Ireland Public Service Alliance with a view to reaching a negotiated settlement on the equal pay issue as soon as possible.

There are complexities associated with attempting to achieve a negotiated resolution, so it may take some time. The legal issues, the complexity of the work and the sensitivity of negotiations make it difficult to provide specific details about the timescale for such a resolution. Nevertheless, we are working on it; negotiations continue, and any settlement in relation to the one-off payment that is significantly in excess of the £100 million flexibility that was negotiated with the Prime Minister in order to meet general spending pressures will have an impact on the Executive's spending plans.

Mr B McCrea: The Minister's statement lacks clarity. I am not sure whether he is telling Members that there is a problem or whether there is not a problem. It appears that we will not be able to balance the books, and that we have made commitments that we will not be able to honour. There is a £700 million shortfall —

Mr Deputy Speaker: Order. Questions, Mr McCrea, questions.

Mr B McCrea: Will the Minister confirm that the pressures on current and capital expenditure over the next two years amount to £700 million, and that there are potential easements of only £60 million? In addition, given that the Minister said that he would give consideration to the most appropriate way in which to discuss the matter, what is his current thinking about that? Furthermore, it is a myth that his

Executive colleagues are working together, so how does he intend to bring them together, and, although I have great confidence in the Minister, how does he intend to bring the Assembly together to deal with this difficult and serious matter?

The Minister of Finance and Personnel: I appreciate the Member's confidence in me, and I heard what he said about making commitments that we cannot honour and about balancing the books. They are important points, and I am sure that he made them with all sincerity.

We are setting out a strategic stocktake for the next two years, and it should come as no great surprise to Members that when Departments are asked to put on the table the pressures that they envisage, as part of a budgetary process they will put a considerable amount on the table. As I said, not all those pressures are inescapable and, when we get down to it, not all will be to the scale or timescale that will require every penny piece to be met.

The reduced requirements envisaged now are not at the level that they will reach in two years, and the Member should bear in mind that, as I said in my statement, the pressure on Departments will be equivalent to 2.7% to 3.4% of departmental budgets, and settlements will be spread over the three-year Budget period. Moreover, 4.8% of resources were declared as surplus by Departments in 2007-08.

That demonstrates the situation; I am pointing out the range of issues and giving an overview, and it is important that the Committees, the Assembly and Members are aware of those matters in order to manage them. Furthermore, there may be demands from Whitehall for greater efficiencies. Therefore, I intend to continue to come to the Assembly to outline the changing situation as openly and as transparently as possible.

Mrs D Kelly: I thank the Minister for his statement. Does he agree that he has painted a depressing picture of the financial situation for not only this year but for the next two years? Furthermore, will he acknowledge that the imposition of water charges is implicit in his statement, and has been stated by his party? When, exactly, did the Assembly agree to water charges, and when will it be given the opportunity to vote on the imposition of water charges?

The Minister of Finance and Personnel: The Member is right to point out the fact that direct rule Ministers decided to go ahead with water charges: the Assembly did not make that decision — I thought that that was obvious to everyone. I remember that the SDLP played a prominent role when the issue first emerged as a possibility in the earlier Assembly. In fact, it was described as the Durkan tax — something

that the SDLP should remember before its Members talk about the Assembly's role in the matter.

The Executive have taken action to relieve the burden on households. I ask the honourable Member, given her comments and those of the Alliance Member earlier, and I ask all the other Members who want to reduce, or increase, expenditure and create a greater liability for the Executive in one area, to suggest other areas in which expenditure can be cut to allow that to be done.

It is childish, irresponsible and nonsense to continually come forward with spending plans in respect of the finite Budget that is allocated to us through the block grant and say that more money is required but not say from where it can be taken. However, I look forward very soon, I understand, to proposals in that regard from that quarter as to the cuts that are going to be made in order to pay for a range of expenditure in other areas. That will allow us to get down to a serious and real debate about the issues.

The global economic situation is difficult; and Northern Ireland is not alone in that regard. The United States, British and European Governments are taking unprecedented actions and interventions because of the global credit crisis and the financial and economic situation. To pretend that Northern Ireland can be insulated from that is to engage in a fantasy and nonsense approach to politics.

The Executive are making strategic decisions that are within their power to help our industries, businesses and households. For instance, the freezing of manufacturing rates, business rates, and regional rates for households, the introduction of a relief for pensioners, and fuel credits will benefit many people, but they would not have happened under direct rule. The Executive, therefore, are taking measures to try to help people at this difficult time.

We wish that we could go further, but — as a regional devolved Administration — we are where we are with regard to the financial situation. We are not a sovereign Government, but, as Members know, even those Governments, which have borrowing and tax-raising powers, among others, are finding the going tough.

Mr Cree: The Minister referred to the legacy costs of the equal pay claim and expanded on that. Is he concerned that the settlement of that pay claim will wipe out the efficiency savings of many Departments?

The Minister of Finance and Personnel: As I indicated, the equal pay settlement is an issue that faces the whole Executive; it is an addition to departmental-specific pressures. Progress has been made in that we have negotiated with the Prime Minister and the Treasury access to £100 million that will meet general spending pressures — one of which

is the equal pay claim. The settlement of the pay claim will not wipe out all of the efficiency savings, because their value is of greater contribution to the Budget than the identified pressure of the equal pay claim.

However, it is worth putting on record that any settlement above £100 million will mean that there will be extra pressure on the Executive. One must remember that the equal pay claim will not be settled by a one-off payment: there will be knock-on costs to the Budget for each subsequent year.

The Member is right to identify that as a major issue for the Executive over the next year or so. However, had we not managed, a few months ago, to negotiate with the Prime Minister and the Chancellor a substantial package that has provided significant spending resources that we would not otherwise have had, the situation would be far worse, far bleaker, far gloomier and far more difficult.

11.30 am

Mr Attwood: No one will have missed the fact that, when it comes to repeating the inaccurate assertions about what happened in relation to water rates, the Minister now chooses to borrow and adopt the language of his partners in Government, Sinn Féin.

I refer the Minister to the last page of his statement, in which he states that he is:

“currently giving consideration to the most appropriate form of process to manage the difficult funding position that we face”.

Furthermore, in that statement, the Minister concedes that the Budget for 2009-2011 will be lower than the amount that was anticipated when the Budget was approved. As Mr O’Loan outlined, he also conceded to the Minister for Social Development that her failure to secure extra money for her budget has had a materially disproportionate effect on the construction industry. Given those circumstances, does he now accept the SDLP proposal that it is time to revise the priorities that were set out in the Programme for Government and the Budget, and to invest further expenditure in social housing, retraining and upskilling?

If he does not accept that proposal, is it not the case that the Minister of Finance and Personnel will be portrayed — accurately, and as the Budget stocktake confirms — as making it up as he goes along, rather than getting to grips with the crisis that the North now faces?

The Minister of Finance and Personnel: The Member’s words contained much rhetoric but little substance. He did not offer any suggestion of how any shortfall, particularly in departmental budgets, could be made up by making cuts elsewhere. He is, therefore, adopting a simplistic and childish, rather than a mature, approach. He does not identify where the cuts

should be made. His policy is one of cutting expenditure to fund a priority elsewhere.

The three-year Budget sets out clear plans for expenditure on several priorities, including social housing, fuel poverty, and so forth. The Department reacted to the capital shortfall identified in the in-year monitoring by allocating £20 million this year alone to social housing. The Department has recently demonstrated flexibility on that matter and will continue to do so.

However, although social housing is important to the construction industry, it is not its sole contributor. This year alone, slightly more than £1.5 billion of public money will fund capital investment projects for roads, schools, hospitals, housing, and so forth, across Northern Ireland. It is not simply a matter of investing solely in housing to help the construction industry. That is important, but, as we speak, 40% more investment than in 2006-07 is being made in all those other areas, too.

Therefore, I am not making it up as I go along. The money is delivering capital infrastructure to improve the future for the people of Northern Ireland. As well as helping the construction industry now, it will deliver better hospitals, schools, roads and housing. That is not an airy-fairy notion of what might happen in the future; that 40% higher expenditure is being delivered to those areas now. That amount is set to increase by 6% next year, and to increase over the next 10 years. That is not a case of a Minister making it up as he goes along; it is good planning and investing for the future, which is something that I thought the party opposite, and indeed its Executive Minister, supported.

Ms Lo: In response to the economic downturn, other parts of the UK are investing heavily in major building projects, which is something that our construction industry is crying out for. However, a big question mark hangs over whether DSD has enough funding to complete its set target of building 1,500 new homes.

Does the Minister agree that there is a need for DFP to be more flexible to assist DSD in meeting its top priority?

The Minister of Finance and Personnel: The Member will have noted the Minister for Social Development’s recent statement acknowledging and thanking DFP for its flexibility in being prepared to see £10 million reallocated. I was glad to see DSD take a proactive approach to that, and to the £20 million allocated to that Department in this in-year monitoring process.

There is ongoing investment in capital projects in the construction industry this year, and I am confident that the five-year target for social housing will be met. Seven major projects, worth £265 million, are under

construction this year for health, including the Royal Victoria Hospital, the Ulster Hospital, the Downe Hospital, projects at Portadown and Altnagelvin, and a regional adolescent child psychiatric unit.

Some £420 million is being spent this financial year on major road projects; £127 million is being spent by DRD on the Belfast sewers project, and 10 wastewater projects worth almost £90 million are under construction; £83 million is being spent by the Department for Employment and Learning on four further education projects; £200 million is being spent by the Department of Education on 14 major projects right across the Province; the Department of Culture, Arts and Leisure (DCAL) has two major projects, worth £54 million, under construction; and DSD has urban construction under way worth £22 million. That is just some of the ongoing investment.

I have indicated already that a further £400 million will be allocated for major infrastructure going to market between the monitoring round and the end of the financial year; £115 million of that is being released out of the framework legal difficulties and going by normal procurement methods, so that that can be brought to market without any legal impairment.

All that investment shows that a considerable amount is going into the construction industry and building for the future of Northern Ireland — not just in housing, but right across the board. Every Department, including DSD, DRD and Education, could say that they could do more. However, considerably more is being achieved than was achieved under direct rule. The good thing is that that investment programme will continue year after year after year over the next 10 years as a result of good planning and good systems having been put in place.

Mrs M Bradley: What allocations is the North to receive as part of the Barnett consequentials in Government spending over the past year?

The Minister of Finance and Personnel: As I said in my statement, the main thing that has come out of the Barnett consequentials and what Whitehall has proposed has been the flexibility to bring forward capital investment worth around £9 million from next year into this year. There is also the flexibility to bring forward capital investment worth over £75 million from 2010-11 into the next financial year, and we must decide whether we wish to do that.

I have already highlighted the issue of Whitehall efficiencies. We have taken that up with the Chancellor already, as I do not believe that it is fair to introduce the cut in the block grant for 2010-11 to Northern Ireland. However, as I have said, the context in which that discussion will happen will be difficult. Although the Government are indicating that that is how they will proceed, the Opposition at Westminster are

indicating that they will go much further on spending cuts and efficiencies for 2010-11 and, indeed, would bring them in this April. That puts us in a difficult situation, but we will do our best to ease the burden on Northern Ireland.

Mr Lunn: Several times today, the Minister has insisted that Members should not ask for expenditure without identifying other expenditure that could be cut to cover their request. Given that, does he accept that he broke his own golden rule by taking the decision to defer water charges without having the resources to do so? Does he further accept that he took that decision at a time when the economic pressures that are now having such an effect on the overall economic situation were already quite evident?

The Minister of Finance and Personnel: I do not accept that at all, because the Executive took that decision. The Member seems to ascribe a tremendous omnipotence to me, but, unfortunately, I do not hold such a position in the Executive or in the Assembly. The message from the Member's party is very clear: its members are against the deferral of water charges. Their argument and logic are very clear. The fact that the Alliance Party is continuing to labour the point about the deferral of water charges at a time of economic hardship and difficulty will not be missed by the wider electorate.

Mr Dallat: I thank the Minister for his statement. Given that the Executive funds, particularly the children's fund, are being depleted year by year, what measures are in place to ensure that the most vulnerable groups and individuals are protected — *[Interruption.]* — I am sorry, Mr Deputy Speaker, but I think that I have the Floor. My question is serious; it is not intended to be embarrassing, and Mr Peter Robinson should not get excited about it.

What measures are in place to protect the most vulnerable groups and individuals in society when short-term crises arise?

The Minister of Finance and Personnel: Later today, the Member will have an opportunity to take part in the debate on, and perhaps vote on, the Financial Assistance Bill, which deals with that very issue. The Bill is about ensuring that finance can be delivered speedily, if necessary, to people who are experiencing the difficulties that he has mentioned. No doubt, he will make a contribution to that debate.

The general issue that the Member raises is important. He rightly points to the need to ensure that resources help, and are allocated to help, vulnerable people. That is why one of the major themes in the Programme for Government is the importance of dealing with poverty and those in need. It is also why the Budget allocated resources to the Departments — the Department for Social Development, the

Department of Health, Social Services and Public Safety, the Department for Employment and Learning and the Department of Education. Indeed, as this is a cross-cutting issue, the Executive regularly discuss it in their Executive meetings. We must ensure that the budgets for each of the Departments that have a role to play in the matter deliver the outcomes necessary to help people in difficult times, and it is the role of Assembly Committees to monitor departmental spending plans and delivery on those issues.

Mr B Wilson: I want to ask the Minister about the decision in the 2007 Budget to end Reconnect grants. That, alongside the amendment to the building regulations, has significantly reduced demand for micro-energy systems. That, in turn, has had a disastrous impact on the sustainable energy sector and has resulted in a large number of skilled workers being made redundant. Given the increasing problems of unemployment and the small sum that would be involved, can the Minister find the resources to restore the Reconnect grants or to introduce a similar scheme to support micro-energy systems?

The Minister of Finance and Personnel: I hear what the Member says, and I will, obviously, consider any bids that individual Departments submit. It is not a matter for me to decide on today, nor is it for me to give any commitment to any particular policy or initiative; it is for Departments to produce proposals for spending plans.

The Member will be aware that the big energy efficiency challenge facing Northern Ireland involves the wider issue of how electricity and energy are generated. The contribution of microgeneration schemes is important. Nevertheless, when we consider the impact that that has on energy efficiency, it is clear that it is dwarfed by the issue of whether electricity should be generated from marine sources or by wind, and so on. There is a genuine and big debate as to whether the resources about which the Member talked would be better used on macrogeneration rather than microgeneration.

That is a debate that will continue. I note what the Member said. However, ultimately, that is a matter for the appropriate Department to bring forward.

11.45 am

Mrs Hanna: Will the Minister state whether any further savings will be put back into front line services, given that, yesterday, a DUP motion asked for savings to be targeted on front line services, many of which have been cut to the bone by efficiency savings in the Budget?

The Minister of Finance and Personnel: The point about efficiency savings is that they are designed to release money by delivering services in a better, more effective and leaner way. The money that is released can be invested in front line services. As I said in my

statement, it is important that Committees and the entire House monitor very carefully what is done through efficiency programmes in order to ensure that they meet their intended aims, rather than result in cuts to services.

Efficiency savings are about doing things more effectively and ensuring better value for money, not cutting back front line services. All Members agree that that is the right approach. It is up to individual Departments and Ministers to come forward with their own plans and proposals, which they must justify and promote, and which the House will then examine very carefully.

Mr Deputy Speaker: That concludes questions to the Minister of Finance and Personnel on his statement.

ASSEMBLY BUSINESS

Mr B McCrea: On a point of order, Mr Deputy Speaker. Further to Mr Attwood's point of order. During the previous debate, you, quite rightly, gave directions about the need for brevity in questions. However, we humble Back-Benchers depend upon the Speaker for some protection in such matters. It appears impossible, under your direction, for Back-Benchers to develop a line of argument. Ministers, on the other hand, have considerable latitude to develop their argument.

Perhaps, a ministerial statement is no longer being used for its originally intended purpose; it is becoming something of a policy debate. The Office of the Speaker might like to reflect on how to look after the interests of backbenchers.

Mr Deputy Speaker: Thank you for that point of order, Mr McCrea. As I told Mr Attwood, that issue is being considered by the Committee on Procedures, which will report on the entire issue of questions.

Mr Hamilton: Further to that point of order, Mr Deputy Speaker.

Perhaps you will confirm that what was before the House today was a statement and questions. There will be an opportunity next week for a lengthier debate on public expenditure, as a take-note debate has been tabled by the Committee for Finance and Personnel.

Mr Deputy Speaker: That is absolutely right, Mr Hamilton. Confusion has arisen between Question Time and questions to a Minister on a statement.

Mr O'Loan: Further to that point of order, Mr Deputy Speaker.

Members have raised a most important issue for the nature of democracy in the Assembly. I put it to you that, on such a serious matter as a Budget statement for next year, the previous debate was a key opportunity for Members to express their views and to ask questions. That must be understood by the Speaker. A take-note debate is what it says — merely a take-note debate; the Assembly will take no decision in relation to the Budget for next year. That is an invasion of the democracy of the Chamber, which many Members take very seriously indeed.

Mr Deputy Speaker: Order.

The Member has made his point very well. However, he is also a member of the Committee on Procedures, which is reviewing that very point.

[Interruption.]

Order.

Questions to a Minister after a statement last for one hour. The Speaker has a list of Members who wish to ask questions of a Minister. On this occasion, 20 Members wished to ask a question.

We at the Table must decide how much time is deemed sufficient for each Member to ask his or her question. I gave each Member who wanted to give a preamble to his or her question the opportunity to do so. However, when a preamble went beyond an acceptable length, I intervened. I hope that the Member accepts that and raises his concerns when the Committee on Procedures next discusses Question Time and questions to Ministers.

Mr Attwood: Further to Mr Basil McCrea's point of order, Mr Deputy Speaker. The Committee on Procedures is responsible for examining conduct during Question Time, and related matters. However, the Speaker and his colleagues must also assert their authority when considering the conduct of questions from the Floor. They must intervene to ensure that Ministers and Members are relevant, get to the point and conclude their remarks. Mr Deputy Speaker, will you, the Speaker and your colleagues consider that matter?

Mr Deputy Speaker: Order. That is an issue for the Speaker — the matter will be referred to him, and he will respond to it at a later date.

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

EXECUTIVE COMMITTEE BUSINESS

Financial Assistance Bill

Consideration Stage

Mr Deputy Speaker: Members will have a copy of the Marshalled List of amendments detailing the order for consideration. The amendments have been grouped for debate in my provisional grouping of amendments selected list. There are two groups of amendments, and we will debate the amendments in each group in turn. The first debate will be on amendment Nos 1 to 11, which deal with Executive and ministerial authority to produce schemes for financial assistance, and the associated procedures.

The second debate will be on opposition to clause 2, which stands in the names of Mrs Naomi Long, Mr Danny Kennedy and Mrs Dolores Kelly.

I remind Members who intend 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 (Exceptional circumstances: power to provide financial assistance)

Mr Deputy Speaker: We now come to the first group of amendments for debate. With amendment No 1, it will be convenient to debate amendment Nos 2 to 11. As I said, those amendments deal with Executive and ministerial authority to produce schemes for financial assistance, and the associated procedures. I advise Members that amendment Nos 6 and 8 are mutually exclusive. Therefore, if amendment No 6 is made, I will not call amendment No 8.

Mr Elliott: I beg to move amendment No 1: In page 1, line 3, after “jointly,” insert

“and with the agreement of the Executive Committee.”

The following amendments stood on the Marshalled List:

No 2: In page 1, line 6, leave out “and” and insert

“(bb) 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 other reason unsatisfactory, and”. — [Mrs Long.]

No 3: In page 1, line 9, after “may” insert

“, at any time within 3 months from the date of the determination under subsection (1),”. — [The First Minister (Mr P Robinson).]

No 4: In page 1, line 14, after “jointly,” insert

“and with the agreement of the Executive Committee.” — [Mr O’Loan.]

No 5: In page 1, line 19, leave out from “(a)” to end and insert

“require the approval of the Executive Committee.” — [Mr Kennedy.]

No 6: In page 1, line 19, at end insert

“and of any department on which functions are imposed or from which functions are removed by virtue of the regulations.” — [Mrs Long.]

No 7: In page 1, line 19, at end insert

“(4A) A department may only be designated under subsection (3)(a) with its consent.” — [Mrs Long.]

No 8: In page 1, line 19, at end insert

“() Regulations made by a department under this section require the approval of any other department with responsibilities for any matter dealt with by the regulations.” — [Mr Kennedy.]

No 9: In clause 2, page 2, line 16, after “may” insert

“, at any time within 6 months from the date of the determination under subsection (1),” — [The First Minister (Mr P Robinson).]

No 10: In clause 2, page 2, line 27, leave out subsection (5) and insert

“(5) No regulations shall be made under this section unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.” — [The First Minister (Mr P Robinson).]

No 11: In clause 3, page 3, line 16, at end insert

“(2) A scheme contained in regulations under section 1 or 2 may provide for the scheme to cease to have effect at the end of a specified period from the date on which the regulations are made; but (without prejudice to the operation of section 28 of the Interpretation Act (Northern Ireland) 1954) the scheme may include such saving provisions as the relevant department thinks necessary or appropriate for dealing with matters or proceedings under the scheme which are outstanding at the time the scheme ceases to have effect.” — [The First Minister (Mr P Robinson).]

Mr Elliott: The Ulster Unionist Party agreed in principle to the establishment of a statutory mechanism to make it easier for the Executive to provide financial assistance to people in exceptional circumstances. However, the Bill deviates widely from that initial goal. Regardless of the protests and attempts that Mr Robinson will use to cover up his and Mr McGuinness’s intentions, make no mistake — the Bill will put unique and far-reaching powers into the hands of the First Minister and the deputy First Minister.

It is deeply regrettable that the DUP and Sinn Féin have used the vulnerable people in our society as an excuse and a cover for a personal power grab. Let no

one be mistaken: this is a politburo Bill. We all want to get the agreed payments out as quickly as possible to people in need — the Executive were able to get £1,000 to all affected households that were damaged in the floods of August 2008.

The Bill contains two major clauses, the first of which is designed to allow the First Minister and the deputy First Minister to decide what constitutes an emergency and what any Department should do about it. The second major clause gives the First Minister and the deputy First Minister the power to override the policy decisions of any Department with regard to social issues if they deem it necessary. That is the only prerequisite that they need. If the First Minister and the deputy First Minister say jump, all the other Departments will have to ask how high. It is serious stuff for the Assembly; it is draconian politics, it is fundamentally undemocratic, and it is a little worrying.

Amendment No 1, which we have tabled along with other colleagues, has been laid in good faith; it genuinely seeks to improve the Bill, and I hope that Members of the DUP and Sinn Féin recognise that fact. By ensuring that the agreement of the Executive Committee is sought, the DUP and Sinn Féin will be able to remove accusations that the Bill is a power grab. If the amendment is incorporated into the Bill, it will ensure that the Executive Committee agrees on whether an exceptional circumstance exists and on whether it is desirable to provide financial assistance to address it. The amendment will in no way reduce the Executive's ability to react to emergencies; rather it will ensure that more consensual action is taken, which will potentially lead to better and more long-lasting results.

Last week, Peter Robinson said that a revised ministerial code will ensure that the Executive would be consulted; the amendment seeks to make that commitment categorical. I also remind the First Minister that the same ministerial code has allowed Minister Ruane to wreak havoc with our education system and to praise Bobby Sands publicly — hardly grounds for instilling much confidence on these Benches. That is why we need a definitive assurance in the Bill that all decisions will be Executive decisions. It is the basis of the power-sharing arrangements that have allowed Northern Ireland to progress positively in the past 10 years; today, the DUP and Sinn Féin are jeopardising that system.

Mr Robinson also made much of the fact that his legislative draftsmen informed him that reference to the Executive cannot be put into legislation, because it is already the legal position. However, if the amendment is passed by the legislative Assembly, it will form part of this exceptional Bill. If the First Minister and the deputy First Minister do not want to be accused of control freakery, they should support the amendment and ensure Executive consent for defining

exceptional circumstances and implementing schemes of financial assistance.

Amendment No 5, which was also tabled by the Ulster Unionist Party, seeks further legislative assurance that when regulations have been made by any Department or Departments, they are subject to the agreement of the whole Executive and not just the First Minister and the deputy First Minister. It is a second firewall against the emergence of a politburo Bill.

Amendment No 7, which was tabled by the Ulster Unionist Party and the Alliance Party, seeks to ensure that no Department can be forced into taking any action by the First Minister and the deputy First Minister, or the larger parties, without that Department's explicit consent. As the Bill stands, if the majority of the Executive want a scheme put in place to tackle a certain circumstance, there is nothing that the chosen Department could do to stop it. Policy and financial costs could be enforced regardless of the implications that they may have on the Department's other priorities and agreed targets.

What would that scenario mean for public service agreements and for the Programme for Government? It could mean that rather than reaching a consensual agreement, some Ministers may have to pit some people's needs against the perceived needs of others, as designated by the majority parties. That would be grossly unfair and deeply divisive for the Executive. That is no way to run this Government.

12.00 noon

Amendment No 8 is an extension of that principle. It seeks to ensure that regulations that are made by a Department require the approval of any other Department with responsibilities for any matters that are dealt with by those regulations. Ministers cannot be placed in a position whereby other Departments are designated to implement policy that will directly affect how they do their jobs. For example, if a health emergency originates from the agriculture sector, we cannot have the First Minister and the deputy First Minister decreeing actions for the Department of Agriculture and Rural Development that the Chief Medical Officer does not agree with. That is not how effective, efficient and joined-up government works. The Financial Assistance Bill pays no heed to the principles of joined-up and co-operative government.

The Ulster Unionist Party also supports amendment Nos 2 and 6, which were tabled by the Alliance Party, and amendment No 4, which was tabled by the SDLP. I believe that those amendments seek to achieve the same ends as the Ulster Unionist Party amendments, in that they try to move clause 1 away from a power grab and towards a co-operative mechanism that is suitable for the purpose of addressing an emergency situation. That is what we agreed to, and that is what we should

get. Those amendments have been tabled in an attempt to increase democratic accountability and facilitate a genuine sharing of power.

I implore the DUP Back-Benchers to think carefully about what they are doing today. They are about to create new powers for the Office of the First Minister and the deputy First Minister that are well outside the norm of the rest of the United Kingdom. The Financial Assistance Bill is a thoroughly un-British Bill, which the leaders of Sinn Féin and the DUP have dreamed up together. It will effectively create a politburo office, without the constitutional constraints that are necessary in this society. Is that what those DUP Back-Benchers want to be involved in? Has the desire of their leader to grab power made the rest of that party lose control of its senses?

Mr Robinson and Mr McGuinness will suggest today that the smaller parties are getting carried away. Is that scaremongering? Yes, of course it is. I suggest in advance that all legislation can be abused, and bad legislation especially so. Why take the chance with the British parliamentary system and the people of Northern Ireland? The Ulster Unionist Party is not asking for the Bill to be thrown out; it is asking for a common-sense, realistic and co-operative approach.

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 contribute to this debate, initially as Chairperson of the Committee for the Office of the First Minister and deputy First Minister, after which I shall make some observations on behalf of the Ulster Unionist Party. I shall, apparently, start by being nicer.

I wish to be strictly factual. It is important for the good working and integrity of Assembly Committees that a Committee Chairperson should outline the facts of any Bill. Therefore, I will do that now.

On Monday 5 January 2009, my Committee held an emergency meeting and agreed to the junior Ministers' request for accelerated passage of the Financial Assistance Bill. After that meeting, the Committee wrote to the First Minister and deputy First Minister in order to seek further information on the proposed amendment to the ministerial code and on the Executive's decision-making process in relation to the Bill. On Wednesday 14 January 2009, prior to the Executive meeting on 15 January, the Committee was briefed by departmental officials from OFMFDM on the First Minister and deputy First Minister's proposed amendments to the Financial Assistance Bill and to the ministerial code.

An additional meeting of the Committee was held on Monday 19 January in order to consider the Executive's four agreed amendments, which were placed on the Marshalled List, and to consider the

proposed change to the ministerial code. Mr Shannon proposed that the Committee agree amendment No 3. The Committee divided on the proposal: six members voted Aye, one member voted No, and one member did not vote. Mr Shannon proposed that the Committee agree amendment No 9. The Committee divided on the proposal: six members voted Aye, one member voted No, and one member did not vote.

Mr Shannon proposed that the Committee agree amendment No 10. Six members voted in favour of that proposal, one member voted against and one member did not vote. Mr Shannon proposed that the Committee agree amendment No 11. Five members voted in favour of that proposal, one member voted against and two members did not vote. The Committee noted the letter from the First Minister and deputy First Minister regarding the proposed amendment to the ministerial code. I hope that that outlines clearly the facts of the position that was adopted by the Committee for the Office of the First Minister and deputy First Minister.

I shall now make some remarks as an Ulster Unionist Member. Last Tuesday, 13 January, when questioned by the Member for East Belfast Mrs Long on whether the Bill would bring an end to departmental autonomy, the deputy First Minister, Martin McGuinness, said:

"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." — [*Official Report, Vol 36, No 5, p214, col 1-2*].

That is what the Bill boils down to. If the legislation is passed in its current form, the only guarantee that Ministers will have that their Departments and policies are not overrun by the First Minister and deputy First Minister acting together is to make a play to their better nature or to rely on their motivation. In the Bill's current form, the only accountability that will be in place against the actions of the two-headed joint bearers of office, Messrs Robinson and McGuinness, is their own consciences. Taking all things into consideration —

Mr McElduff: On a point of Order, Mr Deputy Speaker. Is the Chairperson of the Committee for the Office of the First Minister and deputy First Minister speaking in his capacity as Chairperson of that Committee, or is he speaking in a party political capacity?

Mr Deputy Speaker: I understand that the Member made that point clear.

Mr Kennedy: I am sorry that the Member has not followed closely what I have said. Perhaps he will now take the opportunity to listen up.

Taking everything into consideration, we should be alarmed. Amendments No 1, No 5, No 7 and No 8 seek

to ensure that power is genuinely shared and that the principles of the Belfast Agreement are adhered to. If the First Minister and deputy First Minister want to allay fears, they must support those amendments. Otherwise, the Bill will represent a personal carve-up by the First Minister and deputy First Minister in the name of the most vulnerable people. That is deeply regrettable.

In any circumstances of emergency, it is obvious that every Minister will want to work together to come up with a solution. Beyond the desire of the First and deputy First Minister to grab power, I do not see the logic or the need to reserve that role exclusively for them. If the First and deputy First Minister want to remove accusations that the Bill takes a politburo approach, they should accept those amendments and prove to the House and to the people of Northern Ireland that their intentions are solely to help people in times of emergency. The Ulster Unionist Party supports completely the principle of ensuring that quick and decisive action can be taken to deal with any emergency, but the Bill is not about that.

The Ulster Unionist Party supports amendments No 2 and No 6, which were tabled exclusively by the Alliance Party, and amendment No 4, which was tabled by the SDLP. Those amendments genuinely seek to improve the Bill by increasing accountability and distributing power throughout the Executive. They will make the Bill more in tune with parliamentary conventions. The parliamentary system of government works only when power is not accumulated in a single office or with a single person.

That is true of emergencies and of general day-to-day policy decisions. The Bill is profoundly flawed and unparliamentary, and it runs contrary to the traditions of British parliamentary democracy.

I ask DUP Members not to go down this road merely to satisfy their leader's appetite for accumulating power. Sinn Féin's reputation for centralised control is well-known, and this Bill adds to it. The Bill, which shows Sinn Féin and the DUP acting as a tag team, is perverse and regrettable.

I support the amendments.

Mr Spratt: I oppose amendments No 1, No 4 and No 5. When I read the amendments, I ask myself whether the Members who tabled them learned anything from the debate on the Bill's Second Stage. Mr Kennedy and Mr Elliott, along with Mrs Kelly and Mr O'Loan, sadly appear to have struggled to understand the Bill's content.

Mr B McCrea: Tell us more, Jimmy.

Mr Spratt: I will tell you more.

Even though that point was dealt with extensively last week in the Second Stage debate, those Members

still fail to comprehend that their amendments are redundant in the light of the Northern Ireland (St Andrews Agreement) Act 2006.

Despite the best efforts of the First Minister last week to explain the intricacies of the legislation — particularly for the benefit of Mr Kennedy, who appeared to struggle with the finer detail — Mr Kennedy and his party colleague Mr Elliott tabled two amendments that lack purpose. Is that a case of slow learning? Or is it mischief making to create an opportunity for the two gentlemen in question to engage in their Tweedle-Dee and Tweedle-Dum act? I let the public decide.

For the benefit of the Members who tabled amendments No 1, No 4 and No 5, I will explain why I oppose them: they are unnecessary. The statutory basis for the ministerial code lies in the Northern Ireland (St Andrews Agreement) Act 2006. The code requires Ministers to bring any novel or contentious issues before the Executive. Therefore, even though the word "Executive" is not in the Bill, all those matters come to the Executive in accordance with the ministerial code.

"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." —[*Official Report, Vol 36, No 5, p217, col 2*].

Those were the words of the First Minister in the Chamber last week.

Moreover, Members may recall that the First Minister, in the Second Stage debate, informed the House that the word "Executive" was not to be included in the Bill, as that would duplicate the legislation. That was not his opinion, but that of the legislative draftsmen. When it comes to drafting legislation, I take the word of experts rather than that of Mr Kennedy, Mr Elliott or Mrs Kelly.

To put it beyond any doubt: an amendment to the ministerial code, already agreed by the Executive, will be brought before the House when the Bill before us has been enacted.

Mrs D Kelly: Will the Member give way?

Mr Spratt: I will not. The Member will have plenty of time to speak shortly and I am sure that she will have her say.

I ask the Members who tabled amendments No 1, No 4 and No 5 why, in the light of the agreed change to the ministerial code and of the view taken by the legislative draftsmen that their amendments are unnecessary, they persist in a redundant course of action?

12.15 pm

It is ironic that the Members from the Ulster Unionist Party and the SDLP have suddenly expressed a desire for the Executive to work together as a group.

After all, those parties, as the architects of the now obsolete Belfast Agreement, created a totally unaccountable system of Government in which the Executive lacked any form of control. It is ironic indeed that those two parties now act as the guardians of collective responsibility.

I fear that some in the House who chose —

Mr Deputy Speaker: Order. The Member has the Floor. Members should make their remarks while on their feet and through the Chair.

Mrs D Kelly: I would if I could get a chance.

Mr Spratt: You will have plenty of time for a chance to speak, and I have no doubt that you will take it. So will Mr Basil McCrea, whom I hear shouting from the background because he is an expert on every subject debated in the House.

A Member: He is not an expert on finance.

Mr Deputy Speaker: Order. Even the Member on his feet must abide by my previous ruling. Please make your remarks through the Chair.

Mr B McCrea: On a point of order, Mr Deputy Speaker. I would like to thank Mr Spratt for declaring that I am an expert on everything. I shall take that to heart. *[Laughter.]*

Mr Spratt: I fear that there are some in the House who chose to play politics with this Bill rather than support it and the benefits that it will bring to those in need in the Province. However, it is not for me but for those Members to explain that. My party and I will oppose amendments No 1, No 4 and No 5.

Ms Anderson: Go raibh maith agat, a LeasCheann Comhairle. I support amendments No 3, No 9, No 10 and No 11, and I oppose amendments No 1, No 2, No 4, No 5, No 6, No 7 and No 8.

Once again, I welcome the opportunity to speak on the Bill and sincerely hope that today's debate can put to bed much of the ill-informed rhetoric that has surrounded it. I want to refute the suggestion that the Bill is little more than a power grab by OFMDFM. Such concerns have been expressed despite repeated assurances that they are entirely unfounded as, under the ministerial code, all proposed schemes for financial assistance must be brought before the Executive. Furthermore, as the First Minister and the deputy First Minister pointed out last week, under the provisions of the Bill the Executive will be involved fully in all decision making. Moreover, the relevant Committees will perform their normal scrutiny role and the Assembly will have control of any schemes created under the regulations.

Despite that, the First Minister and the deputy First Minister have had to clarify the situation further and

have tabled several amendments to deal with Members' concerns.

Amendment No 10 deals specifically with clause 2. It states —

Mrs D Kelly: Will the Member take an intervention?

Ms Anderson: No. Amendment No 10 states that:

“No regulations shall be made under this section unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.”

I do not know how much clearer the Bill can be.

Amendments No 1, No 4 and No 5 ask that any scheme introduced should require the approval of the Executive. However, given that any scheme will be cross-cutting — for example, involving a bid to DFP and the delivery Department for financial assistance — it will automatically have to come to the Executive for approval. Furthermore, the Executive have given an assurance that they will amend the ministerial code; therefore amendments No 1, No 4 and No 5 are unnecessary, and I agree with Mr Spratt on that point.

Sinn Féin opposes amendment No 2 as it would slow down the process of any scheme identified for implementation. The Bill, without amendment No 2 — *[Interruption.]*

Mr Deputy Speaker: Order. The Member has the Floor.

Ms Anderson: The Bill, without amendment No 2, gives the Assembly the ability to take action and to act swiftly. The people are demanding —

Mr Ford: Will the Member give way?

Ms Anderson: No. The people are demanding prompt action from their public representatives, as they will in any further crisis; and quite rightly so. *[Interruption.]* The Members will have time to have their say.

If adopted, amendment Nos 6, 7 and 8 would give any Department a veto, enabling them to refuse to implement a scheme and frustrate the role of the Executive and the Assembly. They would be able to refuse to assist another Department in implementing a scheme by denying it access to relevant data. We should not allow such resistance to frustrate the process of the Bill.

I acknowledge that, even if it did not do so in the Committee, the SDLP supported accelerated passage in the Chamber last week. One of its members said that that was:

“because of its concerns for social justice and for the people facing hardship”. — *[Official Report, Vol 36, No 5, p206, col 2].*

That was a welcome recognition of what the Bill is all about — social justice and providing tangible assistance to all people. There is no ulterior motive, no

hidden agenda and no power grab. If nothing else, the current economic situation demonstrates that the Executive and the Assembly need to be in a position to react quickly to unforeseen circumstances and events — otherwise, what is the point in any of us being here?

The Bill provides us with a legislative basis on which to deal with whatever eventualities we face. On this occasion, the need to legislate for fuel payments is the catalyst; it could be something else tomorrow or the day after that. None of us can predict the future, but I am sure that we all accept that the economic downturn will not be the only economic crisis to face the Executive.

People are demanding prompt action from their public representatives, just as they will in the future, and quite rightly so. The Bill will give us the ability to take that action swiftly. That is what the people elected us to do, and it is time that we all started getting on with the business of doing it. Go raibh míle maith agat.

Mr Deputy Speaker: Before calling Mr Declan O’Loan, I remind Members to please give other Members a fair wind when they are making their speeches.

Mr O’Loan: Last week I described this Bill as loathsome. I see that some amendments have been proposed — they do not persuade me any more as to the appropriateness of the Bill. I merely use the term “obnoxious” for the potentially amended Bill that now comes before us. *[Interruption.]*

Mr Deputy Speaker: Order, please.

Mr O’Loan: It is not a Bill that should be accepted by any democratic Assembly. If people want to know what this Bill is really about, they should simply consider three statements from the First Minister. Last week, he told us:

“The Financial Assistance Bill is the most important piece of legislation to be tabled since the return of devolved Government.” — *[Official Report, Vol 36, No 5, p218, col 1].*

To reiterate, he described it as: “the most important”. Therefore, anyone who thinks that it is an occasional piece of legislation to deal with unthought of emergencies may need to start to think otherwise.

In relation to a comment that was made in last week’s debate, he said:

“I suspect that that refers to the three Departments that are not under the control of the deputy First Minister and me.” — *[Official Report, Vol 36, No 5, p237, col 1].*

That leaves us with almost half the Executive under the control of the First Minister, and almost another half under the control of the deputy First Minister. Very often, people’s unscripted words reveal what they actually think and, in this case, those quotes demonstrate clearly what the First Minister actually thinks.

I believe that Mussolini had a phrase for this: “uno Duce, una voce”. *[Laughter.]* When they think that they are having internal party debates, other members of those parties must now remember where they stand.

During this morning’s questions on the strategic stocktake statement, you, Mr Deputy Speaker, working in a very different capacity, asked a question about the gap in funding in relation to the absence of the children’s fund.

We heard the First Minister say — very clearly — that the answer to that gap would be found in clause 2 of the Financial Assistance Bill.

Mrs D Kelly: By its very nature, does that statement not suggest that the DUP and Sinn Féin have admitted that they have made a mistake in doing away with the Executive fund that allowed them the capacity to deal with matters such as the children’s fund? Have they not, in effect, taken money from young people and children?

Mr O’Loan: That point stands, and I think that that concession is implicit.

The First Minister: Perhaps the Member would like to take —

Mr O’Loan: I understand that the First Minister needs to defend himself.

The First Minister: For the benefit of the SDLP Members, this is an enabling Bill. It does not allocate funds; it enables a mechanism to be put in place that allows Government to respond in a joined-up way and on a cross-departmental basis to all poverty and hardship issues. I would have thought that anybody who wants to help those who are in poverty and hardship would support such a mechanism.

Mr O’Loan: Out of courtesy, I suppose that I should thank the First Minister for his intervention. It would certainly not be the first time that a leader with dictatorial instincts used the democratic processes to forward their own instincts.

The First Minister: Why does the Member not say that whenever Mark Durkan is here?

Mr O’Loan: Perhaps it is fortunate that I did not quite hear the First Minister’s comment.

I very much agree with what my colleague Dolores Kelly said about the children’s fund and the gap therein. The First Minister’s comment on that point, when taken logically, suggests that the proper mechanisms for dealing with what is identified already as a gap in Government provisions and the attendant funding for that gap are not being dealt with through the Budget — and, of course, they have not given us a Budget for next year. However, in what passes for a Budget for next year, they have not written in the mechanisms to deal with those issues or included them

in a way that could be tested by the Assembly, if the process were to be done properly. Instead, they want to have this action in reserve so that they themselves can claim the credit for dealing with certain matters.

If this is not a power grab, we will soon know. We will know because the First Minister and deputy First Minister will support the amendments as they come before them and their parties. That will give the authority —

The First Minister: *[Interruption.]*

Mr O’Loan: The First Minister seems to be getting rather annoyed in his seat. It says something to me if he is getting annoyed; perhaps the validity of some of what I am saying is getting to him. I suggest —

Mr B McCrea: Is the Member struck by the irony — we have used the term “irony”; I heard Mr Spratt using such big words — that Members on this side of the House are quite prepared to give way and to take interventions and that those Members who assure us that there is no power grab will not take a single intervention? They will not defend their position because they cannot defend their position.

Mr O’Loan: I thank the Member, and I think that his point has been well noted by all.

I will come to the detail of the amendments in a moment, but this, broadly, is what the amendments are about: the Bill needs to protect the independence of individual Departments. We are told that the Bill is about emergency legislation, and one of my deep resentments about the Bill is the repeated reference to the fuel-poverty situation.

I will say it again, as I said last week: under the pretext of dealing with fuel poverty, a far more general measure is being proposed, and there is a deceit being perpetrated — or attempting to be perpetrated on the Assembly — and it is certainly at this moment being perpetrated on the public.

The First Minister: On a point of order, Mr Deputy Speaker. Can I ask you to look at the unparliamentary comments of the Member? To accuse me of deceit is unparliamentary, and the comment should be withdrawn.

12.30 pm

Mr Deputy Speaker: It is my understanding, First Minister, that the Member did not accuse you of deceit. However, I will certainly look at the Hansard report.

The First Minister: Further to that point of order, maybe you will tell your Clerk to listen more carefully before he gives you such advice, because the person who is bringing forward this measure is myself, and if a deceit is being perpetrated, it can only be by the person who is bringing it forward.

Mr Deputy Speaker: First Minister, I am making an offer to review the Hansard report. Please continue, Mr O’Loan.

Mr O’Loan: I think that it is appropriate for a Member to point out, in any situation, that a Bill, or any measure that is brought forward, may not be all that it seems, and I do that. *[Interruption.]*

Mr Deputy Speaker: Order, please. Henceforth, I will insist that all remarks are made through the Chair.

Mr O’Loan: Among the amendments proposed by the First Minister and deputy First Minister is one that refers to six months for regulation after designation. In addition, they are being prepared, under pressure, to bring the matter for affirmative resolution by the Assembly. Both of those argue against these being emergency provisions. One argument concerning the matter is what measure would be available if a crisis developed on the first day of the long recess. However, we can see that no remedies could be implemented until the matter came before the Assembly.

We are entitled to point out that this rushed piece of legislation and its emergency provisions come as a considerable contradiction — I know that if I were to use words such as “hypocrisy” or “hypocritical” the First Minister would protest strongly, so I will not use those words. However, there is a contradiction between those parties bringing forward this legislation and the fact that they did not call an Executive meeting for 154 days.

The First Minister: Will the Member correct his statement, because I sought a meeting on a number of occasions during that time? Therefore, perhaps the Member would like to rephrase his earlier remarks.

Mr O’Loan: The First Minister and his colleague are bringing forward this legislation, and, between them, did not succeed in convening a meeting.

Mrs D Kelly: Last week, in his contributions, the First Minister said:

“The biggest crime that any Government can commit is to procrastinate in the face of a crisis.” — *[Official Report, Vol 36, No 5, p216, col 2].*

Given that we are in the face of a crisis, particularly in the construction industry, would the First Minister not call the failure to make a decision on Maze/Long Kesh regeneration, procrastination?

Mr O’Loan: Absolutely, and I think that that will be seen generally by the public, and internationally, as standing for one of the failures of the leadership of this Executive.

Mr Deputy Speaker: Order, please. May I remind the Member to address the items in the Bill.

Mr O’Loan: Thank you, Mr Deputy Speaker. What we see before us remains a measure by which the two

parties in the Office of the First Minister and deputy First Minister have a mechanism, if they choose to use it, to introduce measures that will suit their own purposes and their own electorates. If this legislation is passed, they will have a mechanism that will enable them to use public money to buy the votes of the electorate for themselves. That is not a good piece of public policy.

With regard to the proposed amendments, clause 1 asks that there be the agreement of the Executive Committee, in addition to that of the First Minister and the deputy First Minister, as to when the powers are exercisable. We have heard it repeated today that the ministerial code looks after that. I looked at the terms of the ministerial code, and they do not convince me that they provide a guarantee. We have been told that there is an offer to alter the ministerial code. Members have not seen the wording of that alteration. Irrespective of what goes into the ministerial code, if the First Minister and the deputy First Minister are serious about a guarantee, it should be written on the face of the Bill.

Mr I McCrea: The Member mentioned that he had not seen the wording of amendments to the ministerial code. Perhaps he should seek a copy of that wording from his party colleague who sits on the OFMDFM Committee and, indeed, from his party colleague who is a Minister; both of whom have received copies.

Mr O'Loan: It does not alter my view. If the Bill is as straightforward and innocuous a piece of legislation as it is purported to be, the proposed amendments to clause 1 should simply be made.

Amendment No 2, which has been tabled by the Alliance Party, provides a stronger test for the use of clause 1 of the Bill, and I welcome that.

Amendment No 3, which has been tabled by the First Minister and the deputy First Minister, does not make me any more content about the legislation's overall efficacy and appropriateness.

Amendment No 4 relates to the designation of a Department, and it asks that that be done with the Executive Committee's agreement. Again, that will test how serious the First Minister and the deputy First Minister are about sharing power in a shared Executive.

Amendment No 5 asks that regulations:

“require the approval of the Executive Committee”,

rather than simply that of OFMDFM. That offers the same test to the First Minister and the deputy First Minister. Let us see if they are prepared to agree to that.

Amendment No 6 relates to the assent of the other Departments that may be affected and asks that approval be required from:

“any department on which functions are imposed or from which functions are removed by virtue of the regulations.”

Similarly, amendment No 7 relates to Departments. It asks that:

“A department may only be designated under subsection (3)(a) with its consent.”

Once again, that is, in many ways, an acid test of the seriousness of the First Minister and the deputy First Minister and of whether they will not claim all power to themselves or share out the goodies among their own electorates and attempt to claim political credit for so doing. We shall see whether the First Minister and the deputy First Minister are prepared to accept those amendments.

Amendment No 8 deals, in similar terms, with giving proper rights to the Department concerned. I have already referred to amendments No 9 and No 10.

The Assembly will debate clause 2 later in the debate. At present, I want to state my party's intention to oppose clause 2. I do so simply to present the integrity of my party's attitude to the Bill, which is that clause 2 should be removed and clause 1 should be substantially amended in the way that I have described.

Mr Attwood: On a point of order, Mr Deputy Speaker. All Members are used to the cut and thrust of political debate, and we are all big enough to handle it. However, I am concerned that that cut and thrust of debate among politicians should not be visited upon Assembly staff.

Earlier, during an intervention, the First Minister said that your Clerk should listen more carefully, and it was said in an aggressive tone and in a high-handed fashion. I have long been concerned that elements in the Chamber want to erode its authority and the independence of its staff.

Notwithstanding that matter, Mr Deputy Speaker, I ask you to examine the Hansard report and to consider the treatment of staff on the Floor of the Chamber during the course of the debate. It was quite clear as to whom the First Minister referred.

Mr Deputy Speaker: Order. I have undertaken already to review what happened earlier, and I promised to look at the Hansard report. The Speaker will report back on the matter.

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 12.40 pm.

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

2.00 pm

Mrs Long: During last week's debate, when Members knew that I was to speak immediately after the lunch break, few of them appeared in the Chamber. I notice that I have had the same effect this week. In future, the Chamber could be kept quiet if Members have advance warning of when I am to speak.

Given the content of this morning's session, I want to reiterate that I do not dispute that the Office of the First Minister and deputy First Minister (OFMDFM) and the Executive require emergency powers. I welcome the introduction of such powers. After this morning's session, it is worth reiterating that all Members want to avoid a delay in the provision of the financial assistance that has been promised. We have our own views about which types of financial assistance might be better than simple monetary offers. Nevertheless, at this stage, that proposal seems to be the most effective way forward, and, on that score, all Members want to avoid a delay.

However, as the Alliance Party highlighted during the Second Stage, we want to address several aspects of the Bill through a series of amendments, none of which diminish the Bill's ability to deal with current financial circumstances, or prevent Executive intervention. However, the amendments do, perhaps, safeguard and reassure Members about some of the detail of the Bill and how it could be used in future. As I stressed last week, the Assembly is not debating the first use of the Bill; rather we are debating the purposes for which it can be used thereafter.

I want to put on record some aspects of the Bill that require reconsideration. The Alliance Party and others want to avoid the centralisation of Government power in OFMDFM. Indeed, before he took up his current position, the present First Minister was nervous about the centralisation of power in OFMDFM. When that Department had no formal scrutiny Committee and no Standing Committee, he expressed concern when proposing the introduction of such a Committee.

Referring to the people in London who drafted the legislation, he said:

"It could be that they did not expect the First Minister and Deputy First Minister to grab so many functions and place them in the central Department." — [*Official Report, Bound Volume 2, p204, col 1*].

He was, therefore, not entirely comfortable with the handling of that issue. He continued:

"As it stands, the First and Deputy First Ministers, who have the authority to issue determinations, could take more and more responsibility to the central Department. Without scrutiny, they could take key government issues away from the eyes of Members and the public." — [*Official Report, Bound Volume 2, p204, col 1*].

For those reasons, we are concerned that the Bill has limited scope and that there is need for people to co-operate; therefore, we have not tabled amendments with any malign intent or frustration. We want to ensure that that level of scrutiny, collaboration and co-operation in the Executive, and with the Chamber, is maintained when the legislation is passed.

Furthermore, the Alliance Party wants enhanced collectivity in the Executive and is comfortable with using a diminution of individual ministerial autonomy to achieve that end. However, we are concerned that the reduction in individual ministerial autonomy will not be replaced with enhanced collectivity but with enhanced powers in OFMDFM, which acts on behalf of the Executive. That is a weak safeguard under the current circumstances where the same parties have a majority in the Executive and in the Office of the First Minister and deputy First Minister.

I will concentrate on and explain the rationale behind the Alliance Party's amendments.

The purpose of amendment No 2 is to ensure that the powers made available are only invoked in exceptional circumstances. There can be situations in which emergency measures are necessary, and, indeed, where other assistance may be required. If it is appropriate, that should be done — as far as possible — within the existing structures of government, through the normal spending rounds, and through the normal departmental functions.

My party wishes to limit the powers made available by the legislation. I do not think that the amendment applies a significant or extreme limitation; it simply curtails the power of OFMDFM, and makes it clear that clause 5 — the catch-all clause, which states that the powers can be used even where other legislation exists — should only be used genuinely. The amendment at least copper-fastens the stipulation that it should only be done as a protective position, and that it is not the intent to use the provisions of that clause on a repeated basis to circumvent the normal procedures.

I will consider amendment Nos 6 and 7 together. The purpose of those is to define the limitations of the transfers of power. My party aims to ensure that the powers provided in the legislation lead to an enhancement of collectivity in the Executive, along with a reduction in the autonomy of Ministers. Those two things must be balanced. It is not sufficient to reduce the autonomy of Ministers without enhancing the collectivity of the Executive. It is not necessarily a measure of collectivity if OFMDFM has merely to agree with the party colleagues of the First Minister and deputy First Minister in the Executive. There should be a requirement for the agreement of the Minister — or Ministers — affected by any measures.

That is particularly important for those parties with smaller numbers in the Executive.

Given the balance of Sinn Féin and the DUP in the Executive, a requirement for agreement between members of the Executive would clearly provide little protection to the Ulster Unionist Party or the SDLP.

During the Second Stage of the Bill last week, the First Minister and deputy First Minister highlighted the fact that the Executive can currently direct Ministers. My party does not dispute that that is the case. However, under normal circumstances, Ministers only bring their proposals to the Executive if they have some impact on another Department or overlap responsibilities, if they do not have sufficient funds to implement the proposals, or where the proposals are controversial. The Bill would extend the power of OFMDFM to intervene on issues that lie within the remit of a single Department, for which a budget is available — but perhaps a decision has been made not to use it for that purpose — and which do not impact on other Departments, and which are not controversial. That changes the balance, at least in tone, if not more significantly — my party suggests that it is more significant.

The Bill represents an increase in centralisation and a dilution of the autonomy of Ministers, which, as the Bill stands, is not balanced by an increase in collectivity and collective working within the Executive. Amendment Nos 6 and 7 are aimed at achieving that balance. In order for OFMDFM to deliver on the requirements of the Bill, it would have to have the agreement of the relevant Minister. One does not foresee there being significant difficulties in getting the agreement of Ministers who belong to the parties of the First Minister and the deputy First Minister. I would not imagine that, in what are exceptional circumstances, there would be any difficulty in getting any Minister in the Executive to agree with reasoned and sensible proposals, whether that Minister is in the same party as the First Minister or the deputy First Minister, or any other party. In practice, there is no reason why any Minister would choose to withhold co-operation.

The amendments would provide a degree of protection. If the good and harmonious functioning of the Executive, to which the deputy First Minister aspired last week, were actually in place, there would rarely be an issue, because it would be discussed around the Executive table, Ministers would agree, and there would be no problem. However, in cases where that good and harmonious working relationship does not exist — far be it from me to suggest that there are such cases — the amendments would provide a significant confidence-building measure. It would make it clear to those Ministers who might feel threatened by the legislation that its intention is not for OFMDFM to threaten them. On the other hand, the amendments would not curtail OFMDFM from making

decisions; it would merely have to co-operate with other Ministers, and we have been given assurances that that will be done anyway.

I will now discuss the amendments tabled by the SDLP and the Ulster Unionist Party. Amendment No 1 is a genuine attempt to state explicitly what the First Minister and deputy First Minister have already stated to be implicit in the legislation, in the context of the Northern Ireland Act 1998.

I, therefore, have no real objection to amendment No 1. However, I highlight the fact that it does not provide the protection for more junior parties in Government that we — as a party — believe is necessary. Last week, I stressed that the Good Friday Agreement and the St Andrews Agreement allowed for a degree of autonomy. As I have already stated, the workings of the Executive and the balance of power in the Executive — being as it is — provide very little protection for the smaller parties in Government.

However, we have no particular objection to the amendment. I cannot foresee a legal difficulty in explicitly stating what is already implicit. Perhaps that issue could be dealt with in the response to the debate, because I cannot understand how making something explicit creates a difficulty if it is already implicit. I have a similar position on amendment Nos 4 and 5, as they essentially follow the same function. They simply seek to explicitly insert reference to Executive co-operation into the legislation that is — apparently — already there implicitly.

Amendment No 8 is an attempt to do what we have done with amendment Nos 6 and 7. As such, we have no real objections to that amendment and are happy to support it. It is simply a case of ensuring that it is recognised in this legislation that all Ministers have particular areas of responsibility. We should be aspiring to an Executive of equals who co-operate with one another, rather than some members of the Executive being more equal than others.

The final amendments in the group are from OFMDFM, and they are being made on behalf of the Executive as a whole. As we were informed at the OFMDFM Committee last Monday, those amendments were agreed by the Executive Committee. I will come to amendment No 11 later, but we view amendment Nos 3, 9 and 10 as improvements to the Bill and we do not intend to oppose them. Although we do not feel that they address some of our substantive concerns, nevertheless, we think that they will improve the Bill.

Amendment No 3 closes down the opportunity for people to exploit the emergency powers, of which some people were fearful. If an emergency, or exceptional circumstance, is agreed, regulations must be introduced within three months, which seems to be an entirely reasonable proposition. If a situation is so

exceptional, I cannot foresee any reason why action would not be taken within three months. The amendment also prevents someone from establishing that there are exceptional circumstances and then either failing to deal with them, or using them as a reason for introducing additional regulations down the line when they have changed. It is a sensible amendment, and we will support it.

Amendment No 9 performs a similar role in respect of clause 2, although it proposes a time limit of six months as the issues in clause 2 are not as urgent. I make that point because it will be quite important in the context of the debate on the urgency of passing clause 2. The difference between the three-month and six-month time limits recognises the significant difference in how quickly action is needed in respect of the issues in clause 2 compared to those in clause 1.

Without prejudice to our opposition to clause 2 stand part of the Bill, which will be discussed during the debate on the next group of amendments, we believe that amendment No 9 will improve clause 2. Members have mentioned Executive programme funds and special programme funds. In Committee and elsewhere, we have had quite a considerable debate about how other Administrations are able to ensure that policy that is driven by the centre is delivered by Departments. I would prefer that clause 2 be debated in that context rather than as part of this Bill.

Amendment No 10 deals with an issue that I raised during the debate last week. I had some concern about the fact that the regulations were to be subject to negative resolution. In most cases, regulations do not come before a Committee, for example, until it is dealing with them retrospectively.

Bringing the regulations before the Assembly affords Members the opportunity to express their opinions about them, and that is a welcome improvement. Therefore, the Alliance Party will support amendment No 10, although it should be noted that that decision is without prejudice to our intention to oppose that clause 2 stand part of the Bill.

2.15 pm

Amendment No 11, which pertains to clause 3, will permit sunset clauses to be included in schemes. It is unclear why that must be made explicit in the legislation when, implicitly, any scheme or regulation could be constructed to include a sunset clause. Nevertheless, that feature has been made explicit, when others' concerns about the Bill have not. Why is that? Furthermore, amendment No 11 does not require schemes to include sunset clauses, so regulations could continue in perpetuity — although some will come to an end, they need not all do so.

The other element of amendment No 11 appears to be a tidying-up exercise. Although a scheme might

draw to a close, a savings scheme, for example, that a Department initiated in order to free-up money for financial assistance could continue. If my interpretation is correct — I would appreciate it if the First Minister were to clarify whether it is — the Alliance Party is reasonably comfortable with amendment No 11 and will not oppose it.

The amendments drafted by the Alliance Party and, in its assessment, those drafted by other parties seek to ensure that rightful protections are afforded to everyone in the Executive — there should be no privileged elite — and it is important for confidence building that that should be the case.

As I said last week, the Good Friday Agreement mechanisms are unwieldy, and, at times, ridiculous and bizarre. Often, they have hampered, rather than facilitated, good government, and the Alliance Party has been forthright about that. I do not mean that the principles are flawed; I mean simply that the way in which parties have gone about attempting to compensate for the lack of trust when delivering those principles is often unwieldy.

Members are being asked to take OFMDFM on trust, which is, in effect, what Martina Anderson said during her intervention this morning. That is a remarkable development. If that trust now exists, I wish to be the first to say that that is fantastic. In that context, let us move rapidly towards greater collectivity, and, ultimately, let us have a voluntary coalition. If everyone in the Chamber is secure about the fact that no Member will seek to abuse his or her position, such a course of action would be sensible, efficient and effective — let us get on with it.

However, I suspect that the trust that Members would be obliged to give to OFMDFM in such a context does not regularly exist — even between the DUP and Sinn Féin — and, if the mechanisms were to be significantly unpicked, it would not only be the SDLP, the Ulster Unionist Party and the Alliance Party that would be expressing concerns now. The Government balance could change, so I encourage Sinn Féin and DUP Members to consider carefully the position in which this legislation could place their Ministers in any future Administration.

I am not talking about trust in Peter Robinson and Martin McGuinness, in the Office of the First Minister and deputy First Minister, or even in the DUP and Sinn Féin. The Alliance Party is not seeking to impugn the integrity of any of those people or groups of people —

Mr O'Loan: Will the Member give way?

Mrs Long: I will in a moment.

I am talking about whether Members are confident that anyone who may hold those posts, in all circumstances,

will not seek to abuse the power given to them — for ever is a very long time.

Mr O’Loan: The Member raises an important issue — the dynamic within the Executive. Will she agree that it is easy to envisage a situation in which the two parties that occupy OFMDFM will come to an agreement that is not based on trust but on political necessity and one in which both will have a vested interest? Furthermore, does the Member agree that the benefit of whatever decision they make will not be conferred on the other parties in the Executive? In fact, attempts will not even be made to confer the benefits on the other parties.

Mrs Long: I could go further than simply agreeing that that is a possibility; I could quote chapter and verse of when it has happened. However, that would fall outside the remit of this debate, and I suspect that the Deputy Speaker would call me to order, so I will not go any further.

None of the proposed amendments, from any of the parties, will delay the interventions that are intended by the Executive, or diminish the OFMDFM team’s acting together in good faith with other Ministers in the Executive. There is, however, a major confidence-building opportunity available to those in OFMDFM. If they are striving to achieve increased collectivity and good and harmonious working, they should accept the amendments that have been tabled in good faith. Such acceptance will inform the Executive of their intent.

Mr Shannon: I oppose amendment No 2. Last week, we went through, in some length, the reasons for the need for the Financial Assistance Bill. There was consensus on the principle of the Bill. Therefore, it is with dismay that we find ourselves with a list of unnecessary amendments.

Amendment No 2 is one of a qualifying nature, and it seems to be unnecessary. Clause 1 of the Bill provides the power to provide financial assistance in exceptional circumstances. Exceptional circumstances are events that are out of the ordinary, such as floods — the likes of which have never been seen in our lifetimes — and not mundane happenings.

Mrs Long: The Member has been at the OFMDFM Committee sessions at which the matter has been discussed. Will he concede that the definition of “exceptional” does not cover the circumstances that he has outlined, but those circumstances that OFMDFM agrees to be so?

Mr Shannon: I thought that our interpretation of what was exceptional was the same, but the Member, obviously, has a different opinion to me. The Bill shows clearly what is exceptional. Floods and economic downturns — the likes of which have not been experienced before or seen in our lifetimes or in the past century — are exceptional. Exceptional

circumstances mean exactly that. They are unexpected events for which we did not have the foresight to legislate. That is what the word “exceptional” means in my book.

Dr Farry: The Member is in danger of arguing against the first purpose that the Bill is being used to serve — winter fuel payments. His definition of “exceptional” covers unforeseen events, such as natural or manmade disasters, but that excludes the events that will require payment of the winter fuel payments. Everyone knows that winter is coming; it has occurred every year since the beginning of the earth. A lot of discussions were held about what measures should be taken to deal with the looming winter, not only here, but in other jurisdictions across the water. Does the Member, therefore, see that as being exceptional, because, so far, his definition does not qualify for that?

Mr Shannon: I have been on my feet for a matter of seconds, and I have allowed two interventions.

Mr O’Loan: Will the Member give way?

Mr Shannon: That is a third request. I will continue, if Mr O’Loan does not mind. I am content to give way, usually, but I would like to get into the thrust of my speech.

Considering the definition of “exceptional”, it would be pedantic to further qualify that there is no legislation in place. Common sense will dictate that if there were to be a Bill to cover it, the circumstances would not be exceptional, and, therefore, the Bill would not be required, to follow the line of thought of some. When legislating, we are ever under the rule that to overstate things is to add more pressure and to tie things up to a greater extent.

To add that amendment to the Bill would not, as some Members suggested, add any more protection from its misuse, if that is its intention. The opposite is true, because it would over-complicate matters. Indeed, it confirms the need for the Bill to remain as it stands to cater for unforeseen circumstances for which no provision has been made. If a scheme to assist in such circumstances were already in place, the Bill would not be needed. It is clear, therefore, that, nicely worded though the amendment is, it is unnecessary, and it adds to the length of the Bill without enhancing its quality.

Some time ago, the Minister of the Environment, Sammy Wilson, suggested in the Chamber that there was far too much paperwork. He illustrated his point by bringing a massive pile of papers into the Chamber and suggesting that Members should recycle more. I suggest to the Member that she recycle amendment No 2; the quicker the better. It is an unnecessary amendment that adds nothing to the Bill and, therefore, I suggest that Members join me in opposing it.

Mr Moutray: I will speak to the first group of amendments that appears on the Marshall List for the Consideration Stage of the Financial Assistance Bill. My colleagues and I support amendment Nos 3, 9, 10 and 11, as proposed by the Office of the First Minister and deputy First Minister.

Amendment No 3 inserts the following:

“at any time within 3 months from the date of the determination under subsection (1)”.

This amendment ensures that any regulations made under the power in clause 1 to provide financial assistance in any exceptional circumstances have to be made within three months of the relevant determination. That limitation is welcome, because it places a discipline on designated Departments to award assistance within three months. It allows them to award financial assistance within a reasonable timescale and, ultimately, to remedy, or assist in remedying, the problems created by an unforeseen or exceptional circumstance. That will ensure —

Mr O’Loan: Will the Member give way?

Mr Moutray: No.

That will ensure that the problem is dealt with —
[*Interruption.*]

Members may howl and shout; many of them will not be back after the next election.

The amendment will ensure that the problem is dealt with here and now, bearing in mind —[*Interruption.*]

Mr Deputy Speaker: Order, please. I ask the Member to confine his remarks to the Bill under discussion. I request that other Members make their remarks through the Chair; that is how the debate began this afternoon, and, from where I am sitting, it was a godsend.

Mr Moutray: I am happy to comply, Mr Deputy Speaker.

Bearing in mind the exceptional circumstances of the past year, amendment No 3 ensures that any problems are dealt with immediately. It also ensures that Departments do not abuse the designation of powers at a later stage, when the original circumstance that gave rise to the determination no longer exists.

I welcome amendment No 9, which specifies that, under clause 2, the relevant Department may introduce a scheme for the provision of financial assistance:

“at any time within 6 months from the date of the determination”.

When unsatisfactory funding arrangements mean that financial assistance is required to tackle poverty, social exclusion or patterns of deprivation, amendment No 9 requires any regulations to be made within six months. As with the previous amendment, it places a

discipline on all Departments that are designated to provide financial assistance when such a circumstance arises to do so swiftly and without delay. It ensures that people are awarded prompt financial assistance for their specific problem and do not have to wait for 12 or 24 months, as was the case under direct rule. Amendment No 9 ensures that Ministers deal with problems as they occur and that they are able to take remedial action quickly and efficiently.

Amendment No 10 is also beneficial because it increases the Assembly’s power by ensuring that no regulations can be made under clause 2 unless a draft of those regulations has been laid before, and approved by, a resolution of the Assembly. It ensures an affirmative resolution by Members, as opposed to the negative resolution that was proposed initially.

2.30 pm

I believe that the amendment addresses the numerous concerns expressed by many Members, and it will ensure that the proposed regulations require not only Executive agreement but the agreement of the Assembly as a whole before they can be brought into operation.

As regards amendment No 11, which refers to the schemes for financial assistance in clause 3, I welcome OFMDFM’s revision of the time limit. I endorse the fact that it allows regulations under clauses 1 and 2 to have limited shelf life. That will ensure that Departments that have implemented schemes — particularly under clause 1 — will consider whether those schemes should be time-limited. Time-limiting is logical; it ensures that if exceptional circumstances were to arise and a Department were designated powers to deal with those circumstances, they would be dealt with as and when they were required, not a year down the line. Therefore, I support amendment Nos 3, 9, 10 and 11, and I oppose amendment Nos 1, 2, 4, 6, 7 and 8.

Mr Attwood: I listened carefully to Mrs Long. She asked whether trust prevailed in the Office of the First Minister and deputy First Minister and between parties in the Chamber. In one sense, that captured some of what I was going to say. The First Minister and the deputy First Minister would want the Chamber to draw conclusions based on best hopes, good faith and good intentions, and that the legislation would be used only in a limited way and in the precise terms outlined by the First Minister. On the other hand, the First Minister can hear that when Members look at the legislation, they draw conclusions based on their worst fears; fears about the real purpose and roll-out of the legislation over the months, years and, potentially, decades to come.

In order to probe into whether we should rely on the best hopes and intentions of the First Minister and the deputy First Minister or whether we should be more cautious in our approach, I look at the evidence

gathered over a long period in respect of how the parties that occupy the Office of the First Minister and deputy First Minister — and the characters who occupy that office — have approached certain matters. Against the weight of evidence going back a significant time, I draw the conclusion that clause 2 is evidence of a pattern and a culture, and it is about a changed approach to the nature of Government in this part of the world. I will explain why. I have always said that when it comes to negotiations, one must be up at the crack of dawn in order to deal with the DUP — if not earlier — *[Interruption.]*

Over a long period and around a range of issues that go to the essence of the democracy that we have or have not in the North, I have observed a culture and an approach that leads the SDLP to conclude that one needs to be very cautious about giving more power to certain offices about certain issues in this part of the world.

The DUP Members know that, at St Andrews, I saw them make an article of faith about eroding the proper authority of Ministers; they succeeded, because no one was there with the craft or the ability to compete in the negotiations to stop that happening.

Mr O'Dowd: Were you playing golf or were you at the negotiations?

Mr Attwood: I can tell you what I was doing at St Andrews. I was —

Mr Deputy Speaker: Order, please. I remind the Member to stick to the subject. I ask other Members to address their remarks through the Chair.

Mr Attwood: I can tell you about the many things that the SDLP was doing at St Andrews, and I will come to that in my speech.

We were trying to stop in its tracks what the British Government and Sinn Féin were allowing to happen — the development of an expanded role for MI5 in the North, so that they would have 400 members —

Mr Deputy Speaker: Order, please. I again ask the Member to concentrate on the Bill.

Mr Attwood: At St Andrews, I saw the First Minister, through the DUP, eroding the proper authority of Ministers and pulling back control and authority from where it properly resided — in ministerial office. This morning, Mr Spratt made cryptic references to the fact that the Executive had no control over Ministers in the past. Yet, he was referring to two decisions, and two decisions alone, that were taken by Sinn Féin. A decision was taken about the 11-plus — but not on an alternative to it — and, six years later, we are none the wiser about what is going to happen.

On the other hand, there was a decision about the maternity hospital. The Assembly and its Committees had good evidence that the decision taken by the

Minister of Health, Social Services and Public Safety at that time to locate maternity provision at the site of the Royal Victoria Hospital was absolutely right, justified and evidence-based. That is what Jimmy Spratt was referring to. On that pretext, the DUP began to erode the power of Ministers. What do we see in this legislation? We see more of the same — more erosion of the power of Ministers.

However, it goes further than that. At St Andrews, we saw the exact same culture and pattern of behaviour when it came to the affairs of the North/South Ministerial Council and the various elements of North/Southerly.

Mr Deputy Speaker: Order. For the third time, I must ask the Member to focus on the Bill.

Mr O'Loan: On a point of order, Mr Deputy Speaker. I put it to you that the Member is developing a thesis that — *[Laughter.]*

Mr S Wilson: Slowly. *[Laughter.]*

Mr O'Loan: I am sorry if I use —

Dr Farry: My thesis was 120,000 words. *[Laughter.]*

Mr Deputy Speaker: Order. Will the Member please resume his seat; that is not a point of order. Mr Attwood, please continue.

Mr Attwood: I knew that my speech was elaborate, but I did not think that it measured up to a thesis. *[Laughter.]*

In response to your point, Mr Deputy Speaker, I am replying to the words of Mr Robinson in last week's debate, when he said that he was not trying to suck out ministerial authority.

Mr O'Dowd: On a point of order, Mr Deputy Speaker.

Mr Deputy Speaker: Thank you for addressing your remarks through the Chair.

Mr O'Dowd: Is it in order for a Member to question a ruling made by the Speaker or Deputy Speaker, as the Member appears to be doing at the moment?

Mr S Wilson: Shame. *[Laughter.]*

Mr Attwood: I have known John Dallat too long to question anything that he gets up to, so I am certainly not doing so in this context.

As we saw with ministerial authority at St Andrews and the North/South architecture —

The First Minister: Will the Member give way?

Mr Attwood: I will give way in a second; I have been very generous to other people. In his New Year's Eve statement, the First Minister raised fundamental questions about the future of the North/South Ministerial Council; he asked whether it was a most efficient use of our resources. We can see an agenda, an approach and a culture. I suggest that Sinn Féin,

which currently holds the office of the deputy First Minister, should have its eyes wide open when it comes to what the legislation might do.

Therefore, I say to the First Minister, whom I will let speak in a second, that for all the warm words — and many pages of words detail the past debates — the evidence, in as much as I have outlined it, supports a culture of control and limiting Ministers' authority.

The First Minister: I am very grateful to the Member for giving way. I want to examine his thesis a little more closely. The kernel of it appears to be that the Democratic Unionist Party has an agenda. Quite why any political party would have an agenda, I do not know. It seems that no political party would ever want to be accused of that.

As the Member puts it, that agenda — which he opposes — erodes ministerial powers. The DUP would put that differently and say that it brings power into the Executive. If that agenda erodes ministerial powers, why is the Member supporting an amendment that will give power to the Executive over issues that, under the provisions of the Bill, will be dealt with in a ministerial capacity and will therefore come ultimately to the Executive anyway?

Mr Attwood: I will reply to that in two ways.

Many of the amendments mitigate the excesses of what is proposed in the Bill. Therefore, when faced with the options of granting authority where you do not want it to go or of mitigating the proposal in question, the latter is the preferred option.

Secondly, it is curious that the First Minister raised the matter, because in replying, I rely on what he said in last week's debate on this very issue about ministerial authority and Executive control. The contradiction in what the First Minister has said is in his words of last week, when he said:

"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." — [*Official Report, Vol 36, No 5, p237, col 1*].

If I were to draw conclusions from the First Minister having just said that clauses in the Bill will give responsibility to the Executive, I must also remind myself that in the Chamber a week ago, the First Minister said:

"I suspect that that refers to the three Departments that are not under the control of the deputy First Minister and me." — [*Official Report, Vol 36, No 5, p237, col 1*].

Consider those words. He did not use the words "influence", "persuasion" or "encouragement". In reference to DUP and Sinn Féin Ministers, the word that the First Minister used — and that I presume

reflected the view of the deputy First Minister — was "control".

Therefore, after hearing what the First Minister said about "controlling" his own Ministers, I must ask myself whether I am reassured about amendments that are related to taking matters to the Executive. I do not know what the definition of a political poodle is, but if that is not it, I do not know what a poodle is.

We know about the First Minister's attempts to control. We know about how he tried to control the Minister for Social Development on an issue — [*Interruption.*]

Mr Deputy Speaker: Order. The Member has the Floor. First Minister, you will be the penultimate Member to speak, and you will have every opportunity to respond.

Mr Attwood: Thank you, Mr Deputy Speaker.

We know what control means when it comes to the First Minister, and his own Ministers must draw conclusions from that. We know how the First Minister tried to control another matter involving the Minister for Social Development. I will not comment further on that because it is going through the courts. I am sure that the Minister for Social Development will take her chances when the court's decision becomes known.

However, the point is that the First Minister has form when it comes to issues of control — that is his choice of language. To confirm that point, I refer to other comments that Declan O'Loan made this morning about the Bill. In order to understand the scope and intention behind what the First Minister is proposing, one must consider what he has said. Last week he said:

"The Financial Assistance Bill is the most important piece of legislation to be tabled since the return of devolved Government." — [*Official Report, Vol 36, No 5, p218, col 1*].

As I said, I respect the First Minister and the people around him — they are very careful about their use of words. Their approach to negotiations, and to much besides, is to be precise and technical, and I respect that. They are good at it, the SDLP is also good at it, and if other parties were half as good at it, we would not be in the mess that we are in at the moment. [*Laughter.*]

Therefore, the First Minister meant it when he said that the Bill is:

"the most important piece of legislation to be tabled since the return of devolved Government." — [*Official Report, Vol 36, No 5, p218, col 1*].

Those are not idle words, nor is it a casual remark. The First Minister is being deadly serious, just as he was in the summer when he somehow got the deputy First Minister to agree that a justice Minister should be appointed by cross-community vote at all times. The

First Minister quickly came out and stated that “at all times” meant “at all times”.

2.45 pm

Mr Deputy Speaker: Once again, I ask the Member to stick to the subject, or we will have to move on.

Mr Attwood: I appreciate that, Mr Deputy Speaker. I am drawing the conclusion that the First Minister means what he says. Therefore, when the First Minister says that the Bill is an important piece of legislation, I draw conclusions about its size, scale and intentions.

I also find it very curious, as other Members surely must, that the Bill is billed as being even more important than the legislation on the Budget that the Assembly passed last year. The Assembly passed legislation for the spending of millions and millions of pounds over this year and future years, and yet the Financial Assistance Bill is somehow considered to be more important than that and all other legislation that has come to the Chamber since restoration. Therefore, be warned — the First Minister and others have plans for how the Bill will pan out.

We have a multiparty coalition, so all sorts of tensions and fractures exist. In that regard, I have some sympathy with the First Minister, because his role is to build consensus around our fledgling institutions. However, the way in which the Bill is being handled, in addition to his hectoring and the aggressive tone that he has displayed today, not least to members of Assembly staff, leads me to conclude that he is still trying to get his head around the difficult concept of building consensus around our fledgling institutions.

When I examine the Bill, I remind myself that the First Minister likes power but does not like accountability. For example, we do not have a Budget for the coming year. Furthermore, the First Minister and Martin McGuinness have proposed measures that will curtail their presence in the Chamber, where they answer to the elected representatives of the North about their actions, and that includes, I must say, explaining provisions that may arise from this Bill.

However, the First Minister has a partner in all of this — the deputy First Minister. As time passes, the deputy First Minister demonstrates more and more that he is very much a deputy. The DUP and its advisers continue to run rings around Sinn Féin across Government. If I were to look up, I am sure that I would see a smile on someone’s face: he knows it; Sinn Féin knows it; and everyone else is beginning to know it.

The Financial Assistance Bill is just another example of the DUP’s taking power on to itself, and it is doing so with Sinn Féin connivance. When Peter goes to Martin and asks him to jump, Members know

what the answer is — how high? Others make the spurious, irrelevant and insulting point that Sinn Féin has signed up to administer British rule in Northern Ireland. However, in the past year and a half — in case after case — we have seen what no one would have predicted — self-proclaimed Irish republicans administering DUP rule in Northern Ireland. We shall discuss that issue over the coming months.

Mr Deputy Speaker: I assume that the Member has finished speaking. *[Laughter.]*

Mr I McCrea: I am not sure how I can attempt to follow that or to say such wonderful things about the First Minister. Nevertheless, I speak to oppose amendment Nos 6, 7 and 8. Having listened to the debate, it is obvious that those who proposed the amendments have not listened to one iota of anything that the First Minister said during the Second Stage of the Bill last Tuesday. Mind you, I am not at all surprised by some Members.

The amendments take us back to the days of the failed Belfast Agreement when rogue Ministers did whatever they wanted without any accountability. At St Andrews, the DUP ensured that there would be accountability as part of its negotiations.

Dr Farry: Will the Member give way?

Mr I McCrea: I have just started. You will have plenty of time to speak.

Therefore, a Minister could no longer do what he or she wanted without the approval of the Executive. My party’s successful negotiations have ensured that those structures are now more democratic due to the fact that major decisions must be brought before the Executive and be made subject to their agreement. If we compare the Belfast Agreement to structures in which individuals are accountable to the Executive and the Assembly, I know what I prefer, and I know what the people of Northern Ireland prefer.

Dr Farry: Presumably, the Member would argue that the decisions taken by the Sinn Féin Minister of Health and the Sinn Féin Minister of Education in the first mandate and in the current mandate are examples of rogue Ministers? Does he also recognise that the Minister of the Environment is a rogue Minister in that a decision was taken regarding the establishment of an environmental protection agency, which was supported by four parties in the Assembly, but it was opposed by the Minister’s party? Surely, that Minister is a rogue Minister from the Member’s own party.

Mr Deputy Speaker: I ask the Member to stick to the amendments to the Bill.

Mr S Wilson: I do not mind being accused of being a rogue Minister, but will the Member accept that I was not a rogue Minister in respect of the accusations that are being made here today? A former Minister was

a rogue in that instance, and she engaged herself in a good piece of roguery, because an independent environmental protection agency would have been a disaster.

Mr Deputy Speaker: Order, please. I ask Mr Ian McCrea to continue.

Mr I McCrea: I accept the comments made by both Members. Without straying further, the environmental protection agency decision was a good one.

Yesterday, during questions to the Minister of Education, Basil McCrea said that the people of Northern Ireland long for a return to the good old days of Martin McGuinness. However, I remind the Member that during that time, Martin McGuinness took the decision to abolish the 11-plus against the will of the other Ministers in the House.

Mr Deputy Speaker: Order, order. Please stick to the amendments to the Bill. That is what we are here to debate.

Mr I McCrea: I apologise, Mr Deputy Speaker. That crisis came about through the failed negotiations of the Ulster Unionist Party concerning lack of accountability.

When the Assembly met under the structures of the Belfast Agreement, Ministers could make controversial decisions free from the control of the Executive.

As far as the DUP is concerned, any proposals for regulations will be subject to the agreement of the Executive where the First Minister and the deputy First Minister will be able to take account of the views of all Ministers.

Mrs Long: Will the Member give way?

Mr I McCrea: No, I will not. You have had plenty of time to speak all day. The days of Hitlerism are over, as this is a four-party mandatory coalition. I cannot see a situation —

Mr Deputy Speaker: Order. I am not sure whether that term breaches the convention on unparliamentary language, but I ask Members to be extremely careful in the terms that they use.

The First Minister: On a point of order, Mr Deputy Speaker. When you are considering whether that term is in order, will you also consider the reference to Mussolini earlier?

Mr Deputy Speaker: I certainly will, First Minister.

Mr I McCrea: I was not speaking against any particular individual, Mr Deputy Speaker; I was just making a general comment. *[Interruption.]*

Yes, indeed.

I cannot see a situation in which functions would be forced onto a Department against its wishes. However, one Minister should not be allowed to frustrate the will

of the Executive as a whole in their duty to provide financial assistance in exceptional circumstances or in an emergency situation.

Mr B McCrea: I rise with some trepidation, because the debate has been fairly wide-ranging, and there has been mention of Hitler, Mussolini —

Mr Kennedy: McCrea.

Mr B McCrea: McCrea, but not this McCrea.

In our earlier discussion of the clauses of the Bill, we made it clear that we are not against helping people in specific circumstances. We wish to find a mechanism to do that. From our Benches, we tried to speak constructively, and said that we did not think it appropriate to take this tragedy and use it for other wider political purposes.

We have tabled these amendments in order to safeguard the proper decisions that we want Ministers to make in addressing fuel poverty and fuel payments. There is a question about trust, which was mentioned by colleagues on the Benches to my right. We are all in the political game; we know that at different times we are political opponents, and that words are said from time to time. However, this issue gives us an opportunity to do something positive. It is most distressing to realise that in every single contentious debate that we have had, whether on education, the review of public administration (RPA) or victims' commissioners, no one ever listens to the opinion of other people that are supposed to be a part of the four-party mandatory coalition, or to those people who feel that they have a role to play as an opposition. That is the issue.

I know that some Members will shake their heads and say that that is irrelevant, but it does matter. The people of Northern Ireland expect us to find a way forward in what is a very trying set of circumstances. In tabling our amendments, we are asking, in very measured tones, the First Minister and the deputy First Minister to consider the points that we have put forward and take them on board. If the issue does not matter, and if it is already implicit, as Mrs Long said, what is the problem with making it explicit? That would send a powerful message to the people of Northern Ireland that we are united in trying to deal with the issue at hand. If it is a misconception that the two big parties are simply carving up power, let us find a way of demonstrating that that is the case, and do something about it.

Let us make no bones about it: when it comes to dealing with other matters of concern that are in the background, there is no equality of esteem in the Executive. The SDLP and UUP Ministers do not receive papers on time, are not consulted properly and are not brought into the decision-making process. If that situation changed, there would be a completely different attitude in the House. We support and

understand the desire to find a mechanism for getting people the money that they need, but we will not support Trojan Horses that take a tragedy and turn it into a political opportunity.

In the year or more since I became an MLA, I have witnessed a stripping away of democracy — a chipping at the edges. What was supposed to be a coalition of the willing, to be inclusive, to bring people together and to ensure that everyone had a share in this institution, has been systematically taken apart. That is why there are so many objections to the Bill.

I hope that people listen to this debate, because if we go down the route that is being proposed, we will destroy the entire Assembly.

We must find a way of working together, and I look to the First Minister, to whom I give the respect that he deserves because of his position, for leadership on the issue. I look to him to see how the Executive and the House can be brought together.

3.00 pm

Mr S Wilson: No Member wishes not to include checks and balances and a mechanism by which Members can have input into the decisions that are made by Ministers, Departments, the Executive and the Assembly. Does the Member agree that that can be done in a plethora of ways? It can be done through the work of Committees, through asking questions to Ministers, by demanding that Ministers come to the Assembly and by the requirement for weighted voting in the Executive and in the Assembly.

Surely the Member overemphasised his point when he said that all the accountability mechanisms are being removed from the Assembly. Will he be more specific and say exactly which accountability mechanisms have been removed?

Mr B McCrea: Mr Deputy Speaker, I hope that you will allow me the latitude to respond to that. One of the minor but significant disappointments is that Mr Wilson was made a Minister. I say that not because I do not hold him in esteem, because I do. It is not because I do not think that he can do a good job, because he can. It is because, as he will accept, he is one of the few people prepared to speak his mind and stand up to say what is right. Unfortunately, he has been shackled by ministerial responsibility; the control freakery means that he is no longer able to speak out. He has not been able to express an opinion on important votes, but I will not embarrass him by talking about the education and skills authority.

The Ulster Unionist Party wants to find a way to help the people who need, for example, fuel payments. However, we will not accept the Bill as a Trojan Horse. If the Members opposite want to find a collective solution to the many challenges that will

face us in the coming year, now is the time to start talking to people as equals and as colleagues. They should listen to what we have said, act upon the good advice that we have given and support the amendments that we have tabled.

Mr Ford: Despite all the banter and name calling of a variety in the Chamber, the debate, which is on one of the many important issues to have come before the Assembly, is being treated correctly. We often spend time debating private Members' motions, which, if they do call on the Executive to take action, are entirely ignored by members of the Executive. I refer not only to the actions of the former Minister of the Environment on the Environmental Protection Agency. That is why it is important to have a proper debate and why it is unfortunate that the Bill did not have a proper Committee Stage, which might have allowed some of the issues to be teased out and dealt with properly.

Basil McCrea said that Members at the other end of the Chamber were not listening; I think that he said that Members in general were not listening. I disagree with Mr McCrea on that — although I do not disagree with him on the general principles of the Bill — because some of us are listening.

I am in broad agreement with the thrust of all the amendments. I say that with some quick qualifications. Amendment No 8, which was tabled by Danny Kennedy, is not quite as good as amendment No 6, which was tabled by the Alliance Party, but it covers broadly the same area. Amendment Nos 9 and No 10, which were tabled by the First Minister and deputy First Minister, are without prejudice to our general position on clause 2. Amendment Nos 9 and No 10 need to be given proper consideration at the next Stage, and they need to receive the clarification that Naomi Long requested from the First Minister.

Some Members examined the detail of the amendments, came here to have a serious debate, engaged in a constructive debate and are prepared to make and take interventions. They understand that that is what debate is supposed to be about.

Unfortunately, too many Members come into this Chamber and are not prepared to engage in debate. Their speeches are written for them by researchers, and even when you, Mr Deputy Speaker, call them to order, they cannot find a place in their speeches that is relevant to the terms of the Bill, and we run into further problems. Given the age that the Assembly has reached, it is time, when we have a debate on legislation, that Members engage in debate and do not merely read out speeches that were written a couple of days ago and which are not now relevant.

Mr Deputy Speaker: Order. The Member is in danger of undermining his own argument. *[Laughter.]*

Mr Ford: I trust that having made my point to the Deputy Speaker, I will have made it to Members. I will now go into detail.

I was disappointed with Mr Spratt's speech. He listed a number of amendments to which he was opposed, but he did not list amendment Nos 2 and 6. I began to think that there was something wrong; that perhaps an amendment put forward by my party was being listened to by the DUP. Could it be that, contrary to what happened during the passage of the Local Government (Boundaries) Act (Northern Ireland) 2008 and the Commission for Victims and Survivors Act (Northern Ireland) 2008, the parties in Government were listening to the opposition, and not just the opposition listening to the Government?

Sadly, that hope was lost when Mr Shannon began to speak. I found his comments interesting. I give him credit for understanding the concept of debate, because he takes interventions — he does not respond to them, but at least he takes them. *[Laughter.]*

Perhaps the next time Government Back-Benchers have a meeting, he could give a lesson on the concept of debate to Members such as Ms Anderson, though members of his own party are sometimes in the same position as her.

Some of Mr Shannon's points were interesting. He said that amendment No 2, which adds an additional point to clause 1 about powers not existing or not being useful elsewhere, was merely a form of words. The amendment, in fact, inserts what he is agreeing to in clause 2 directly into the principles in clause 1. If that is so wrong in clause 1, why is it so acceptable in clause 2? No answer to that has been forthcoming, which means that we need to put the same phraseology into clause 1 as is being used in clause 2. It is more than just a list of words or making paper for the Environment Minister to complain about. The amendment seeks to improve the Bill — in the same way that the First Minister and deputy First Minister sought to include additional qualifications and make improvements — by applying a condition to clause 1 that is validly applied to clause 2.

Mr O'Loan: I have an important point to make in relation to Mr Shannon's speech. He discussed what would constitute an emergency, and Stephen Moutray said that the Bill would be for use in unforeseen circumstances. However, Mr Shannon said that we will all recognise an emergency when we see it. He gave examples, and referred to the economic downturn. The economic downturn is a major worldwide event that has been ongoing for some time and will continue for a very considerable time to come. The downturn has major ramifications for every Department. It will increase the demands upon them, and effective responses will be expected in addressing it. The only

way to address it meaningfully is to revise the Programme for Government and the Budget, consulting properly with the Assembly, its Committees and the public — not by urgent, extreme, one-off remedies, the power for which, through this Bill, is to be given to OFMDFM.

Mr Ford: I am supposed to say that I am grateful for the intervention. However, I may now have to allow Mr Shannon an intervention so that he may respond to Mr O'Loan, and I am deeply reluctant to do so.

Unfortunately, I have allowed Mr O'Loan to disrupt my train of thought, which sought to attack Mr Shannon's general inability to recognise that winter tends to happen — as Stephen Farry pointed out — once each year. Winter crises are not unprecedented. *[Interruption.]*

Mr Ford: Unfortunately, the Environment Minister seems to be unaware that climate change encompasses a variety of changes and is not a uniform change in any particular direction. Storms and climate change tend to happen in wintertime. We will, however, steer clear of that issue, in deference to the Deputy Speaker's earlier ruling.

The issue of what is unprecedented has been over-egged by people such as Mr Shannon, who described such events as something that would never have been seen before. However, there were quite severe floods in my constituency in August 2008, and some of the areas affected were also affected by similar flooding fewer than 20 years ago. Those floods were hardly unprecedented, but they certainly created an emergency.

I am more inclined to agree with the First Minister's definition of what constitutes an emergency rather than Mr Shannon's. It was a good attempt from a Back-Bencher in defence of the Executive's position, but I am afraid that he failed to persuade me.

Ms Anderson made a great deal of the point that amendment No 2, which was tabled by the Alliance Party, would result in delays. I am not sure what delays are envisaged given that we have been told by the two principal parties that all is sweetness and light, and that everything in the Executive is working well — Mr Attwood disagreed, but he is not in the Chamber to defend that position. However, if we accept that view, what delay would there be if the First Minister and deputy First Minister were to consult the relevant Minister or Ministers on what powers and finances exist and whether that particular procedure were needed? There is no delay that is realistic or feasible, and for Ms Anderson to make the point — as she read her notes and refused to take an intervention on the matter — that there will be a delay, means that the point will be argued at greater length and detail as it is clearly unsubstantiated and unsubstantiable — *[Interruption.]*

I would happily give way, but the fact that Ms Anderson neither makes nor receives interventions speaks for itself.

The First Minister: The Member may conclude that it has been unsubstantiated, but he cannot conclude that it is unsubstantiable, because there is substantiation for it. Amendment No 2 would put on the face of the Bill criteria that could leave it open to judicial review and, therefore, lead to much delay.

Mr Ford: That point needs to be substantiated.
[Laughter.]

At least we now have a member of the Administration who is prepared to argue the detail of the Bill. I welcome the intervention from the First Minister in that respect, although I suspect that clause 2(1)(b) could also be subject to judicial review. Therefore, I am not sure why that argument applies to clause 1 and not to clause 2.

Those points need to be made, because it is clear that, yet again, the Executive are unwilling to listen to any arguments emanating from this end of the Chamber. That was illustrated by the fine speech made by Mr Ian McCrea, in which he dwelt much on how the Belfast Agreement has failed, and the fact that Sinn Féin has given up ministerial authority, but did nothing to deal with the substance of the amendments tabled from this end of the Chamber.

If one examines the balance of this debate — as, hopefully, more impartial people than those who sit at the other end of this Chamber will do — it will be seen that the strong weight of argument behind the amendments tabled in an effort to make this a better Bill should be realised. Those amendments will help to ensure that the emergency provisions go through. They will also ensure that, for those of us who are still a little bit sceptical about the fine workings of the Executive, this Bill is not a Trojan horse designed to damage the workings of Departments other than those controlled, in their own terms, by the First Minister and deputy First Minister

Dr Farry: We seem to have run out of Members who wish to speak from the other parties, but the Assembly now has the privilege of two consecutive contributions from the Alliance Party.

Mr B McCrea: Will you be giving us the same message?

Dr Farry: Of course.

I will resist the temptation to read out my 120,000-word thesis, but I will certainly pass a copy to Declan O'Loan to peruse at his leisure, at some time in the future

This is an important debate. At times, I get the impression that some Members from the DUP and Sinn Féin seem to resent the fact that the debate is

taking place, and that Members — from a range of parties — have tabled reasoned and constructive amendments. This is the heart of the legislative process; this is why we have an Assembly. We should welcome the fact that we are having debates of this nature rather than trying to avoid them.

Had the Bill had a proper Committee Stage, a lot of this work could have taken place in the Committee rather than on the Floor of the Assembly, but we are where we are.

3.15 pm

I want to make only a couple of points. The first is that there is, perhaps, a greater need to ensure the co-operation of Departments and Ministers in relation to clause 1 than in relation to clause 2. That may seem to be a slightly counter-intuitive statement. However, clause 2 deals with more medium- and long-term situations where there is a potential failing in the structures of Government to address cross-cutting issues; therefore, there may well be a situation in which the First Minister and deputy First Minister — as well as the wider Executive — must be seen to be taking action to address shortcomings and the failure of Departments to work towards commonly held objectives for the greater good of the people of Northern Ireland. In that sense, a greater sense of collectivity is to be welcomed.

There may be a danger of clause 1 stripping out any role for the relevant Ministers and Departments from the consideration process. Given the very short-term nature of the interventions and given that they are not, essentially, going to be mainstream, long-term actions, that militates in favour of having a greater degree of co-operation and ensuring that Ministers are on board.

That goes to the heart of what we are trying to achieve through amendment No 2, which is about ensuring that we are not running a coach and horses through existing schemes of Departments and that whatever interventions are made — albeit in the context of there being an emergency or exceptional circumstances — are properly thought out and thought through, and we are not needlessly duplicating or ignoring systems that are already in place. However, such interventions may be an effective way of dealing with emergency situations if they can result in money being directed toward such situations.

Therefore, there is merit in having a safeguard to ensure that there is not needless duplication in Government and that Government is an efficiently operating institution — all parties in the Chamber would look toward that. This is an important debate; it is important that we give consideration to amendments. The amendments tabled by my party are certainly in no way aimed at delaying or undermining the Bill — they are designed to make the Bill more transparent and

more effective. All parties should be capable of uniting around our amendments and some of the other amendments that have been tabled by other parties.

Ms Purvis: I will be very brief. I am pleased to see that a number of amendments to the Financial Assistance Bill have been tabled. The majority of those amendments go a long way toward improving the legislation and making it a better mechanism for serving the needs and the rights of the people of Northern Ireland, which the First Minister so eloquently referenced in his remarks last week.

During last week's debate, I expressed my concerns that the legislation in its original form creates too fundamental a shift in the decision-making processes of the Assembly and the Executive to warrant accelerated passage. I was not persuaded by the First Minister's assurance that the ministerial code would play a real role in defining the use of this legislation and limiting the powers that it bestows to OFMDFM in its unamended form.

Part of the Pledge of Office commits Ministers to participate fully in the Executive Committee, yet we find ourselves regarding this legislation as urgent because that commitment was not met for several months last year. Nonetheless, the current economic situation requires flexibility and creativity. The worldwide economic forecast suggests that the downturn in which we find ourselves may reach unprecedented levels, and Northern Ireland will not be exempt. If this legislation creates an additional tool for addressing the difficulties faced by the people of this Province, it warrants full consideration.

Looking at the specifics of the Bill and the amendments, I support those amendments that give an explicit role to the whole of the Executive in making determinations that a situation warrants the exercise of this legislation. That includes amendment Nos 1, 4 and 5. Collective responsibility and power sharing are at the core of this body's processes — however flawed they may seem at times — and those principles need to be inserted into this Bill. That is also a more accurate reflection of the budgetary processes that the Executive follow.

I also support amendment Nos 6, 7 and 8, which create the requirement for direct engagement with those Departments that stand to gain or lose functions as a result of schemes generated by this legislation. The value of consultation is a lesson that we learn over and over again in the implementation of new policies and schemes.

I oppose the inclusion of clause 2 in the Bill. I hope that amendment Nos 9 and 10 are unnecessary. In that situation, I will support amendment No 2. Failing the removal of clause 2 from the legislation — which I hope will not be the case — I will support amendment

Nos 3, 9 and 10. I share the views expressed earlier by Naomi Long regarding amendment No 11.

The First Minister: I am very willing to give way to any Member at any stage. The Speaker indicated that there were around 31 interventions during the Second Stage of the Bill, yet, when I spoke, there was not one intervention. I encourage it this time around, particularly from those who have behaved in a positive and responsible way during the course of the debate.

I welcome the contributions that Members have made, and I intend to deal particularly with the amendments that have been tabled in the name of the deputy First Minister and me, namely amendment Nos 3, 9, 10 and 11.

Before I do that, I will make some general comments about conduct during this debate, and my disappointment with some of the parties present. In particular, it is sad that the official opposition — the Alliance Party — is seen to behave in a much more responsible way in dealing with amendments and legislation than two of the Executive parties. It is worth pointing out to those two parties that their Ministers need to get legislation through the Assembly, and, if we were to behave in the irresponsible way that those two parties have done, clearly their Ministers would not get that legislation through.

Mrs D Kelly: Is that a threat?

The First Minister: It is not a threat; it is very clearly a statement of fact indicating that we do not behave in the irresponsible way that they seem to enjoy.

Like the leader of the Alliance Party, I have a lot of sympathy with most of the amendments that have been tabled. However, an awful lot of them are completely unnecessary because they have already been dealt with. I made strenuous efforts during the Second Stage of the Bill — as did the deputy First Minister — to point out to Members that their concerns about control, power grabs and such issues were unfounded. I set that out very clearly, and am tempted to read out the detail of what I said. With encouragement, I might just do that before I sit down.

I set out in detail why every decision that will be taken on determinations, designations and schemes will be taken by the Executive. Further than that, we now show clearly with our own amendments — which I remind the Member for Lagan Valley Mr Basil McCrea come as a result of our listening to what people have said in Committee, in the debate on accelerated passage, and at the Second Stage of the Bill — were made and agreed by the Executive.

The outcome of those amendments will be that, not only will the Executive have a role in any such schemes under clause 1 and clause 2, but the Assembly will have a role in both cases as well.

In the case of clause 2 —

Mr B McCrea: Will the First Minister give way?

The First Minister: It might be better to make the point first, but I am happy to give way.

Mr B McCrea: I am grateful to the First Minister for giving way. The point that I sought to make — and I think that I did so in quite a responsible manner — was that the First Minister can see combined opposition from the parties in this area of the Chamber. There is, as I understand from what I have heard Members say, little difference between the opinions put forward by the Alliance Party, the SDLP, the PUP and the Ulster Unionists. If there has been a misunderstanding, we offer the First Minister the opportunity to clarify. As he said, we have a role to play. This is not the Executive; this is the Assembly expressing an opinion. I thought that Members on our Benches had put the point across in a constructive manner.

The First Minister: That is all the encouragement that I need to go back over what I said during the Bill's Second Stage. When I go over that, the Member will see that all the answers to those issues were given last week. He stood up a short time ago and said that people were not listening; he should point the finger at himself — he clearly was not listening. All those issues have already been dealt with. In fact, last week, I pointed out that when I met with legislative counsel to discuss the Bill, one of the first questions that I asked was whether we should put on the face of the Bill the very issue that is the subject of amendment No 1 and two other amendments. The answer came back very clearly that we should not do that; so, on that advice from legislative counsel, we did not do that.

There is one statute book, and it is already our legal responsibility to accept the ministerial code; it is a statute-based ministerial code. Although she has left — and my understanding of parliamentary etiquette is that a Member should not leave the Chamber until the following participant in the debate has completed his or her speech — the Member for East Belfast Dawn Purvis confused ministerial conduct issues with ministerial code issues. She clearly does not know the difference between the two.

The law requires us to uphold the ministerial code, and the ministerial code requires that those matters come before the Executive. Therefore, it is not a matter of choice — or trust, as some Members have indicated — that the Executive deal with all those issues, but a requirement. The amendment, therefore, is unnecessary. It will make no difference to the outcome whatsoever if the amendment is passed, apart from the violence that it would cause in legislative terms.

Mrs Long: Will the First Minister give way?

The First Minister: I will give way in a moment.

If Members wish, I will explain in detail the violence that passing the amendment would cause due to the duplicating of legislation and the difficulties entailed in that. Either way, the outcome will be the same; when an emergency arises, or in the case of clause 2 matters, when a project is determined, the proposal will come from the First Minister and the deputy First Minister to the Executive. Such a proposal may be suggested by the OFMDFM Committee, Executive colleagues, or through an Adjournment debate. Whatever the triggering motion — if that is not an unfortunate term — the reality is that the First Minister and deputy First Minister will bring the proposal to the Executive.

The proposal will be brought to the Executive in order to designate a Department and in order to determine that it is an emergency matter appropriate to be dealt with under the Bill. That will also be done in relation to the scheme. It might be brought to the Executive on two occasions, as, I suspect, the determination and the designation will be done at the same time. However, on at least two occasions, before anything happens in relation to a scheme, it will go to the Executive for their decision.

As regards clause 2, it means that, before a scheme has any outcome, the Assembly will determine whether it proceeds. As regards clause 1 matters, the Assembly can annul any decision that is taken by the Executive with regard to a scheme.

3.30 pm

Certain Members in the Chamber — and some who left the debate to go a press conference and have a rant in the Great Hall — attempted to create the impression that decisions would be taken by the First Minister and the deputy First Minister; that no one else would have any say; that this was a power grab; and that we would take everything onto ourselves. They have all attempted to create that impression. However, every one of them knows that that is not the case.

Had Members come to the debate from last week's position, I would have understood why they would raise that issue, just as I had sought counsel from legislative draftsmen. However, despite my clarification of the issue during that debate, Members have persisted. As I pointed out in my winding-up speech —

Mrs Long: Will the Minister give way?

The First Minister: I will give way in a moment. I have not forgotten.

I pointed out in my winding-up speech that that was, perhaps, for the very reason that the leader of the Alliance Party has suggested: Members' researchers had done much work, burnt the midnight oil and typed up their prepared speeches, which Members had brought along with them to the debate. Even though

the answers to their questions had been provided in the debate —

Mr B McCrea: Some of your party colleagues did the same.

The First Minister: None of my party colleagues got matters wrong. Members on either side of Mr McCrea got them wrong — as, indeed, did he. *[Interruption.]*

Mr Deputy Speaker: Order. The Minister has the Floor.

Mrs Long: I have asked the Minister to give way.

Mr B McCrea: There is a queue.

The First Minister: I will finish my point, after which I will give way to the Member for East Belfast. I am beginning to regret having said that I will give way to everyone.

The fact is that every Member knew at the end of that debate why the matter could not be included on the face of the Bill. There is one statute book. The matter is already a legal requirement; therefore, it need not be duplicated. If everything in a Bill were duplicated, why would the Assembly not indicate that legislation is subject to judicial review? There are a host of criteria and procedures that are already required. Should we put them in every Bill?

If the Ulster Unionist Party believes that every Bill is a stand-alone Bill, into which everything and the kitchen sink must go, why is it not written down in every Bill that Northern Ireland must remain part of the United Kingdom? Is it not necessary to have that requirement in any constitutional Bill? The Ulster Unionist Party could not care less about whether Northern Ireland remains part of the United Kingdom: clearly, the matter is less important than the subject of that party's amendment, because both are part of the legislative framework. They are both on the statute book and there is, therefore, no requirement for either to be duplicated in legislation. Both issues are already accepted.

This will not change what will, ultimately, happen. The only question is whether it should be included on the face of the Bill. The answer from legislative draftsmen and legal counsel is that it should not, because it does not need to be.

Stand up, the Member who says that I should ignore my legal advice and put down in the Bill what is said by Assembly Members, who have no authority to speak on legal matters? I must say that I will take the legal advice. The SDLP should be aware that it is wise to take legal advice. It should know well that Ministers must take legal advice, because there are consequences when they do not.

Mrs Long: I thank the First Minister for giving way eventually. The point that he made about Members

ranting about the situation is unjustified. Anything that I have said in the public domain or in the Chamber has been measured in tone; it is not my intention to simply rant about the issue or to whip up hysteria, but simply to deal with issues of concern.

The Minister claims that some Members have not listened. In fact, we listen carefully. That is why the Alliance Party has dealt with the amendments in a slightly different way. Last week, my party's main concern was about the smaller parties in Government and the amount of protection that they would get from Executive and OFMDFM control and decisions. We dealt specifically with those issues. Contrary to the First Minister's view, my party did listen to his reassurances.

The First Minister also said that it is not a matter of trust. The deputy First Minister, perhaps, confused the issue by saying on record that it is a matter of trust.

In response to the point about protection for the smaller parties in Government, the deputy First Minister said:

"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." — *[Official Report, Vol 36, No 5, p214]*.

Therefore, he said that it was a matter of trust. If both sides of OFMDFM provided clarity, we might be more confident that we know whether it is a matter of fact, a matter of law or simply a matter of trust.

The First Minister: I am not sure whether this will help the Member for East Belfast much, but I clearly distinguished between the Alliance Party's approach to this matter and that of the Ulster Unionists and the SDLP. She can have that on the record again and put it in election literature if that would be helpful. I will even provide an appropriate photograph to go along with it.

Mr B McCrea: *[Interruption.] [Laughter.]*

The First Minister: I am sorry that I missed that remark, but I will come to the person who made it soon. I have been a Member of Parliament for some 30 years, and I have watched opposition parties trying to destroy Government Bills in many different fashions. When in opposition, the Conservatives and the Labour Party both attempt to indict Government and question their motives; that is the role of opposition parties. That could understandably have been the role of the Alliance Party, but my criticism of the Alliance Party is on a different level. It aspires to collective Government, but it will support an amendment that runs counter to collective Government.

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

The First Minister: I will deal with these two issues and then give way to the honourable lady.

The Alliance Party cannot have its cake and eat it, or perhaps it can. The Alliance Party cannot argue that, in this set of amendments, power should be put into the hands of the Executive and, in the next set of amendments, argue that the Executive should not have overall power and that there should be a ministerial veto before that happens. There are stances in the 11 amendments that are contradictory, but the Alliance Party has already indicated its support for all of them. The Alliance Party simply cannot hold on to that position.

Mrs D Kelly: I assure the First Minister that our party did not engage in a rant; we simply pointed out what we believe to be the inadequacies of the legislation. Does the First Minister understand the lack of trust that this side of the House has in both him and the deputy First Minister and their way of carrying out Government? Sinn Féin delayed Executive meetings for 154 days, allegedly on the premise that it was not respected as a political partner and that the Executive were about full partnership in Government. Can the First Minister explain why our Minister, Margaret Ritchie, receives Executive papers only one hour before Executive meetings? Is that respect? Is that partnership in Government? Is that good government?

The First Minister: It is also nonsense. *[Laughter.]*

The Member claims that her party has not engaged in a rant. However, representatives of her party have touched on everything from the St Andrews Agreement to Mussolini. In a press conference today, she claimed that a crime was being committed against the nationalist community in the activities that we were engaging in. Let us be clear: the SDLP has been involved in a rant, as has the Ulster Unionist Party.

The Member knows my views on the delay in having Executive meetings. If I could, I would point the finger at Sinn Féin and say that this difficulty was caused by the delay in having Executive meetings; but that is not the case.

I will tell the Member why there is a delay. The Minister from her party told Executive colleagues that she already had appropriate power and that legislation was not required. Therefore, the legislative draftsmen were not alerted because the Minister argued that there was no need for additional legislation because she had the power to make fuel-poverty payments. I am happy for anyone to challenge that assertion; that position is clearly on record.

The Minister for Social Development receives her papers at the same time as all other Ministers. A difficulty often arises in the Executive — as one would expect in all executives — whereby Ministers are keen to receive approval for papers that they have prepared, which often arrive late from Departments and have to be processed in order to be included on the agenda.

The fact that papers are put on the table at such a late stage assists Ministers in achieving the earliest possible approval for papers and policies.

We could, of course, introduce a cut-off time for the receipt of papers, after which Ministers must wait for a fortnight until the next Executive meeting. However, I suspect that her party's Minister would, before too long, claim that certain papers are so important that they warrant exclusion from those criteria. The Minister for Social Development is not treated differently from any other Minister.

Mr O'Loan: Will the Minister give way?

The First Minister: I have not finished my point. I will return to the Member, although I wish to address several points that he has made. I am in no hurry; I can, if necessary, delay my flight at 7.40 pm.

The opposition parties at Westminster contrive many means to discredit Government proposals. It is not the Cabinet's role to do so, and, therefore, the fact that parties in the Executive are acting in that manner is, frankly, contrary to the arrangements of working together in joined-up Government. Some Members are pouring out language about how important it is for Northern Ireland to progress and for parties in the Executive to work together and demonstrate more trust — which is rhetoric that we hear from time to time — while those same Members are doing everything possible to undermine the two main parties in the Executive.

Mr McCallister: Where were you in 2000? *[Laughter.]*

Mr Deputy Speaker: Order. Those remarks were not made through the Speaker. In future, please do so. Moreover, Members' interventions should relate to the debate.

The First Minister: It is legitimate for a political party that is attempting to end a system of government to act in that way. My colleagues and I assumed such a role during the previous Assembly. We did not support its structures and arrangements, and that is, ultimately, why we secured changes at St Andrews. If the Member is behaving in such a fashion because he is against the system and wants to bring it down, the Ulster Unionist Party should inform the people of its *modus operandi*. That party is telling the electorate that it supports the Assembly and democracy and devolution in Northern Ireland. Its role is inconsistent.

The Ulster Unionist Party's role today was, frankly, deplorable, because it knew that there was no power grab and that the Executive will take decisions. That party needed to find a Member who was gullible enough to argue in the House — without blushing and without embarrassment showing on his face — and attempt to mislead and con people into believing that

there is no accountability and that the First Minister and deputy First Minister will take all decisions.

3.45 pm

They needed a volunteer to do that. They looked around their ranks, and forward stepped a Member for Fermanagh and South Tyrone, Tom Elliott, who, as David Ford — a Member for South Antrim — indicated, dutifully read the speech that had been prepared for him. He did not deviate from it, and clearly, he could not have deviated from it. However, the speech was nonsense and inaccurate, and every Member from that party knows that it was inaccurate.

They attempted to gull people outside the Assembly into believing that there was a power grab by the First Minister and deputy First Minister. However, the Ministers from that party, as much as any Minister on either this side or that side of the House, will be involved in making the decision as to whether we proceed with any of the matters that may be under discussion. It is as simple as that.

Mr Beggs: Will the Member give way?

The First Minister: I am sorry; who was that? Yes, I will.

Mr Beggs: Does the First Minister accept that, when documentation is supplied to the Executive at a late stage and when he and his Sinn Féin colleagues have agreed on the related proposals, to expect everyone else to simply agree with those proposals, which are then forced through, removes confidence that members of the Executive have had an opportunity to make an input to and perhaps even enhance them? That suggests that they are not being treated as equal partners and, as such, there is a lack of trust. There is a genuine mistrust of the concept of increasing the powers of the First Minister and deputy First Minister to allow them to act jointly.

The First Minister: How many times does one have to say it? I am prepared to give people a fool's pardon when it happens once, or perhaps twice, but certain Members continue with that argument, even though they have been told over and over again that the First Minister and deputy First Minister will not be making the decisions in question and that the Executive will make them. Yet, even after all that, interventions such as that of the previous Member to speak are still made.

Of course, the Executive will have to make some decisions. If people do not like those decisions, they will of course use pejorative language such as "pushed through the Executive". However, is the Member telling me that the better alternative to that situation is for a minority in the Executive to have a veto? I would be quite happy to move to majority rule if the rest of the House is ready to do so, but decisions have to be made, and they have to be made within the law as it

stands. There may be Ministers — whether that is one, two, or more — who do not agree with those decisions, and although we attempt to get consensus in the Executive at all times, if that is not possible, we have to take a majority decision.

Mr B McCrea: The point that we are trying to express is that if we were to rely solely on majority rule, there would be no political settlement, because as it stands, the unionists outnumber the nationalists. That is what this issue is about. That is the reason that a lot of people were speaking about individual ministerial responsibility.

My party prefers some form of collectivism whereby people work together; however, the simple fact is that if an issue is brought to the Executive, the two big parties have a majority and they simply vote us out. If an issue is brought to the Assembly, those parties have the votes and they vote us out. Even if cross-community support and the safeguards that it affords are required, the combined votes of the Alliance Party, the SDLP, the PUP, Dr Deeny and the Ulster Unionist Party will not stop anything.

In those circumstances, we seek safeguards so that there is ministerial responsibility and so that the parties can work together collectively. That is the central tenet of what we are trying to defend, and the proposals put those elements at risk. If those are put at risk, the whole Assembly is put at risk.

The First Minister: Quite frankly, I think that the Member is being deliberately obtuse in his remarks. Let us consider the danger that he claims is facing accountability. First, the Executive will decide whether a particular scheme will be established — therein lies full accountability to the Executive.

The designation and the scheme have full accountability to the Executive. Clause 2 has full accountability to this Assembly. Clause 1 provides the Assembly with the power to annul a decision that has been taken if does not agree with it. Members can also avail themselves of the other accountability measures that were outlined by the Minister of the Environment — the ability to question; the ability to table motions; and the ability to have a debate on the issue if they so wish, because every party has its own time to do that.

There is maximum accountability on all those schemes. Even though Members are aware of that, we still — even now — have a member of the Ulster Unionist Party rising in his place to try to give the impression that there is no accountability in the schemes. There is no more accountability on any other issue than there is on those schemes. The Ministers from that Member's party take decisions without any reference to the Executive or to this Assembly. He is quite content if his party's Ministers do that. When his

party was — *[Interruption.]* The Member should sit down — only one person is allowed to stand.

When his party was the largest in this Assembly, there were no complaints about those issues from that party. That party should be very careful —

Mrs Long: There were from you.

The First Minister: I will take the point that was made by the Member for East Belfast. She accurately quoted remarks that I made during the mandate of the previous Assembly about the need for no more centralisation in OFMDFM and the need to have an OFMDFM Committee. I am glad that we now have that Committee.

Mr O'Loan: Will the Minister give way?

The First Minister: The Member can see that I am in the middle of responding to the point — he should let me do that. The St Andrews Agreement changed everything. It made OFMDFM and every other Department accountable to the Executive.

Mrs Long: Does Sinn Féin know that?

The First Minister: Everybody knows that. I have no doubt that the Sinn Féin representatives are aware of that. The Member who opened the debate — I am not sure where he has gone — talked about how measures in the ministerial code allowed Caitríona Ruane to do this, that and the other. If the ministerial code was not in place, the Minister of Education could have taken all the decisions on education — just as she would have been able to under the system that was set up by the Ulster Unionist Party.

I have no ability to prevent the Minister of Education from making a comment, no more than I have the ability to prevent any Member from making a comment. We have free speech in this part of the world — people can say whatever they want to. However, the Executive have the determination as to whether decisions are taken by Ministers on various issues.

Mr O'Loan: I thank the First Minister for giving way. I come back to the matter of papers being issued to Ministers close to the beginning of an Executive meeting, only because it illustrates —

Mr Deputy Speaker: Order, please. I stated that any intervention must relate to the Bill.

Mr O'Loan: My point very much relates to the Bill. My colleague Dolores Kelly may not be completely correct in that important papers have been known to arrive not only an hour before an Executive meeting, but perhaps half an hour or an hour into the meeting.

Mr S Wilson: It is the same for everybody.

Mr O'Loan: It is not the same for everybody, which is the key issue. Papers must originate somewhere. The concern, and the fear, is that important papers arise out

of backroom discussions between the parties in OFMDFM and are presented at the last minute — or after the last minute — to the Executive. That is illustrative of the nature of power in the Executive, and it impinges exactly on this Bill.

The First Minister referred to other party members and me as being irresponsible. He was very concerned about words that were used this morning. We do not mind words being used in debate — we can take that. However, we are being very responsible in what we say, and we are making our points in full seriousness. We have real concerns that the nature of the dynamics of the Executive are not up to the standard that is required to serve what remains a divided society, and that the politics of this Assembly still represent that divided society.

Consequently, there is a major job to be done to deliver consensus, and the First Minister and the deputy First Minister have the key responsibility for doing that.

Mr Deputy Speaker: The Member should resume his seat.

The First Minister: Mr Deputy Speaker; you and your colleagues should consider the general point about the nature of interventions in the House. In the House of Commons, interventions, by their nature, are necessarily short. Here, interventions become speeches, comprising points that Members meant to say earlier or have thought of since.

I shall deal with the matter of ministerial papers. The deputy First Minister and I have studiously avoided dealing with any papers that are received late, without giving Executive members an opportunity to read them thoroughly. We have adjourned meetings in order to allow Ministers to read such papers if they are urgent and require to be dealt with. In fact, on one occasion, we reached provisional agreement on a paper in order to allow Ministers to go away and read it in more detail. Therefore, it is not a case of forcing papers through.

I shall now return to the remarks made by the Member for East Antrim who is also the Minister of the Environment, concerning the fact that the Minister for Social Development receives her papers at the same time as other Ministers. Of course, some Ministers will know about the contents of some papers beforehand, because papers come from Departments — if they come from Ms Ritchie's Department, she will know about them before her ministerial colleagues. Papers are circulated by the Executive secretariat to all Ministers — not selectively — at the appropriate time.

I challenge the Members who wish the Executive to be included in the face of the Bill to show me any other piece of legislation made by this subordinate legislature — from 1922 to the present day — that

does what they are asking this Assembly to do. Will one of them stand and cite the precedent for such an amendment? Where is it stated that such a function should be exercised by the Executive? Such a precedent cannot be found; the only place that it can be found is in the primary legislation that set up the Assembly — the Northern Ireland Act 1998. Such provision does not exist because it does not need to exist — the power is already there. It is completely unnecessary to duplicate in legislation that which is already in legislation.

I could make the point in greater detail; however, I believe that I have made it sufficiently clearly for any reasonable man or woman to take it on board. I suspect that anyone who has not accepted that point by now will not accept it and is attempting to discourage people outside the Chamber about the Bill.

The Member for North Antrim Mr O'Loan complained about the legislation being rushed through — in fact, his Minister wanted it rushed through also. Once again, I offer the opportunity to any Member who believes that we should not be attempting to put legislation in place to enable us to make payments to say so. I am not saying that the whole Bill should be judged by its first use; however, that was the reason why the Minister for Social Development wished legislation to be rushed through — and it was thought more appropriate to have the power so that on each occasion when an emergency arose we would not have to bring forward legislation.

Mrs D Kelly: Will the Member give way?

Mr Kennedy: Will the Member give way?

Mrs D Kelly: I said it before you.

The First Minister: Ladies first.

Mrs D Kelly: I thank the First Minister for giving way. Does he now acknowledge the fact — which he did not do earlier — that Minister Ritchie, when bringing forward her paper on tackling fuel poverty, put into that paper the point that she did not have the necessary powers, that there was a need to introduce such legislation, and that she suggested ways in which that could be done?

The First Minister: That statement is totally inaccurate. Until the Executive was back in action, the Minister for Social Development argued that she had the legal competence to take the necessary steps.

4.00 pm

Mr Kennedy: Does the First Minister accept that no objections to accelerated passage were raised at Executive level or at the OFMDFM Committee?

The First Minister: I am glad that the Committee supported that position. One Member argued against the use of accelerated passage during the accelerated passage debate. She said that she was against it, but

she did not vote against it. That was the Member for East Belfast Dawn Purvis.

Mrs Long: At all stages of the Bill, I made clear that I was not opposed to accelerated passage.

The First Minister: The Member was not listening. I will say it again: the only person who objected to accelerated passage during the course of the debate, but who did not divide the House, was the Member for East Belfast Dawn Purvis. *[Laughter.]*

Mr Deputy Speaker, it seems that a lot of hit-and-run Members have spoken during the debate. They make their contribution, exit the Chamber and do not have the courtesy to listen to responses. However, the Member for West Belfast Alex Attwood referred to my remarks about the Financial Assistance Bill being the most important piece of legislation to be progressed by the Assembly so far. It is the most important, because it demonstrates the use and value of devolution and the ability to respond to the needs of the people of Northern Ireland. It marks a difference between devolution and direct rule, and it provides the Executive with the ability to take immediate action when there is an urgent or emergency situation.

A number of previous Bills have concerned legacy matters, but the Financial Assistance Bill is the creation of the new Administration, and I believe that it will be implemented in a proper manner and with full accountability. I would be interested to have a discussion on the issue in a year's time, and, at that stage, I would hope to hear apologies from Members all round the Chamber who gave dire warnings on what the outcome might be.

The Member for West Belfast Alex Attwood also spoke about the removal of ministerial power. Ministers in any democratic Government are responsible for their Departments; they are in control of their Departments — and I use the word “control” deliberately. They act under the authority of those who have the job of hiring and firing them. That is the position in the British Cabinet; each Minister has control of his or her Department, but he or she can be hired and fired by the Prime Minister.

Today, we had the absurdity of the Member for Fermanagh and South Tyrone Tom Elliott describing the legislation as un-British. He said that the power that was being taken by the First Minister and the deputy First Minister was unique. However, the Prime Minister of the United Kingdom would take that power to himself — probably without even reference to his Cabinet — unlike the deputy First Minister and I, who will bring each issue to the Executive, as our ministerial code requires us to do. The Member's argument is absurd.

The United Kingdom Government act on the basis of collective responsibility at an Executive level, and

although it appears that the Member for Fermanagh and South Tyrone disapproves of that, this measure and the changes that were made at St Andrews enhance collective responsibility in the Executive. If I had my way, I would enhance it even more, but the system within which we operate allows accountability within the Executive. That accountability was introduced in the St Andrews Agreement, and was absent previously.

Although I do not want to dwell on the legal technicalities, I should perhaps mention one further point. Members who suggested including a reference to the Executive in the Bill seem to assume that the Executive determine powers in Northern Ireland through legislation. They do not; under the present legislation, power is delegated to Departments not to the Executive.

Some Members may argue that even if we wanted to make this change in the Bill, it would not be the right route to take. In any case, I suspect that the approval of the Secretary of State would probably be required to do so. Powers in Northern Ireland are delegated to Departments. The problem of accountability was solved at St Andrews through the ministerial code, which requires collective decision-making. That is why the decision was taken in this case to use that mechanism.

The Member for West Belfast Alex Attwood seemed unaware that the removal of individual ministerial power is not a function of the Bill but of the St Andrews Agreement. Without that agreement, the Assembly would not be sitting; in fact, it is already law in Northern Ireland. The requirement for Ministers to act in accordance with the decisions of the Executive is contained in the Pledge of Office, and that provision was passed on 20 March 2007 as part of the ministerial code. The SDLP opposed the provision at the time, but, despite that party's opposition, it is a legal requirement.

The deputy First Minister and I do not rely on good faith or trust. I suspect that I trust the Member for South Belfast as much as she trusts me. Therefore, I ask her to take decisions based not on trust but on the legal requirement for the First Minister and the deputy First Minister to bring the matter to the Executive at each stage of the process.

Mr Kennedy: Will the First Minister clarify to which Member he was referring when he mentioned a Member for South Belfast being able to trust him and vice versa? Was he referring to the Member for Upper Bann Mrs Kelly?

The First Minister: Three or four Members raised the issue of trust and, to avoid confusion, the Member for East Belfast Mrs Naomi Long also mentioned it. I am not asking anyone to trust the First Minister and the deputy First Minister in relation to the Bill, although, speaking for myself, trust in me would be well placed. Legislative safeguards are in place, and if either the deputy

First Minister or I did not bring any determination, designation or scheme to the Executive, we would be in breach of the ministerial code.

Mr Durkan: Will the First Minister give way?

The First Minister: I said that I am happy to give way to Members. However, generally speaking, one gives way to Members who have been in the Chamber listening to the debate rather than to a Member who has just arrived.

Mr Durkan: On a point of order, Mr Deputy Speaker. In the course of the debate, the First Minister claimed that the Minister for Social Development had misled her Executive colleagues to such an extent that she indicated, even after the Executive had started to meet again, that she had legislative cover and, therefore, the power to issue payments. I have been provided with an extract of a paper that was circulated by the Minister for Social Development to her Executive colleagues. It was sent to all Ministers on 2 October 2008, when the Executive were not meeting. The paper stated:

“DSD does not have legislative authority to make such payments and therefore Executive approval will be sought to take forward the necessary legislation in the Assembly through use of the accelerated passage procedure.”

Mr Deputy Speaker, I am asking you to ask the First Minister to withdraw his earlier statement, which was misleading to the House and misrepresented a ministerial colleague.

Mr Deputy Speaker: Will the Member clarify whether he is claiming that the remarks were misleading?

Mr Durkan: Yes. I am saying that the First Minister's claims during the course of this debate were misleading the House. He was leaving the House with the clear impression that the Minister for Social Development had never signalled that she did not have legislative cover and had in fact been signalling — including in December when the Executive were meeting again — that she did have. I have an extract of a paper that I believe was circulated to all ministerial colleagues at a time when the Executive were not meeting, which made that clear. The First Minister would have been in possession of that paper and would know about it. He was speaking in contradiction of that today. That is misleading the House.

Mr Deputy Speaker: First Minister.

The First Minister: I am not sure whether I am being asked to reply to the point of order, which I thought was your role, Mr Deputy Speaker.

Mr Deputy Speaker: Sorry; I apologise if it was not clearly understood that I need to establish from you whether you accept the Member's claim.

The First Minister: No.

Mr Deputy Speaker: Following that, I will refer the matter to the Speaker.

The First Minister: A number of matters will have to be referred to the Speaker. For a Member to indicate that a Minister is misleading the House is unparliamentary and needs to be dealt with.

As far as the general accusation is concerned, I stand by the position that I indicated earlier: when the Executive dealt with the issue of fuel poverty at their first meeting back, the Minister was questioned at the Executive table as to her legal competence, and she was still arguing that she may have that legal cover and she was still trying to clarify the position.

When there is a leak inquiry, it will be interesting to find out how the Member for Foyle came to be in possession of those Executive papers. That is a further issue that will have to be dealt with. It would be a breach of the ministerial code for any Minister to have disseminated such papers.

Mr Deputy Speaker: Order. In response to Mr Durkan's point of order, the Speaker will review what has been said and report back to the Assembly.

The First Minister: I think that we will all be interested in that.

Mr Attwood: I have a simple question to ask the First Minister: did you or did you not receive a paper referred to by my colleague Mr Durkan in and around —

Mr Deputy Speaker: Order. The matter is in the hands of the Speaker. We must move on.

The First Minister: Mr Kennedy, the Chairperson of the Committee for the Office of the First Minister and deputy First Minister, told the Assembly that he had two roles: one as the Chairman of the Committee and one as an Ulster Unionist Party member. I was glad that he at least warned the Assembly about what was to follow. He indicated that he wanted to be factual in his statement. He then made his factual statement as Chairman of the Committee, and stopped being factual thereafter.

I remind the Assembly again that, in relation to the accusation of a power grab, as First Minister and deputy First Minister, we already have the legislative cover to change the functions of any Department through a process set out in the Northern Ireland Act 1998 and the Department's designation order. Legislative cover is already available for any issue in relation to the powers of the Office of the First Minister and deputy First Minister. Therefore, there is no need for legislation to be brought into place to give it that further ability — if it were its intention to make a power grab.

The chief role of the Office of the First Minister and deputy First Minister is not one of exercising power, but one of co-ordinating the various Departments.

There are probably few Departments with as little direct power as OFMDFM; most of the other Departments have direct responsibility and powers. However, OFMDFM's chief role is that of attempting to co-ordinate the activities of the Executive.

I, therefore, cannot support amendment Nos 1, 4 and 5, which seek to place in the Bill the requirement for Executive agreement to determinations and designations by the First Minister and deputy First Minister under clause 1.

4.15 pm

Some Members referred to the ministerial code. I think that it was the Member for North Antrim Mr O'Loan who indicated that he had not seen —

A Member: He has gone.

The First Minister: He has gone, too.

For those Members who were sufficiently interested to stay for my response, the change that is being sought to the ministerial code is to point 2.4. It involves the inclusion of new paragraph vii, which states that a proposal to make a determination, designation and scheme for the provision of financial assistance under the Financial Assistance Act (Northern Ireland) 2009 shall be brought to the attention of the Executive Committee by the responsible Minister, to be considered by the Committee. The Executive also agreed that, following agreement by the Executive, these draft amendments would be submitted by us, on behalf of the Executive, to the Assembly for its approval. We, therefore, intend to table the motion in the Assembly to seek its approval following the enactment of the Financial Assistance Bill.

That matter was passed by the Executive, and, therefore, Assembly approval for the change will be sought. The change requires cross-community support in the Assembly, and we will deal with that matter following the passage of the Bill. The Executive agreed that matter on 15 January 2009, and we will implement it as soon as possible. Therefore, in my view, there is no need to support amendment Nos 1, 4 and 5, which have been brought before the House today. We accept that there is no good reason to repeat or cross-reference various aspects of our law.

At first sight, amendment No 2 looks reasonable in that it brings clause 1 into line with clause 2 by copying to clause 1 the provisions in clause 2(1)(b). Those provisions require the First Minister and deputy First Minister to determine that current funding arrangements are unsatisfactory. That is an important consideration in relation to a situation that requires financial assistance to be provided to tackle, and so on, as is clause 2.

Where such a situation is not exceptional or an emergency, the principal considerations are different

when we come to clause 1. We are dealing with an emergency or other exceptional event, and the important aspects are a speedy and effective response. In the clause 1 scenario, we do not consider it conducive to a rapid response to unforeseen events to require Ministers to conduct some sort of inquiry into the adequacy or effectiveness of other powers before they can decide whether to act under the Bill.

As I indicated to the Member for South Antrim after he made an intervention, if that requirement were placed on us, the courts could, of course, be asked to decide by judicial review the question of the adequacy or effectiveness of other powers and the reasonableness of the decision that we have taken.

Mr Ford: Will the Minister give way?

The First Minister: Let me just finish this point and then I will give way to the Member.

I can say to the Members who proposed the amendment that if a clear and effective funding route to address the emergency is available, Ministers will consider that fact while exercising their vote under clause 1(1)(c) in determining whether they ought to proceed under the Bill. Clearly, if a perfectly adequate and suitable mechanism were already in place, it would not be appropriate to use the Bill — although in exercising their power, Ministers will want to consider whether the alternative funding route is the best available; for example, if it requires more time to implement or actions by some other authority outside Government.

Mr Ford: The slightly distilled argument seems to be that it would be done anyway, but one should not be required to do it. Is that the First Minister's point? Specifically, do the provisions of clause 4(5) not adequately cover the point being made by the First Minister?

The First Minister: I am telling the Member that, first of all, in the natural course of determining whether the Bill would be used at all, we would consider the existing legislative capability and how appropriate it might be. The normal process of examining papers that are brought to the Executive involves considering alternative ways in which the Executive might respond to an emergency situation. If a Department already has perfectly adequate legal capability to deal with an emergency, that existing mechanism would be used.

Alternatively, if that mechanism was slower or required outside support, a different route would be taken. The insertion of that clause gives something upon which to hang a judicial review over whether the Executive had properly considered the available options.

In practice, the outcome will be the same, so I hope that the Member will withdraw his amendment. I was minded to accept it in the early stages, because it seemed

to be a reasonable proposition. However, concern about other consequences is such that we decided not to accept it — at least, in its present form. The issue may be reconsidered before Further Consideration Stage.

Mrs Long: The First Minister said originally that the issue might be that the clause would leave regulations open to judicial review. The Alliance Party is making the point that clause 4(5) provides cover in cases where an alternative mechanism might exist, but the choice is made not to use it.

Therefore, asking the First Minister to explore the issue retains a backstop position that covers the use of the legislation from judicial review, even when an alternative mechanism is in place. It is not our intention to frustrate the process, but simply to ensure that it is written into the Bill that alternative mechanisms will be sought. That would reassure Members who are still concerned that the Bill represents a power grab.

The First Minister: I will be very clear. The Executive will consider all the alternatives when they take a decision. The Executive will face an obvious choice at that stage. The House has heard references to Hitler, Mussolini, and I will now bring in Machiavelli; the reality is that we are talking about the normal decisions that any Executive take while considering any matter. There is no need to put every thought in our heads into a Bill. Ministers will adopt the normal process. I will certainly look at the clause again before Final Stage.

Mr Ford: I appreciate the First Minister's offer; however, it falls short of stating that due consideration will be given to the amendment in company with the Members who proposed it. It seems to amount to the First Minister saying that he might be prepared to consider it. If the First Minister could make his offer a bit stronger there may be some meeting of minds.

The First Minister: I have said that the outcome will be the same, irrespective of whether the matter is in legislation, because it is the normal good practice of Government to look at alternatives and to decide how best to proceed. Therefore, that is what would happen.

As for looking at the amendment again, I listened attentively to all the remarks made in the debate, and all those matters will be considered. I told the Member that I was sympathetic to his amendment, but what it proposes must be done in a way that does not cause delay at a time when emergency decisions must be taken, and in a way that avoids judicial review.

The amendment will be looked at again in that context. If the Member feels able to —

Mr Deputy Speaker: Sorry, First Minister. Order. There is too much talk in the Chamber. The First Minister has the Floor.

The First Minister: If the proposer of amendment No 2 feels able to withdraw it and wait until the Bill reaches its next Stage, he may do so. If he does not, I ask the Assembly to reject that amendment.

Amendment Nos 6, 7 and 8 require the designation of a Department under clause 1 to be subject to its approval, and they require any regulations that impose functions on a Department to also be subject to the approval of that Department. When viewed in isolation, those amendments may not seem unreasonable. However, they must be viewed in the wider context of decision-making under clause 1.

As we said previously, any proposal for a determination, designation or scheme, will have to go to the Executive for consideration and agreement. The views of all Ministers will need to be taken into account in reaching decisions, and, as joint Chairpersons of the Executive Committee, the deputy First Minister and I have a duty to try to ensure that such decisions are arrived at by consensus. Given the type of situation that clause 1 is designed to address, it is difficult to see any circumstances where unanimity would not be reached at Executive level.

In any case, the need for formal consent to designate the relevant Department would not arise, because the First Minister and deputy First Minister would sound out informally whether the Department was willing and able to make the regulations before designating it. It would never be in our interest to designate an unwilling Department; if the First Minister and deputy First Minister felt that an issue needed to be advanced as a matter of urgency, the last thing that they would want to do would be to put it into the hands of an unresponsive and unwilling Department. Therefore, in my view, there is no need for amendment No 7.

However, amendment Nos 6 and 8 would allow a Department, for whatever reason, to frustrate the will of the Executive as a whole by refusing to approve a scheme in which the Department had a role to play in the provision of financial assistance to prevent, control or mitigate any aspects of a set of exceptional circumstances or an emergency. That is clearly unreasonable in a backdrop where the Executive as a whole have agreed the proposed scheme and where the First Minister and deputy First Minister have fulfilled their duty to try to ensure that agreement on the scheme was reached by consensus.

I hope that the proposers of amendment Nos 6 and 8, particularly those who argue for more collective responsibility in the Executive, recognise that it would be entirely wrong for one Minister or Department to frustrate the wishes of the whole Executive and effectively give that Minister or Department a veto on operating a scheme that was agreed by the Executive. That would be contrary to the Pledge of Office, contrary to the

ministerial code, and fundamentally undemocratic. Why should one Department or Minister be able to thwart all the others? In regard to clause 2, those amendments would also give such a Minister or Department the power to thwart the will of the Assembly, because, if such a scheme were proceeding, it would have been subject to affirmative resolution in the Assembly.

Having dealt with the amendments that were tabled by Members other than the deputy First Minister and me, I will deal with those that we tabled. The deputy First Minister and I have reflected on some of the points that members of the OFMDFM Committee made and on those that were made in the earlier debates on the Bill about the scope of the enabling powers in clauses 1 and 2 and how they would operate in practice. As a consequence, we tabled amendments that are designed to improve the effectiveness of those clauses. Amendment Nos 3 and 9 were tabled to specifically restrict the potentially open-ended nature of the validity of determinations that are made under clauses 1 and 2.

Amendment No 3 will make a small, but very significant, amendment to clause 1(2). That amendment requires that regulations that contain schemes that are made under clause 1 must be made within three months of a determination by the First Minister and deputy First Minister.

Amendment No 9 will make a similar amendment to clause 2, except in the case of regulations that are made under clause 2. The time limit for making those regulations will be six months. A question arose in the debate, which I think came from the Alliance Party, as to why there was a difference between the time limits in amendment Nos 3 and 9.

The answer is simple: if we were to bring forward a scheme because there is an emergency, it should happen quickly. Both amendments have been tabled to remove some Members' concern that we were putting in place schemes that may be used at any time in future. They will specify their use, and the designated Departments will have a specified period to bring forward the schemes; we have also said that there should be some indication of the lifetime of the scheme. Therefore, it would be the responsibility of the relevant Department to make the regulations within those time frames. As Members will be aware, the Bill defines the relevant Department as the Department designated by the First Minister and the deputy First Minister, or, if none is designated, the Office of the First Minister and deputy First Minister.

4.30 pm

The time limits of three to six months will provide a discipline for the relevant Department to act promptly to put a scheme in place and to avoid any suggestion that the determination might be used inappropriately at

a much later date when the original circumstances no longer apply.

I have already indicated the reason for the difference in the time limits between clause 1 and clause 2. It is simply an acknowledgement of the greater urgency that will be attached to establishing schemes made under clause 1, which are intended to provide financial assistance to prevent, control or to mitigate the effects of exceptional circumstances. It also reflects the fact that amendment No 10, which we have also tabled, will require that regulations made under clause 2 will be subject to a higher form of Assembly control than those under clause 1. I shall say more about that amendment in a moment.

Amendment Nos 3 and 9 will significantly improve the effectiveness of clauses 1 and 2 by ensuring that there is a time link between the making of determinations and the making of subsequent subordinate legislation to give effect to those determinations.

I will now turn to amendment No 10. During last week's debates, some Members raised concerns about the approval role of the Assembly in relation to regulations made under clauses 1 and 2. To address those concerns, we have decided to amend clause 2 to increase the degree of control that the Assembly will have in respect of making regulations under clause 2.

Amendment No 10 will require regulations made under clause 2 to be subject to approval in draft by the Assembly rather than being subject to negative resolution. That means that the regulations cannot be made until after they have been approved by a resolution of the Assembly. We do not believe that there should be a corresponding change to the form of Assembly control over clause 1 regulations. Clause 1 is about taking swift and decisive action in response to an emergency or crisis. We do not believe that the Assembly control of regulations under clause 1 should be by way of draft affirmative procedure, as that could delay the Executive's reaction to a crisis by some four weeks, or considerably longer over a holiday period, while the necessary Assembly approval is obtained. We are satisfied, therefore, that negative resolution is appropriate for regulations made under clause 1. However, if the Assembly thought it necessary, it could annul the regulations through negative resolution.

I trust that the amendment will provide some reassurance to Members that the enabling powers that we are taking in clause 2 to tackle poverty, social exclusion and deprivation will, when they are invoked, be subject to the most rigorous form of Assembly scrutiny.

The final amendment that we have tabled is amendment No 11, which adds a new subsection 2 to clause 3. The new subsection provides a permissive power to enable the relevant Department to put a time limit on the duration of a scheme in the regulations

establishing that scheme. It also gives the relevant Department the power to include saving provisions in a scheme to deal with any matters or proceedings that are outstanding after the scheme has ceased to operate. The inclusion of the permissive power in the Bill will ensure that a relevant Department consciously addresses the length of time over which financial assistance needs to be operational.

This has been a useful, if protracted, debate. In the House last week, the Executive undertook to consider issues that Members raised, and, where necessary, to table amendments to the Bill. I believe that the Executive have today fulfilled that promise with a range of important amendments in response to matters raised by ministerial colleagues, Assembly Members, and, before that, by the Committee for the Office of the First Minister and deputy First Minister.

That approach is a clear example of the value of the Assembly process, even under accelerated passage, and of the willingness of the Executive to listen. We have given the Assembly an important role in relation to clause 2, and we have set time limits on the exercise of the powers contained in that clause. The Financial Assistance Bill is stronger as a result.

I also welcome the opportunity that the debate has given us to consider amendments that have been tabled by other Members. Once again, I hope that Members will accept our explanation that many of the issues that have been raised in their amendments are already catered for in legislation or by practice, and that the amendments are unnecessary and inappropriate. Therefore, I ask Members to support amendment Nos 3, 9, 10, and 11 on the Marshalled List, and to oppose, if moved, all the other amendments.

Mr Deputy Speaker: Before calling Mrs Kelly to make her winding-up speech, I remind Members yet again that any further interventions must be brief and must relate to the Bill. Members must temper their language at all times.

Mrs D Kelly: I will attempt to do justice to the many contributors to the debate, as it is my task to so do. At the outset, many Members who were not involved in tabling the ministerial amendments were at pains to point out that neither they, nor their parties, sought to restrict the accelerated passage of the Bill. We fully accept that the purpose of clause 1 of the Bill is to enable money to be paid in order to address particular situations. However, as Mrs Long said, this is not about those payments per se. It is about how the legislation will stand on the statute book and with regard to the framework for this Assembly well into the future.

Mr Elliott, who moved the amendments on behalf of the Alliance Party, the SDLP and the Ulster Unionist Party, contended that those amendments had been tabled in response to our parties' collective concerns

about the real intent of the Bill. Little has happened this afternoon to change our minds about that analysis. Mr Elliott said that the Bill represented a politburo approach, and spoke about the centralised nature of control within the DUP and Sinn Féin. He was genuinely at pains to improve the Bill; that was the genuine nature of many of the contributions made by Members from the Alliance Party, the SDLP and the Ulster Unionist Party; it is their views that I seek to represent this afternoon.

We want to ensure greater accountability, in line with parliamentary accountability elsewhere. Mr Kennedy said that clauses 1 and 2 of the Bill were “profoundly flawed and unparliamentary”, and were intended to satisfy the First Minister’s personal motivation. It will come as no surprise to Members that Mr Spratt, Mr Moutray and Mr Shannon, in defending the Executive’s amendments, were speaking on behalf of the DUP and Sinn Féin.

It is disappointing to note the lack of contributions from the Sinn Féin Benches. One wonders now whether that party is so compliant as to be silent. Where did its manifesto pledge to stand up to the DUP go? It has been singularly lacking, not only in the production of this legislation, but in the party’s contributions this afternoon.

Declan O’Loan described the Bill as loathsome, and went as far as saying that it was obnoxious. He said that it should not be accepted by any democratic Assembly.

Members from the parties opposite tried to say that the other parties did not want to make payments to the fuel poor. It is a bit obscene that, while they are introducing legislation with sweeping powers, those parties ask us not to hit them while they have the fuel poor in their arms. They are hiding behind the payments that are to be made to people and behind the emergency of fuel costs in order to bring forward sweeping powers in clauses 1 and 2 of the Bill. The First Minister said that the legislation was the most important piece of legislation to have come before the House, and my colleague Mr Attwood dealt with those comments in detail.

Clause 2 will be debated later, but Ms Anderson delivered a lecture on that part of the Bill. It is unfortunate that Sinn Féin Members are so lacking in confidence in the validity of their argument that they will not take interventions. In Ms Anderson’s contribution last week —

Mr Brady: Will the Member give way?

Mrs D Kelly: Of course I will. I am not afraid to give way to Sinn Féin; that is for sure.

Mr Brady: With regard to the fuel poor, will the Member accept that under the proposals that the Minister from her party introduced, 36,000 pensioners would have been excluded?

Mrs D Kelly: I do not accept that. For 154 days, Sinn Féin prevented the Executive from meeting to

deal with the paper and the proposals that the SDLP’s Minister brought to the Executive, which included initially, after her consultations with the Finance Minister, payments that were to be made to pensioners. We have yet to see the outworkings of what OFMDFM has now —

Mr Hamilton: Will the Member give way?

Mrs D Kelly: I will when I am ready.

Will OFMDFM be able to deliver on the promises that it has made and will £15 million be enough, because no one — *[Interruption.]*

Mr Deputy Speaker: Order. I believe that the next Member who asked to make an intervention was Mr Hamilton.

Mrs D Kelly: I was about to give way, but there were so many Members shouting at the one time. Mr Hamilton, I am happy to give way.

Mr Hamilton: I thank the Member for her indulgence.

How many pensioners were covered by the Minister for Social Development’s original proposal compared with the more recent proposal from the Executive?

Mrs D Kelly: That question would be better put to the Minister herself. Members will have opportunities to do that at Question Time and on other occasions.

The First Minister: The Member raised the question of whether the £15 million that has been allocated by the Finance Minister would be sufficient to meet the requirement to make a fuel payment to those who had been designated for that payment. Will she accept that the only Department that was engaged in being able to say how many people would be in each of those categories was the Department for Social Development? If that money is not sufficient, then only one Department and only one Minister will have to answer to the House about why there is a shortfall.

Mrs D Kelly: As I am sure the First Minister knows to his regret, the Minister for Social Development is well able to answer the questions and to give account of herself. As we said in the debate, the Minister has the necessary data to show how many people are in receipt of benefit.

I shall now return to the contributions that Members made to the debate. Ms Anderson said last week in the debate on 13 January that she welcomed clause 2. She said:

“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.” — *[Official Report, Vol 36, No 5, p222, col 2].*

Today, other Members interpreted that passage to read that clause 2 of the Bill would result in a carve-up

under which Sinn Féin and the DUP would be deciding among themselves which schemes in their constituencies should be funded and that they would raid other Departments in order to do that. One Member said that Sinn Féin and the DUP would be buying votes.

4.45 pm

The issue of trust has come up often in the debate. Frankly, we do not trust Sinn Féin and the DUP to deliver for the people. That is the bottom line. We are asked to trust them — the deputy First Minister asked us to do that last week — but we wonder why, 154 days after they began to seek a date for the devolution of policing and justice, one has not obtained. There may be an under-the-table deal yet to be produced. Why is there not equality among the partners in Government? I made that point earlier: there is a lack of equality, partnership and recognition of the electoral mandate of both the Ulster Unionist Party and the SDLP —

The Deputy Speaker: Order. The Member should address the Bill.

Mrs D Kelly: Unfortunately, Mr Deputy Speaker, I am merely reflecting the contributions that Members made earlier.

Mr Deputy Speaker: I have reminded Members not to do that. Repeating the mistake does not help.

Mrs D Kelly: As many Members have said, the Bill places an obligation on the First Minister and deputy First Minister to create an Executive that function well and harmoniously. We do not believe that the Bill will assist in that. To our cost, we know that ministerial papers — despite the explanation given earlier by the First Minister — appear an hour before meetings. Half an hour before meetings, there is not even an agenda, never mind papers. The Executive do not function well or harmoniously.

The amendments tabled by the Ulster Unionist Party, the SDLP and the Alliance Party seek to make explicit what is implicit in the Bill. They are concerned to protect the rights of Ministers to autonomy — to have a say in how their departmental budget is spent. That is the reason for our amendments. We do not believe that the amendments brought by the First Minister and deputy First Minister are sufficient to encourage or build trust.

Alliance Party Members said, on more than one occasion, that they sought by their amendments to improve the Bill and to address substantive concerns about it. They were concerned that emergency Bills would be exploited; even some of the Members opposite could not define what is meant by “emergency”. Some Members made great play of the fact that winter is coming; others seemed not to know that winter would be coming. It is not hard to understand such a reaction

from those who dispute the facts and ravages of climate change.

Alliance Party Members also said that the reason for tabling some of their amendments was to increase the degree of collective decision-making in the Executive. However, other Members said that a majority vote in the Executive would decide whether a Department’s funds or budget was raided. That gives rise to a lack of trust. The First Minister’s comments of last week that Departments under his control or that of the deputy First Minister would not be affected have been quoted back to him more than once. That is why there is a lack of trust.

Mrs Long asked the First Minister to address her concerns in relation to amendment No 11. I do not believe that the First Minister sufficiently addressed them in his response.

Mrs Long: If the Member is willing, and the First Minister keen to do so, that can still be done. I simply sought clarification that our reading of that amendment was an accurate reflection of its intention.

Mrs D Kelly: I am happy to give way, if the First Minister wishes to answer that.

The First Minister: *[Interruption.]*

Mrs D Kelly: I take it that that is a no.

Mrs Long, do you want to clarify your point further?

Mrs Long: If the First Minister had been listening to my contribution, he would know that I made it very clear what my queries were. I outlined what our understanding of amendment No 11 was, and I then asked him whether he could clarify whether that understanding was correct. It is all on the record.

Mrs D Kelly: If, at any time, the First Minister wants to answer that particular point, I would be happy to allow him to intervene. However, the First Minister appears to have indicated from a sedentary position that he has dealt with that issue, but obviously he has not done so to Mrs Long’s satisfaction. I have no doubt that she can submit a question for written answer on that matter at some date in the not too distant future.

During his contributions, Mr Attwood talked about the good faith and intentions of the two ruling parties. Although he took a rather pessimistic view, it was a very honest view, and one which Members will not be surprised to learn that I share.

In his response, the First Minister referred to the commitments and vetoes that the DUP established out of its negotiations with Sinn Féin, and there was silence from Sinn Féin on that point. That party did not dispute the fact that the DUP had wrought additional concessions from it at St Andrews.

Mr O'Dowd: To clarify that issue for the Member, and to ensure that there is no doubt in her mind, no concessions were bought from Sinn Féin at St Andrews or at any other negotiations. Furthermore, Sinn Féin did not agree to any relegation of ministerial power at those negotiations, or through this Bill. The Bill is about ensuring that, when they arise, emergencies can be tackled.

Mrs Kelly also pointed out that some Members stated that winter comes around every year, and she is quite correct in making that point. That being the case, why did the Minister for Social Development not allocate sufficient funds from her budget to cover the emergencies that arise every winter?

Mrs D Kelly: I thank the Member for his contribution; however, I did not say that those concessions were bought. Sinn Féin did not have the good sense to sell those concessions — it gave them to the DUP, and his protestations on that issue are a little late.

Furthermore, in the December monitoring round, Sinn Féin agreed to the movement to other Departments of £30 million of Department for Social Development funds, which the Minister for Social Development wanted to reallocate within her Department. Indeed, £20 million of those funds went to the Department of Agriculture and Rural Development, because of the mess that was made with Crossnacreevey. Sinn Féin has many questions to answer, but I am sure that the electorate will take those questions up with the party at some stage in the future.

This debate also partly centred on the rationale for the legislation. Although it is clear that all the parties on this side of the House support giving Ministers legislative cover under clause 1, those Members want explicit amendments, which place the Executive at the centre of both the discussions and the decision-making, to be made to the Bill.

Furthermore, although I do not want to get into the matter of the allegation of misleading of the House that will be referred to the Office of the Speaker, some clarity is required. An important question has yet to be answered properly by the First Minister. Did he receive a copy of a paper on 2 October 2008 from the Minister for Social Development that stated that financial regulations were required?

Mr Deputy Speaker: Order. That matter has already been dealt with. Furthermore, will those Members who have just arrived please note that we have established a code of conduct that means that we do not shout across the Floor but make comments through the Chair.

Mr Attwood: On a point of order, Mr Deputy Speaker, I would like to understand what your ruling is on certain matters.

Mr S Wilson: Were you not here before?

Mr Attwood: I was here, Mr Wilson, but I still require some clarity. I understand fully why an allegation of misleading the House should be referred to the Speaker. That is perfectly proper. However, it is a different matter entirely whether the First Minister confirms receipt of a paper from the Department for Social Development on 2 October 2008 on legislative cover for fuel payments.

As I understand it, that is the question that my colleague Mrs Kelly is asking. That does not affect your earlier ruling. We have yet to get an answer from the First Minister on that matter.

Mrs D Kelly: I take it that the Deputy Speaker is not going to respond to Mr Attwood on that point.

I hope that I have reflected accurately the many contributions that Members have made. It would be a fair comment to say that despite the First Minister's response at the end of their contributions, Members remain to be convinced. Members do not yet believe that enough trust has been established in the DUP and Sinn Féin to let this legislation — that is, both clause 1 and clause 2 — go through without the amendments that we sought, which were intended to provide better protection to relevant Departments, Ministers, the Executive and the Assembly.

During his contributions this afternoon, we were shown some elements of the First Minister's nature, including his domineering instincts. In one of his contributions, he said that Members of parties in the Executive should not challenge anything that the Executive is deciding, for the sole reason that their parties are in the Executive. That is a load of nonsense. This is about accountability, and it would seem that some Members do not like the accountability that goes with the power that has been vested in them as a result of their position, which exists in any democratic society.

There is not much more to add at this stage. I expect that Members — and the public — will judge this matter by the fact that three of the parties represented in this House have tabled amendments to the Bill. Indeed, I believe that the PUP Member may be in a position to support our amendments, because she seemed to share many of our concerns relating to clause 1 and clause 2. I hope that — as other Members have said — the Back-Bench Members of the DUP and Sinn Féin will listen to the thrust of the arguments made by the other parties and will stand up to their party leaders, so that they can play their centrist role in the dictatorial parties that they now belong to.

Question put, That amendment No 1 be made.

The Assembly divided: Ayes 32; Noes 52.

AYES

Mr Armstrong, Mr Attwood, Mr Beggs, Mr D Bradley, Mrs M Bradley, Mr P J Bradley, Mr Burns, Mr Cobain, Rev Dr Robert Coulter, Mr Cree, Mr Durkan, Mr Elliott, Dr Farry, Mr Ford, Mr Gallagher, Mr Gardiner, Mrs Hanna, Mrs D Kelly, Mr Kennedy, Ms Lo, Mrs Long, Mr A Maginness, Mr McCallister, Mr McClarty, Mr B McCrea, Dr McDonnell, Mr McFarland, Mr McGlone, Ms Purvis, Mr P Ramsey, Mr K Robinson, Mr Savage.

Tellers for the Ayes: Mr Attwood and Mr Kennedy.

NOES

Ms Anderson, Mr Boylan, Mr Brady, Mr Bresland, Mr Brolly, Lord Browne, Mr Buchanan, Mr Butler, Mr T Clarke, Mr W Clarke, Mr Craig, Mr Dodds, Mr Easton, Ms Gildernew, Mr Hamilton, Mr Hilditch, Mr Irwin, Mr G Kelly, Mr A Maskey, Mr P Maskey, Mr F McCann, Ms J McCann, Mr McCartney, Mr McCausland, Mr I McCrea, Dr W McCrea, MrMcElduff, Miss McIlveen, Mr McKay, Mr McLaughlin, Mr McQuillan, Lord Morrow, Mr Moutray, Mr Murphy, Mr Newton, Ms Ni Chuilín, Mr O'Dowd, Mrs O'Neill, Mr Paisley Jnr, Ms S Ramsey, Mr G Robinson, Mrs I Robinson, Mr P Robinson, Mr Ross, Ms Ruane, Mr Shannon, Mr Simpson, Mr Spratt, Mr Storey, Mr Weir, Mr Wells, Mr S Wilson.

Tellers for the Noes: Miss McIlveen and Mr Moutray.

Question accordingly negatived.

Question put, That amendment No 2 be made.

The Assembly divided: Ayes 31; Noes 52.

AYES

Mr Armstrong, Mr Attwood, Mr Beggs, Mr D Bradley, Mrs M Bradley, Mr P J Bradley, Mr Burns, Mr Cobain, Rev Dr Robert Coulter, Mr Cree, Mr Durkan, Mr Elliott, Dr Farry, Mr Ford, Mr Gardiner, Mrs Hanna, Mrs D Kelly, Mr Kennedy, Ms Lo, Mrs Long, Mr A Maginness, Mr McCallister, Mr McClarty, Mr B McCrea, Dr McDonnell, Mr McFarland, Mr McGlone, Ms Purvis, Mr P Ramsey, Mr K Robinson, Mr Savage.

Tellers for the Ayes: Dr Farry and Ms Lo.

NOES

Ms Anderson, Mr Boylan, Mr Brady, Mr Bresland, Mr Brolly, Lord Browne, Mr Buchanan, Mr Butler, Mr T Clarke, Mr W Clarke, Mr Craig, Mr Dodds, Mr Easton, Ms Gildernew, Mr Hamilton, Mr Hilditch, Mr Irwin, Mr G Kelly, Mr A Maskey, Mr P Maskey, Mr F McCann, Ms J McCann, Mr McCartney, Mr McCausland, Mr I McCrea, Dr W McCrea,

Mr McElduff, Miss McIlveen, Mr McKay, Mr McLaughlin, Mr McQuillan, Lord Morrow, Mr Moutray, Mr Murphy, Mr Newton, Ms Ni Chuilín, Mr O'Dowd, Mrs O'Neill, Mr Paisley Jnr, Ms S Ramsey, Mr G Robinson, Mrs I Robinson, Mr P Robinson, Mr Ross, Ms Ruane, Mr Shannon, Mr Simpson, Mr Spratt, Mr Storey, Mr Weir, Mr Wells, Mr S Wilson.

Tellers for the Noes: Ms Anderson and Ms J McCann.

Question accordingly negatived.

Amendment No 3 made: In page 1, line 9, after “may” insert

“, at any time within 3 months from the date of the determination under subsection (1),”. — [The First Minister (Mr P Robinson).]

Question put, That amendment No 4 be made.

The Assembly divided: Ayes 31; Noes 52.

AYES

Mr Armstrong, Mr Attwood, Mr Beggs, Mr D Bradley, Mrs M Bradley, Mr P J Bradley, Mr Burns, Mr Cobain, Rev Dr Robert Coulter, Mr Cree, Mr Durkan, Mr Elliott, Dr Farry, Mr Ford, Mr Gardiner, Mrs Hanna, Mrs D Kelly, Mr Kennedy, Ms Lo, Mrs Long, Mr A Maginness, Mr McCallister, Mr McClarty, Mr B McCrea, Dr McDonnell, Mr McFarland, Mr McGlone, Ms Purvis, Mr P Ramsey, Mr K Robinson, Mr Savage.

Tellers for the Ayes: Mr Attwood and Mr P J Bradley.

NOES

Ms Anderson, Mr Boylan, Mr Brady, Mr Bresland, Mr Brolly, Lord Browne, Mr Buchanan, Mr Butler, Mr T Clarke, Mr W Clarke, Mr Craig, Mr Dodds, Mr Easton, Ms Gildernew, Mr Hamilton, Mr Hilditch, Mr Irwin, Mr G Kelly, Mr A Maskey, Mr P Maskey, Mr F McCann, Ms J McCann, Mr McCartney, Mr McCausland, Mr I McCrea, Dr W McCrea, MrMcElduff, Miss McIlveen, Mr McKay, Mr McLaughlin, Mr McQuillan, Lord Morrow, Mr Moutray, Mr Murphy, Mr Newton, Ms Ni Chuilín, Mr O'Dowd, Mrs O'Neill, Mr Paisley Jnr, Ms S Ramsey, Mr G Robinson, Mrs I Robinson, Mr P Robinson, Mr Ross, Ms Ruane, Mr Shannon, Mr Simpson, Mr Spratt, Mr Storey, Mr Weir, Mr Wells, Mr S Wilson.

Tellers for the Noes: Mr Bresland and Mr T Clarke.

Question accordingly negatived.

Question put, That amendment No 5 be made.

The Assembly divided: Ayes 31; Noes 52.

AYES

Mr Armstrong, Mr Attwood, Mr Beggs, Mr D Bradley, Mrs M Bradley, Mr P J Bradley, Mr Burns, Mr Cobain, Rev Dr Robert Coulter, Mr Cree, Mr Durkan, Mr Elliott, Dr Farry, Mr Ford, Mr Gardiner, Mrs Hanna, Mrs D Kelly, Mr Kennedy, Ms Lo, Mrs Long, Mr A Maginness, Mr McCallister, Mr McClarty, Mr B McCrea, Dr McDonnell, Mr McFarland, Mr McGlone, Ms Purvis, Mr P Ramsey, Mr K Robinson, Mr Savage.

Tellers for the Ayes: Mr Kennedy and Mr McCallister.

NOES

Ms Anderson, Mr Boylan, Mr Brady, Mr Bresland, Mr Brolly, Lord Browne, Mr Buchanan, Mr Butler, Mr T Clarke, Mr W Clarke, Mr Craig, Mr Dodds, Mr Easton, Ms Gildernew, Mr Hamilton, Mr Hilditch, Mr Irwin, Mr G Kelly, Mr A Maskey, Mr P Maskey, Mr F McCann, Ms J McCann, Mr McCartney, Mr McCausland, Mr I McCrea, Dr W McCrea, Mr McElduff, Miss McIlveen, Mr McKay, MrMcLaughlin, Mr McQuillan, Lord Morrow, Mr Moutray, Mr Murphy, Mr Newton, Ms Ní Chuilín, Mr O'Dowd, Mrs O'Neill, Mr Paisley Jnr, Ms S Ramsey, Mr G Robinson, Mrs I Robinson, Mr P Robinson, Mr Ross, Ms Ruane, Mr Shannon, Mr Simpson, Mr Spratt, Mr Storey, Mr Weir, Mr Wells, Mr S Wilson.

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

Question accordingly negated.

Mr Deputy Speaker: I remind Members that amendment Nos 6 and 8 are mutually exclusive. Therefore, if amendment No 6 is made, I will not call amendment No 8.

Question, That amendment No 6 be made, put and negated.

Question, That amendment No 7 be made, put and negated.

Mr Deputy Speaker: Amendment No 6 was negated, so I will proceed to call amendment No 8.

Question, That amendment No 8 be made, put and negated.

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

Clause 2 (Unsatisfactory funding arrangements: power to provide financial assistance)

Amendment No 9 made: In page 2, line 16, after “may” insert

“, at any time within 6 months from the date of the determination under subsection (1),” — [The First Minister (Mr P Robinson).]

Amendment No 10 made: In page 2, line 27, leave out subsection (5) and insert

“(5) No regulations shall be made under this section unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.” — [The First Minister (Mr P Robinson).]

Mr Deputy Speaker: We now come to the debate on opposition to clause 2, which stands in the name of Mrs Naomi Long, Mr Danny Kennedy and Mrs Dolores Kelly.

Question proposed, That the clause, as amended, stand part of the Bill.

(Mr Speaker in the Chair)

Mrs Long: I oppose the notion that clause 2 stand part of the Bill. Many of the issues that I will raise today, I also raised last week. Unlike with clause 1, OFMDFM made very little effort to address those issues in any meaningful way. [Interruption.]

Mr Speaker: Order. Members should leave the Chamber in an orderly fashion. Mrs Long has the Floor.

Mrs Long: Mr Speaker, I thank you for your assistance. I seem to have the knack of clearing the House.

Much of what I will raise today on clause 2, I also raised last week. However, having reviewed the Hansard report of last's week debate carefully, I note that, unlike with clause 1, OFMDFM made very little effort to address the concerns about clause 2 in any meaningful way. The Ministers gave more detailed consideration to the issues that were raised in relation to clause 1.

At all stages of the Bill — during the debate on accelerated passage, at Second Stage and as latterly as during today's Consideration Stage — Members on all sides of the House have made it very clear that they recognise the exceptional economic situation in which we currently find ourselves. There is a crisis in the global economy, and the financial hardship that is being experienced throughout our community is being felt by all. Undoubtedly, that has made the effects of poverty and deprivation more acute.

However, those issues are not new. As far as possible, each Department should have been tackling them proactively, as a matter of priority. In that respect, the clause 2 provisions are quite distinct from those of clause 1. The urgency to have the clause 1 provisions in place to allow action to be taken in exceptional circumstances is a different urgency from that associated with clause 2, which deals with inadequacies in the current funding arrangements — of which I think we have been aware for some time.

Clause 1 deals with exceptional circumstances. However, clause 2 tackles the cross-cutting themes of poverty, social exclusion and patterns of deprivation. There is a distinct difference. Under clause 1, a rapid

response is required for emergency situations. However, clause 2 allows the Department to tackle — potentially more effectively — poverty, social exclusion and patterns of deprivation. A distinction has been noted in the specified periods of time for laying a scheme under the two clauses: three months under the first, due to the urgency; six months under the second, because it is less urgent. The First Minister reiterated that fact a number of times in the Chamber today.

There was some debate last week about urgency. I want to return to a rather pedantic point that my colleague David Ford and I made to the deputy First Minister. The issue we raised was not that there was no urgency in tackling poverty — we accept that there is such urgency — but rather whether we urgently need to change the mechanism for dealing with those cases. Our argument is that the provisions for emergency and exceptional circumstances in clause 1 allow, in exceptional circumstances, interventions to be undertaken in the meantime, while full Committee consideration of clause 2, as a separate Bill, would be able to take place.

We believe that the level of urgency attached to clause 1 that made accelerated passage acceptable does not exist in respect of clause 2.

6.00 pm

No one in the Chamber questions the need to tackle poverty and social exclusion proactively. However, some may question whether that has happened. One need only consider the child poverty inquiry, which is still awaiting a formal response from OFMDFM, as evidence that, at times, the approach has been less than proactive. I will go further and say that the Alliance Party recognises, and has highlighted in Committee and in the Chamber, that the current arrangements for dealing with cross-cutting issues are inadequate. That is the case particularly, but not exclusively, in respect of poverty, social exclusion and patterns of deprivation.

OFMDFM does have particular responsibilities in those matters. Therefore, power-grabbing is less of an issue in clause 2, because the Department already has the responsibility to tackle poverty, social exclusion and other cross-cutting issues. However, those other cross-cutting issues include children, older people, equality, community relations and sustainability, and the arguments being made for clause 2 — that policy on poverty and social exclusion is not necessarily easily controlled by OFMDFM when other Departments are responsible for delivery — could be made for any of them. In the case of the other cross-cutting issues, the policy drivers are in OFMDFM but other Departments are responsible for delivery. At present, the Programme for Government is the only mechanism for ensuring that those cross-cutting themes are adequately prioritised and delivered on by Departments.

It is conceivable that internal pressure on departmental budgets and priorities might mean that Departments do not prioritise, or address, cross-cutting issues with the enthusiasm that OFMDFM wishes. From the Alliance Party's perspective, there is no question that additional mechanisms are needed in order to deal with cross-cutting issues. Therefore, we have made it clear that we support the intention in clause 2 to address an identified defect in the governance arrangements for cross-cutting matters.

One of our main concerns is the fact that clause 2 deals with the inadequacy that exists for only one cross-cutting theme, albeit that it is an important one, particularly in the current economic climate. We want to see the capacity gap filled in relation to all cross-cutting themes, and we believe that the possibility of doing so could, and should, have been explored had the Bill been afforded a Committee Stage. The argument for accelerated passage related specifically to the issues in clause 1; the issues in clause 2 could, and should, have been subject to fuller exploration. Even if the measures that would arise from such consideration were ultimately only applicable to poverty and social exclusion, I am not convinced that clause 2 is the only, or best, way in which to achieve that objective — co-ordination of policy delivery in other Departments by OFMDFM is a wider issue.

The Committee's discussions on poverty and social exclusion included much debate about other mechanisms. Some Members have, for example, already referred to the Executive programme funds and other special funds as a way in which to co-ordinate the Government approach to cross-cutting themes. The limitations of that are recognised — there is often a stop-start delivery process, with people receiving three years of funding and then finding themselves without funding.

An alternative method would be to ring-fence parts of departmental budgets using certain criteria and priorities in the Programme for Government — a method used elsewhere. Furthermore, the use of in-year monitoring rounds is another, more distant, lever by which to ensure that departmental priorities are aligned properly, because that mechanism lies with DFP rather than OFMDFM.

Full Committee consideration of the issues in clause 2 is critical if we are to ensure that all the options have been fully considered, thought through and explored, even to the point of elimination. It is not clear that that has happened. The Bill is another mechanism to tackle cross-cutting themes, but it would be helpful if its provisions were brought back to the OFMDFM Committee in the form of a separate Bill, where those provisions could be fully explored and debated.

On several occasions in recent weeks, the First Minister has expressed frustration that Members at this

end of the Chamber do not appear to be listening to what he says. I hope that my contributions so far in the debates show him that we have been listening, if not necessarily agreeing. However, the same charge could be levelled fairly at Members at the other end of the Chamber, because when the First Minister was summing up last week, he paraphrased my intervention by saying:

“The Member for East Belfast Naomi Long said that clause 2 is not required for cross-departmental working because existing arrangements should suffice.” — [*Official Report, Vol 36, No 5, p239, col 1*].

Actually, that was the assurance that the junior Ministers gave us on many occasions when we pressed them on the delivery of cross-cutting themes — it was not my assertion. If the First Minister refers to the Hansard report, he will see that I actually said:

“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 nauseam, 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.” — [*Official Report, Vol 36, No 5, p227, col 1*].

Therefore, we were acknowledging that clause 2 addresses a defect in the governance arrangements. We are unclear about why only one cross-cutting issue is being tackled, because several issues would benefit from such an intervention. More importantly, we are unclear as to why that is being done with such undue haste, when a Committee Stage would have allowed us to explore the opportunities by examining other cross-cutting themes. A Committee Stage would have also allowed us to take advice from and consult with those who are engaged in work on poverty and social exclusion, in order to ascertain which of the many available mechanisms to ensure delivery of OFMDFM priorities would be the best fit for the particular set of arrangements in our Government. A Committee Stage would also have allowed us to scrutinise fully all the various aspects of clause 2.

It is clause 2 that has led to concerns from some Members about its becoming a Trojan Horse. It is clear from clause 1 what the Bill's intentions are, but clause 2 appears to have been added on. It is, in some ways, not necessary for the delivery of the aims and objectives of financial assistance in emergency situations. That raises questions as to why it forms part of the Bill.

I do not want to labour that point, because I would prefer to hear the First Minister explain the rationale for clause 2. It would be better were clause 2, as amended, not ordered to stand part of the Bill, and if the First Minister and deputy First Minister were to put the provisions in clause 2 into a separate piece of legislation, which would then be subject to a Committee

Stage. I do not anticipate any need for that process to be slow or delayed, and it would give us the opportunity to fully scrutinise the provisions, take consultation and give detailed thought to the Bill.

In the interim, that would not have any effect on the delivery of the Bill's first use, which is dealt with in clause 1, nor on any intervention in exceptional circumstances that relate to poverty and social exclusion, which are also covered under clause 1. Therefore, if issues arose in the interim that led the First Minister and the deputy First Minister to feel that there were exceptional circumstances and that their intervention was required on issues of poverty, social exclusion and deprivation, they would be able to apply the provisions in clause 1.

From that perspective, there is nothing to be lost, but potentially much to be gained, from eliminating clause 2 from the Bill and returning it to the House as a new piece of legislation.

Mr Shannon: Naomi Long and I were speaking beforehand, and we realised that the matter had probably been discussed fairly widely earlier. Nevertheless, I wish to add some brief comments in support of the retention of clause 2 of the Bill. I am a member of the Committee for the Office of the First Minister and deputy First Minister, and, as many Members are aware, over the past 18 months, we have dealt with some of the many cross-cutting, cross-departmental matters that are the responsibility of OFMDFM. We have considered the anti-poverty strategy, the victims' strategy, the draft children's strategy action plan, and many other documents relating to poverty and social deprivation. It has become very clear through those discussions that although the Department has responsibility for those strategies, it rarely has any financial power to accompany that responsibility.

As a member of that Committee, I have repeatedly raised my concerns and frustrations about the Department's lack of ability to fund directly or ring-fence funding for those important issues. Those sentiments have also been echoed by Committee members from the SDLP, the Alliance Party, the Ulster Unionist Party and Sinn Féin. In fact, one of the agreed recommendations of the child poverty inquiry was that OFMDFM would examine more effective ways of ensuring funds and ring-fenced funding for anti-poverty and child-poverty issues, which we all have to deal with. Therefore, I find it hard to understand that when OFMDFM puts forward a proposal to provide a mechanism to fund those cross-cutting anti-poverty and social-deprivation issues, there is some opposition from Members who are also members of that Committee.

I welcome the proposal for clause 2. It has the potential to make a real and significant impact. It also provides, for the first time, a possible fund to accompany

the key actions arising out of the anti-poverty strategy, which the Committee has considered.

Mrs Long: Will the Member indicate where the Bill provides a ring-fenced fund for anything? It simply provides an enabling power to allow OFMDFM to intervene in such circumstances as it feels it is necessary. It is not actually creating a fund or doing anything of the sort that he has just described.

Mr Shannon: I disagree with the Member. We discussed the issue at the Committee meeting last week, we had some input into the process, and questions were asked of the junior Ministers. My wording is very clear: I said that it provides a possible fund to accompany the key actions arising out of the anti-poverty strategy, which we all agreed to. We hope that the creation and retention of clause 2 will address that issue.

In my eyes, it is an example of some Members endeavouring to undermine and collapse the Bill. They say that they are not doing that, but that is what it seems like. It is a Bill that is for the betterment of people who are struggling in society.

Mr Ford: Will the Member give way?

Mr Shannon: I will give way in a moment. It is a Bill that will, in times of trouble and trial, provide people who are living on the breadline with much-needed financial assistance.

Mr Ford: I am grateful as ever to Mr Shannon for giving way. He said that some Members are seeking to collapse the Bill, but he is going way beyond what Naomi Long spoke about in proposing the opposition to clause 2. The Bill stands, as far as we are concerned, because clause 1 is essential to deal with urgent matters. The issue that is being made from this corner of the House is the need to have proper powers of scrutiny over the contents of clause 2. That is not collapsing the Bill; that is ensuring that what is required urgently goes through urgently, and that which requires detailed consideration is given detailed consideration.

Mr Shannon: I thank the Member for his intervention. Supporting the retention of clause 2 would be a clear example that there is no intention to do that. If clause 2 were removed, it would hinder the Executive in tackling poverty, addressing social exclusion and all patterns of deprivation. Is that what Members want? The Bill provides the Executive with the ability to assist at an early opportunity, to address the shortfall and to provide swift and effective financial assistance where unsatisfactory funding arrangements are causing poverty and social exclusion.

In speaking to this group of amendments, it would not be wrong of me to refer back to amendment No 10. If the Members who have voiced their concerns would care to study it, they would realise that if it is moved, it will ensure that not only do their Executive Ministers

have a say in the regulations — owing to the ministerial code as set out in the St Andrews Agreement — but they will have a say in the House before any regulations can be made or brought forward.

6.15 pm

The retention of clause 2 makes it clear to the Northern Ireland electorate that OFMDFM, the First Minister, the deputy First Minister and my party care about those who are struggling to pay their bills, struggling with poverty and deprivation, and struggling against exclusion. Clause 2 also demonstrates the commitment of the First Minister, the deputy First Minister and my party to taking real action on such difficult issues. I urge Members who care about those who are most in need to support the retention of clause 2.

Ms Anderson: I wish to make several points about the notice of intention to oppose the question that clause 2 stand part of the Bill. Clause 2 is not, as has been suggested, a power grab. Specifically, Dolores Kelly claimed during last week's debates on the Bill that clause 2:

“has the potential to amount more to a carve-up of power and resources than to a power-sharing arrangement.” — [*Official Report, Vol 36, No 5, p212, col 1*].

That is simply not true. That fact is that the legislation that would allow OFMDFM to transfer powers, roles and responsibilities from other Departments already exists. OFMDFM does not need clause 2 for such transfers, because the law as it stands already allows it to transfer functions from one Department to another. Indeed, the First Minister confirmed that today. Let us put that argument to bed straight away and concentrate on the real motivation behind clause 2 and the Bill as a whole.

The purpose of the Bill is to provide assistance to people now —

Mrs Long: Will the Member give way?

Ms Anderson: No, I will not. We have had enough interventions today, and I do not intend to subject the House to any more.

The purpose of the Bill is to provide assistance to people now, and to give us a legal framework to allow for swift and effective intervention during any future crisis. The Bill is about addressing objective need and ensuring that effective, cross-cutting departmental approaches can be put in place in order to assist people. All of us are aware of strategies and programmes that look great on paper, but deliver nothing, because they did not enjoy a cross-departmental approach. Last week, I said that I welcomed clause 2, and I believe that many in civic society will do likewise. The Committee for the Office of the First Minister and deputy First Minister has heard —

Mrs Long: Will the Member give way?

Ms Anderson: Absolutely not.

The Committee for the Office of the First Minister and deputy First Minister has heard evidence from many groups and organisations that deal with child poverty. Clause 2 gives the First Minister and the deputy First Minister, acting jointly, the power to determine those situations in which financial assistance must be provided in order to tackle poverty, social exclusion and patterns of deprivation. That is, of course, subject to the approval of the Executive and the Assembly, as stated in amendment No 10 to clause 2, which reads, if needed, because it may not be understood:

“No regulations shall be made under this section unless a draft of the regulations has been laid before, and approved by a resolution of, the Assembly.”

Mr B McCrea: Will the Member give way?

Ms Anderson: Absolutely not. I am not going to give way during this debate. I ask the Member to respect my decision.

Mr B McCrea: On a point of order, Mr Speaker.

Mr Speaker: If the point of order is a procedural point, I am happy to take it. If it is not, I ask the Member to take his seat.

Mr B McCrea: It is a real point of order. I am happy to be guided by you on this matter, and perhaps you can help me. Instructions or communications were given or made about not reading speeches. If we are not going to be allowed to intervene, why do we not just publish —

Mr Speaker: Order. I ask the Member to take his seat.

Ms Anderson: Go raibh maith agat.

Clause 2 aims to plug the obvious capability gap that exists in addressing social need. A legal observation of the amendment opposing clause 2 reveals that its adoption could result in a judicial review that might potentially delay the implementation of a scheme aimed at tackling poverty, deprivation and social need. Many Members have said time and again that there must be a joined-up approach to the issue, on which the electorate rightly demands action. Clause 2 will give the Executive the opportunity and the authority to plug those gaps, and to effect action when social need has been identified.

The Committee for the Office of the First Minister and deputy First Minister has completed its inquiry into child poverty, and has made 49 recommendations.

Many of those recommendations required a cross-departmental approach to ensure that they are effective and that they can deliver real, meaningful change to children. Without such an approach, those recommendations will, in all likelihood, remain unimplemented, and we will fail to achieve our stated aims of halving child poverty by 2010 and eradicating it by 2020. The

first child poverty deadline is less than a year away, and it is clear that unless we begin to make positive interventions now, there will be no hope of achieving those laudable objectives. Clause 2 aims to provide the tool to do just that, if required.

The notice that was given to oppose that clause 2 stand part of the Bill has less to do with fear of a power grab and more to do with the fact that a number of parties and Members are seeking to go into opposition, rather than seeking to deliver change for the people. That is opposition for opposition's sake, and they are not considering the merit of each case. The opposing parties are concerned that the Executive, which are headed by the DUP and Sinn Féin, will deliver. Their opposition emanates from the fact that the SDLP and the UUP are simply increasingly afraid of the Executive delivering because the last one, of which they were the central parties, did not step up to the mark.

The people are crying out for power sharing to be delivered. They want the process to work, and they want their elected representatives to make a meaningful difference to their lives. The Financial Assistance Bill, particularly clause 2, can help us to do just that. Therefore, I oppose the notice that was given to oppose that clause 2 stand part of the Bill. The three opposing parties are trying to prevent a mechanism from being put in place that would allow the Executive to put schemes in place swiftly to tackle poverty and deprivation. Shame on you all. Sinn Féin does not support the opposition to the clause. Go raibh míle maith agat.

Mr Kennedy: I am grateful for the opportunity to speak as an Ulster Unionist Party Member. I do not speak, in any capacity, as the Chairperson of the Committee for the Office of the First Minister and deputy First Minister.

Clause 2 represents the underlying motivations of the Bill, and our concerns about it. The title of clause 2 is:

“Unsatisfactory funding arrangements: power to provide financial assistance”.

For that, one can read: the chief executive and political committee of the Sinn Féin/DUP axis, otherwise known as the politburo.

Clause 2 will potentially give powers to the First Minister and deputy First Minister to intervene in any Department's functions, if they deem it necessary, to tackle poverty, social inclusion or patterns of deprivation based on objective need. In my view, the clause deviates from the original objective of the Bill, and it is, therefore, undemocratic. It represents a significant accumulation of power in the hands of the First Minister and deputy First Minister.

It is a sad reality that poverty, social inclusion and patterns of deprivation are apparent in all societies and that, unfortunately, those will be present for the foreseeable future. That is deeply regrettable, but the

Bill potentially means that Peter Robinson and Martin McGuinness have, essentially, given themselves unbounded and overreaching power into each Department in Northern Ireland.

The only reasons that the First Minister and deputy First Minister must give to enforce policy on other Departments is if they deem that no arrangements are in place to provide financial assistance, or if they deem that those that are in place are ineffective or inadequate. Those are potentially sweeping, unaccountable and cross-cutting powers.

The extent of the power grab was perfectly represented by the contribution of the previous Member who spoke in the debate.

The First Minister: Is the Member aware that OFMDFM already has a role and a responsibility in that area of activity? It is not grabbing power; the Department already has those responsibilities. Moreover, is he aware that far from the First Minister and deputy First Minister taking any decisions on such matters, those decisions will go to the Executive and in the case of clause 2, all of them will come before the House before they are acted upon?

Mr Kennedy: I thank the First Minister for his contribution. Would that the First Minister and deputy First Minister would take decisions to deal with some of those issues effectively — they have not done so in the past.

The extent of the potential power grab, which clause 2 represents, was described by Martina Anderson, when speaking on the motion for accelerated passage on 13 January:

“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.” — [*Official Report, Vol 36, No 5, p222, col 2*].

She continued:

“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”. — [*Official Report, Vol 36, No 5, p222, col 2*].

I hope that there will be opportunity for the First Minister to correct the Member for Foyle if she has given an unfair assessment of what the Bill represents. Does it represent a glory-hunting power grab by the First Minister and deputy First Minister and a significant sea change in the make up and workings of the Executive in Northern Ireland?

On 14 August 2006, Mr Robinson, speaking of the make-up of devolved Government, said:

“First, I do not feel that OFMDFM has too much work to do — I do not object to the Department having plenty to do. My problem is when it gets involved in areas that are better placed elsewhere, and that, in some cases, have already been placed with other Departments. I am more concerned about duplication than whether the Department has too much work. Frankly, there is not an awful lot of day-to-day executive decision-making in OFMDFM”.

It appears that the First Minister’s desire to have day-to-day Executive decision-making placed in his Department has overtaken his desire to reduce duplication, or his problem with OFMDFM getting involved in areas that are better placed elsewhere. The lack of Executive decision-making power obviously does not sit well with his image of what a First Minister should be doing. In essence, clause 2 is as much about seeking to cover the First Minister and deputy First Minister in some glory as about seeking to help the vulnerable.

If the First Minister wants to reduce hardship, social exclusion and poverty, he and the deputy First Minister would be much better getting on with the jobs over which they have power.

The First Minister: Will the Member give way?

Mr Kennedy: The First Minister will have his opportunity to respond.

They would do much better to come up with policies to tackle child poverty, publish the repeatedly delayed cohesion, sharing, and integration strategy, and co-ordinate the agreements in the Programme for Government that commit the entire Executive to tackling poverty and social exclusion.

Practically every Department has programmes and spending to address the issues. It is the job of OFMDFM to help them to achieve their targets. It is not its job to dictate what must be done or to take power away from individual Ministers and Departments. If this clause is passed, the Executive and the Assembly may well be reduced to little more than a parish council, rubber-stamping the decisions of the DUP and Sinn Féin. In light of yesterday’s debate on reducing the number of Government Departments, the Bill may well achieve that goal prematurely.

What will be the point of thousands of civil servants devising policies and recommendations, only for them to be overruled by the First Minister and deputy First Minister? The Bill makes the calls for efficiency savings seem laughable.

6.30 pm

This is potentially a politburo Bill. No one in the Assembly, regardless of party allegiance, should be mistaken about the serious ramifications that the Bill may have for the workings of the Executive. Furthermore, it has the potential to be deeply divisive, not just among the parties, but between Ministers in the same Executive.

I ask all Members to reflect on those issues. I oppose clause 2.

Mr Attwood: First, I apologise for missing the early part of the debate. I was called to a meeting.

When I spoke in the previous debate on the Bill, my colleague Declan O’Loan suggested that I was outlining a thesis; therefore this speech will be a postscript to what has gone before. In many regards, some of my thinking has been anticipated by Mr Kennedy in his speech, and I only want to make a number of small points.

As outlined by Mr Kennedy — there are whispers in the corridors of this Building that the First Minister and the deputy First Minister are not on the same page on a range of matters that are currently within their remit. As I understand it, issues surrounding the Commission for Victims and Survivors and the programme for work have yet —

Mr Speaker: Order. I must insist that the Member sticks to the business that is directly on the Floor of the House, and that, as far as possible, he does not stray outside of that.

Mr Attwood: I accept your ruling; however, that was the first point of substance that I have made, and I have already been called to account when I have not yet finished my sentence, never mind my argument. I ask for some latitude so that the point made by Mr Kennedy, and the point that I am going to echo, can be reiterated on the Floor of the Chamber.

Returning to my point, even before the First Minister and deputy First Minister assume the additional responsibilities outlined in clause 2 of the Bill, there are concerns, whispers, indications and evidence that matters are not being handled promptly and quickly. For example, I have heard that Executive papers and agendas are only being signed off at the eleventh hour, in anticipation of Executive meetings.

I have outlined what might be happening with respect to the work of the Commission for Victims and Survivors, and Mr Kennedy has referred to the proposals on cohesion, sharing and integration. I have also heard that there are some tensions surrounding the approval of —

Mr Speaker: Order. The Member knows well what he is doing, and I ask him to stop it. I must insist that the Member returns to the business that is directly on the Floor of this House.

Mr Attwood: I am coming to the point that you have just made, Mr Speaker. I find that there is a tension between clause 2 of the Bill and the fact that only a matter of weeks after 153 days of Executive suspension; following the welcome restoration of that Executive, and when things are still settling down, that there is a tension between the First Minister, the deputy First Minister, and their respective parties in

taking on the responsibilities that are contained in clause 2. That is in the context where the responsibilities that that office currently has, it has been reported, are not being managed promptly, reasonably and efficiently in some regards.

When that appears to be the situation, why do the First Minister and the deputy First Minister wish to take on the responsibilities contained in clause 2 of the Bill? The answer — which was suggested in an earlier intervention that the First Minister may want to respond to — is supplied in the comments of Martina Anderson in an earlier debate on the Bill.

In a scripted commentary — presumably endorsed and approved by her party to reflect how it views clause 2 of the Bill — the Member for Foyle made it unambiguously clear, as Danny Kennedy outlined in his speech, what Sinn Féin believed to be the intention of clause 2, ending with the words:

“That is a significant sea change”. — [*Official Report, Vol 36, No 5, p222, col 2*].

Therefore, when I look at OFMDFM and how it manages the current business, and when I see that, for political reasons, it is overreaching in taking on other responsibilities, I draw conclusions from what Sinn Féin — presumably speaking on behalf of the deputy First Minister — said: “a significant sea change”. I am affirmed in that view by how the First Minister replied to Mr Kennedy from a sedentary position just a few minutes ago. When Mr Kennedy was speaking — and I took a note of this — the First Minister muttered to Mr Danny Kennedy that OFMDFM was already dealing with issues of poverty and social deprivation.

The First Minister: I did not mutter it; I said it as an intervention.

Mr Attwood: I have heard a lot of your comments today, First Minister — there have been mutterings under your breath in response to various things that have been said on the Floor.

The point is that the First Minister is trying to portray the Bill as run-of-the-mill, more of the same, an extension of what OFMDFM does already, yet that contention was exposed by the comments of Martina Anderson in a previous debate when she said that this is a significant sea change. I would submit that that is the truth of the matter: that the truth of clause 2 is to create a significant sea change, in not just the powers and responsibilities of OFMDFM, but in the culture around the Executive table and in the relationship with all other Ministers.

Given that there are, clearly, people who privately have ambitions in respect of how clause 2 might be managed and rolled-out over coming months in various initiatives, I suggest that we need to guard against those who see this as a significant sea change, and who have ambitions and intentions around what

that sea change would look like, how it will impact on the authority of the Assembly, the Committees and Ministers, and how will that fundamentally change the culture of what this Government should be.

Mr B McCrea: It has been a long day — I have been in the Chamber since 10.30 am and I have discussed everything from the financial side of things to the issues that are now in front of us. The issue with regard to the heart of the opposition to this particular clause is the fear, as yet unreconciled, about a power grab.

I understand, and have tried to accept in previous debates, that there are certain difficulties with the form of Government in which, for historic reasons, we find ourselves. It is difficult to run a Government when there is no unifying vision about the way forward and whether the state itself should actually exist. Many people in the Executive have completely different strategic objectives. I understand that that creates difficulties and yet, in these trying times, we need to find some way of providing an effective collective response.

There is — if I may make a mild criticism, but only by way of trying to be helpful — a sense that Ministers act like medieval barons, who do not accept the central authority and just do what they want from their castle. I would like to find a way to get people to work together in a collectivism that is based on mutual respect and an idea that we should try to resolve things together.

I heard the First Minister speak in the conclusion to the debate on clause 1. I may not have got it absolutely correct — although he will, no doubt, correct me if I have not — but he said that he shared the idea about collectivism and that, in his own opinion, he would want more control, as it were; a more collective approach.

The argument is about balance and about whether this is the most appropriate way to address the issue.

One of the accusations — I think that it was made by the First Minister, among others — is that people do not listen. However, I listened to Mrs Long in this and in previous debates. The aims of the Bill could be achieved in a stand-alone piece of legislation.

My concern is that clause 2 — which gives wide-ranging powers — is being tagged on to a provision that is necessary and immediate. However, the powers in clause 2 are not connected with the need to provide financial assistance in exceptional circumstances. Some Members have said that we should not judge the legislation by its first use.

I am worried about the tone of the debate: it does not seem helpful that people who express legitimate concerns are ridiculed or told that they do not listen or that they are stupid. If Members are misinformed or are of a different opinion, surely we should try to enlighten them through reasoned debate. That is why I find it very strange to be reminded repeatedly by the

First Minister that our concerns can be discussed by the Executive and that they will be brought to the Assembly. What is the point of bringing them to the Assembly if all that we get is the reading of prepared scripts that allow no intervention or engagement to resolve the issues collectively?

The First Minister: Tell that to Danny Kennedy.

Mr Speaker: Order. The Member has the Floor.

Mr B McCrea: That does not seem to be putting theory into practice. We got the feeling that the First Minister thought that we did not understand the issues. I accept the democratic result and the mandate of the last election; however, it is worth stating — categorically — that we cannot win a vote in this House if the two larger parties combine, as the previous vote illustrated.

The issue arises — under our strange rules of democracy, which the amendments seek to change — that we need to find some form of collectivism to work together. The issue is wider than what occurs in the House. I do not know exactly what was said, but Mr Attwood mentioned reports about the different treatment accorded to various Ministers.

Mr Speaker: Order. I am almost at a point of giving Members as much latitude as possible, but Members are going far beyond what we are debating in the Chamber. I ask the Member to return to the stand-part debate on clause 2.

Mr B McCrea: I thank the Speaker for his direction. However, my point is fundamental to our concerns about over-reaching powers.

I was disappointed in how Martina Anderson made her point, because she made a statement on the Bill that other people have quoted. For the record, I will quote it again. She stated, in a scripted response, 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.” — [*Official report, Vol 36, No 5, p222, col 2*].

That does not seem to be terribly inclusive. She stated that this is a significant sea change. It appears to me to be a fundamental renegotiation of the relationship between the Assembly and the Executive and its Ministers. Yet we do not have the chance to debate it; it is being rushed through.

The First Minister made it clear that we should not be worried because they already have those powers: if they already have them why have they not used them? Why have they not taken steps to deal with the terrible issues of poverty and social deprivation?

6.45 pm

We are really talking about a fundamental change in the relationship between Members, the Executive and Ministers. Taking that to its logical conclusion, I think

that it means the end of a four-party mandatory coalition and a move toward some form of voluntary coalition, particularly between the two major parties. It would be a fundamental challenge to democracy if we were to find ourselves in the situation whereby we are not allowed to have an effective voice. I am sure that that is not the intention behind either the legislation or the people introducing it.

Although I recognise the need to find some ways to intervene effectively in what are very trying times, I do not think that it is appropriate that those means be tagged on to the end of what is emergency legislation. I suggest that there is a better way of taking such action and that in order to do what the people of Northern Ireland want us to do, we should introduce alternative legislation that can be scrutinised adequately in the proper time.

Mr Ford: Normally, when Members move that a clause not stand part of the Bill, it is because they oppose, in every sense and every term, the contents of that clause. Naomi Long and I are not taking that position; we believe that clause 2 should not stand part of the Bill, not because we oppose in all circumstances the powers that it contains, but because it is sufficiently wide ranging and important to merit detailed scrutiny. Frankly, that scrutiny cannot be done solely at Consideration Stage and Further Consideration Stage.

We have accepted the urgency of getting clause 1 in place in order that we can deal with, in particular, the current fuel payments. However, the circumstances that apply to clause 1 — such as the current urgent situation and any future urgent matters — simply do not apply to clause 2 and are being used to ensure that the legislation is forced through without the necessary level of consideration. The contributions of the majority of Members who spoke in the debate clearly demonstrated the need to have such consideration.

For the benefit of those Members who were listening, which was clearly not everybody, when proposing that clause 2 does not stand part of the Bill, Naomi Long made it clear that major issues exist that deal with cross-cutting themes. Other than those issues that are highlighted under clause 2, many more exist that are the responsibility of OFMDFM and on which action may be required at any stage. They are valid issues for consideration, and that point was acknowledged by the very fact that the First Minister called this:

“the most important piece of legislation to be tabled since the return of devolved Government.” — [*Official Report, Vol 36, No 5, p218, col 1*].

The matter is too serious to be nodded through in the same way that the clause 1 urgency procedures were effectively nodded through.

Jim Shannon, who extended me his customary courtesy of giving way when I yet again requested that

he do so, failed completely to deal with the issue and failed to acknowledge that Naomi Long had already supported the procedures for dealing with urgent matters. The important thing now is to get the best possible procedures in place for those matters that are covered by clause 2.

It was a little bit unfortunate when Mr Shannon went on to say — and I am paraphrasing him — that the DUP cares about those people who are struggling to pay fuel bills. I think that every party in the Assembly cares about those people and about those who are living in poverty and deprivation of various sorts. It is unfair and unreasonable to suggest that those of us who accepted that clause 1 be agreed as a matter of urgency but who demanded the proper scrutiny of clause 2 do not recognise those needs and do not share those concerns. I suspect that Mr Shannon did not really mean that, and it is a great pity that he is not here now, as I would happily give way to allow him to make a comment.

We then heard speeches from Members of the other party that forms the Executive — as they see it. Martina Anderson gave us her customary prepared speech, with no interventions. One of the interesting points that she made proved, I think, the case that the Alliance Party is seeking to make. She said that she was confident of the support of civic society for the measures that are included in clause 2.

She may well be correct. However, there is a simple way to find out: let us put it to the test. Give civic society the opportunity to make written representations on the powers that are contained in clause 2 by putting them into another Bill that is subject to proper scrutiny and normal procedures. Let us give civic society the opportunity to bring delegations to meet the OFMDFM Committee, to put their concerns on record, and to discuss issues with Ministers. If the Assembly is confident that civic society talks about those issues favourably, let us give it the opportunity to do so.

Subsequently, Ms Anderson went on to talk about the child poverty inquiry that was conducted by the OFMDFM Committee, and its 49 recommendations. She did not acknowledge that, to date, OFMDFM has not responded to those 49 recommendations. The issue is not that other Departments have yet to carry out their responsibilities: the first response to a Committee report should come from the Department to which the Committee is designated. That has not happened. Therefore, it is not so much the case that Martina Anderson was attacking other Departments, but that she was pointing the finger at OFMDFM — a Department with which she has a close party connection through one of its Ministers and one of its junior Ministers.

Therefore, it is time for people who make allegations about the way that matters are conducted to consider

the position from which they make their allegations. That is the clearest proof of the inadequacies of aspects of the current system and the need to ensure that the Assembly makes improvements.

Unlike Jim Shannon, Ms Anderson does not give way to any other Member when she makes allegations about other parties' lack of concern. Her comments simply do not reflect reality. Any member of the OFMDFM Committee ought to know how frequently Naomi Long and other Members have drawn attention to the need for a proper approach to tackle issues such as poverty, exclusion and deprivation. Although Ms Anderson is not in her place, junior Minister Kelly is in his. I have no doubt that he is aware of the number of times that Mrs Long and others have contacted him to discuss the issue.

Therefore, there is a lack of factual representation as to how OFMDFM has responded to issues that currently relate to it. My party accepts cross-cutting themes and that responsibility for many of them lies with the First Minister and the deputy First Minister. Those do not simply include issues in the Bill that might conceivably be considered as DSD issues; they also include an entire raft of matters as far removed as sustainability, which might otherwise be considered a DOE issue. Certainly, my understanding is that the child poverty inquiry relates to OFMDFM, DSD, DHSSPS, probably to DARD, and to a few other Departments that I have not considered.

The cross-cutting themes for which OFMDFM has responsibility must be dealt with properly. There may well be mechanisms in clause 2 to do that. However, that case has not been made. Certainly, I do not make the case that clause 2 is a power grab, because I acknowledge that those powers already exist in OFMDFM. One might say that clause 1 is a power grab, but that it is necessary for urgent reasons. Given the range of OFMDFM'S responsibilities on those cross-cutting themes — in particular, poverty, deprivation and exclusion — it is important that that piece of legislation is got right.

Naomi Long referred to an interchange that occurred between the deputy First Minister and me during the debate on the Bill's accelerated passage. He took two interventions from me, so I suppose that, when that is averaged with Ms Anderson, it is one each. I made the point that the issue was not whether the Executive need powers to respond urgently, but whether the Executive urgently needs powers without proper scrutiny.

Unfortunately, although he took my intervention, the deputy First Minister did not respond to my point. He merely said that:

“our experience since restoration has shown that the Executive need to be in a position to react quickly to unforeseen events.”
— [Official Report, Vol 36, No 5, p214].

That is a given. The question is whether they need those powers urgently when they have not needed them urgently since May 2007 even though the issues have existed since then. If the Executive make the case that they need those powers, they ought to acknowledge that it is their duty to accept proper scrutiny.

I am not sure that I agree with Danny Kennedy, who said that the Assembly could end up like a parish council that rubber-stamps what is requested by the First Minister and the deputy First Minister. The Assembly has slightly higher powers than the average parish council.

However, there are real issues about ensuring that a legislature carries out its duties. Unfortunately, this is yet another Bill that contains some matters that may warrant the use of the accelerated passage procedure, but there are other details that need to be examined properly.

It has not been demonstrated in any way that clause 2 requires urgent procedure. Maybe the First Minister will do better tonight than the deputy First Minister did last week and sway me with the power of his oratory. However, what I have heard from Back-Benchers of the two lead parties in the House has not persuaded me of anything. History tells us that, frequently, legislation in haste results in bad legislation.

We, in this part of the House, have acknowledged the need for the use of urgent procedures on clause 1 matters. However, no valid case has been made for the accelerated passage procedure being used for clause 2. To ensure that the process moves forward in a better way, clause 2 should be removed and dealt with properly.

This afternoon's debates have illustrated the utter lack of confidence and how much work needs to be done to build the required confidence in the Assembly, the Executive and, possibly, even within OFMDFM. Removing clause 2 from the Bill, putting it into another Bill and subjecting it to proper scrutiny would be one way of starting that process of building confidence.

The First Minister: It gets a little depressing when the same people put forward the same arguments, even though those arguments have been demolished beyond any shadow of doubt in previous debates. The Member for Lagan Valley Mr Basil McCrea complained about parties making references to people being misinformed, stupid or whatever. However, I do not care what term anyone in the House might use.

I ask everyone to consider the following situation. People, such as Danny Kennedy, came to the debate tonight with written speeches and made certain accusations. Those people were informed that, far from being a matter that is subject to OFMDFM, this is a matter that will go to the Executive at each Stage and be voted on by the Assembly, and that nothing will happen until that occurs. After the accelerated passage debate, those people came back at the Second Stage

and made the same points again, even though they had already been informed of the answers.

Even though they were given those answers again during the Second Stage of the Bill, they made the same arguments today during the debate on clause 1 issues. Those people had already been given the answers on two occasions, and one would have thought that those answers would have penetrated even the dullest minds. However, even after clause 1 has been dealt with, the same lame arguments that have no substance whatsoever are read out to us once again in the hope that someone will be gulled into believing that there is some truth in what is being said. There is no truth in those arguments; they are totally inaccurate and totally misleading.

Let me make it very clear once again so that there is no shadow of doubt whatsoever: the First Minister and the deputy First are not grabbing power from anyone through clause 2 of the Bill. The clause 2 issues are our own areas of responsibility. Do I need to say it again? There is no power grab, because those issues are already within our bailiwick. Furthermore, any determination that is made under that clause goes to the Executive for agreement; any designation goes to the Executive for agreement; and any scheme that is reached goes to the Executive for agreement. When all that has happened, it comes to the Assembly for agreement before it starts. How could anyone with two brain cells to rub together stand up in the Assembly and liken that process to the politburo?

7.00 pm

Mr Spratt: They are slow learners.

The First Minister: They are not slow learners, because they do not learn at all. They have been told repeatedly, yet they have repeatedly misrepresented the situation and repeatedly attempted to use buzz words to secure media coverage of the nonsense that they have been uttering in the Chamber.

This system is more democratic than any that operates in the democratic world. No other Minister is engaging with such a process. It would not happen at Westminster or the Dáil, and it does not happen with any other Minister. The Executive approves it all, and each scheme must come before the Assembly. It is the most democratic system possible.

Basil McCrea talked about whispers in the corridor. He took that line from Alex Attwood, who has again absented himself. He claimed that there are rumours of disagreement on this, that or the other issue, and he tried to embellish it slightly by saying that, as a result, it is clear that there is a divergence and no agreement on how to progress. That assertion shows how badly informed he is.

The Executive have agreed a way forward and have unanimously agreed a three-year Programme for Government. All four Executive parties agreed to that. The Executive have agreed their Budget — not only for one year, but for three years — which gives the lie to those who argue that there is no Budget for this year. Furthermore, the Executive have agreed a 10-year investment strategy. Therefore, a clear direction has been agreed, not only by the First Minister and deputy First Minister, but by every Executive Minister, including the Minister from the SDLP and the two Ministers from the Ulster Unionist Party.

Mrs D Kelly: On a point of order, Mr Speaker. You ruled previously that Members' contributions must relate to the Bill and the amendment. Does that ruling apply to the First Minister?

Mr Speaker: As I said earlier, I expect all Members' contributions, as far as possible, to relate to the issue under debate, which is opposition to clause 2 of the Bill. I have continually said that I am prepared to allow Members some latitude as long as they do not overstep the line. On occasions, Members are inclined to use that latitude to overstep the line.

The First Minister: I have no doubt that my comments were in order, because the people who made the remarks on which I am commenting were not ruled out of order. Therefore, if it was in order for those individuals to make the remarks, it is, clearly, in order for me to respond to them. The Member, who seems to talk out of both sides of her mouth at the same time, stood up in the Chamber a short time ago and made exactly the same comment — that she was responding to points that were made during the debate.

However, I will move on. The unholy alliance that opposes clause 2 is interesting. One group has a defensible and responsible argument, whereas the other groups are totally irresponsible. If I was allowed to diverge, I would say that they need to examine their consciences and roles, because they cannot be part of the Executive and oppose it while lecturing everybody about the need for collective Government and for us all to work together. Their position does not add up.

On the one hand, there are the representatives of the Alliance Party, who are taking the position — as I understand it — that they are not against the principles in the clause, but they oppose accelerated passage and the lack of consideration of other possible ways forward. On the other hand, there are those who might be described as the mischief makers and wreckers, who want to wreck the whole Bill. Indeed, the Member for Newry and Armagh Mr Kennedy stuck his foot in it when he opposed clause 1 standing part of the Bill. He did not want any fuel payments to be made to people in Northern Ireland — that is what would have

happened, had he had the numbers in the House to make good the opposition to clause 1.

On the one hand is the wrecking crew, and on the other are those who want to consider the issues constructively. The remainder of my remarks will deal with the points that have been made by those who have attempted to be constructive.

It will come as no surprise to anyone who has given notice of intention to oppose the question that clause 2 stand part of the Bill that we are fundamentally opposed to the removal of that clause. Clause 2 is extremely important, and it is integral to what we seek to achieve by introducing the enabling legislation.

When I announced last December that we were proposing to introduce a Bill to take new permissive powers to respond more effectively to circumstances that warrant intervention, I said that the Bill would extend the Executive's powers to deal effectively with poverty and disadvantage. Clause 2 is intended to help the Executive to respond to that challenge.

Naomi Long made it very clear that she felt that such a mechanism was necessary in order to achieve the agreements reached in the Programme for Government. Clause 2 will give Ministers the statutory authority to provide financial assistance where there are no current arrangements in place to do so. It will also enable us to intervene where current funding arrangements are ineffective, inadequate, or unsatisfactory.

It is worth pointing out that the deputy leader of the Alliance Party also commented that OFMDFM should have delayed the introduction of the clause 2 provisions, in order to allow for the consideration and exploration of mechanisms to promote better co-ordination, rather than through clause 2. Let me make it clear to her that the legislation does not stop us from considering other mechanisms to improve co-ordination across programmes generally. That can be done for the issues relevant to this Bill, as it can for the other issues that are cross-cutting and need to be moved forward.

To return to the issue of a power grab — one cannot grab power that one already has. That power is already resident in OFMDFM. What is absent in OFMDFM is a mechanism to make good its responsibility. At the present time, we rely on Ministers, in each of their silos, to make good the commitments that are the responsibility of OFMDFM. The Bill enables a co-ordinating role to be taken, which would bring the issue together, bring it to the Executive and bring it to the Assembly, so that can progress on that basis.

Mrs Long: I thank the First Minister for giving way and accept, in part, what he said. The position that my party was trying to express was that it would be more logical for cross-cutting themes, and the lack of levers to ensure delivery, to be dealt with coherently and altogether, rather than tagging one issue on to the

Financial Assistance Bill and leaving the rest in the ether, to be dealt with separately. Our position is that the work should be done logically, by dealing with the issues of cross-cutting themes and emergency situations in two separate pieces of legislation.

The First Minister: I accept what the Member says. It is a judgement call. My judgement on this matter is that I do not wish to delay the legislation, particularly as we are dealing with a very vulnerable section of our community. We have Programme for Government targets to meet. The Member will forgive me for saying that if we had six months to debate this Bill, I suspect that we would have six months of listening to the same speeches from some people. It has been tiring enough to take that over two days with the same speeches being read over and over again for the record. The poor researchers have to go to the photocopier and produce the same speech for the next Stage of the Bill.

It is a judgement call. My judgement is that we should not delay this matter. If the mechanism proves to be successful, it could well be that we need to consider using the mechanism to deal with other cross-cutting issues. However, this Bill deals with areas of hardship, and we should not hold back because of those other issues — particularly as people are in need.

During the Second Stage of this Bill — and again during today's debate — I was very conscious that Members expressed their difficulties and concerns about supporting clause 2. The Members who support its removal seem to be of four sorts. There are those who do not fully appreciate the purpose of the clause, although it is difficult to accept that there could be many in that category after all of the explanations. There are those who support the clause but do not want it to proceed by accelerated passage. In addition, there are those who support the clause but feel that other considerations and arrangements should be taken into account, rather than the one for which we opted. Furthermore, there are those who fully appreciate the purpose of the Bill in its entirety, but seem more concerned with creating the illusion of this Bill being a power grab, rather than with the potential benefits of clause 2 for those who are in poverty.

To those who are in the first group, I stress that the powers of clause 1 and clause 2 are different. They are independent of each other and are aimed at tackling social need in different circumstances, but they are two sides of the same coin. The removal of clause 2 would reduce the Executive's capacity to target resources across Departments at those who are in the greatest need.

I dealt with the second group during my comments to Naomi Long. My view still remains that I see no good reason to delay introducing legislation that could deal with this element of our Programme for Government

while we may consider some of the other areas. There is a contradiction in those who oppose clause 2 stand part of the Bill. Some of them believe that it should be extended so that the First Minister and the deputy First Minister will be able to bring more matters to the Executive, and there are those who do not want them to be able to bring any at all.

It is fairly clear that we are not making sufficient progress towards the targets that we set in the Programme for Government that was endorsed by this Assembly. The present economic downturn makes those targets even more challenging. Clause 2 improves our ability to meet those challenges by providing a mechanism that does not currently exist.

I have considered other routes to achieve our goals. Some reference was made to ring-fencing resources, which could still be done. However, we are not involved in trying to manipulate every Government Department, so we are reluctant to tell Ministers how they should allocate funds in their Departments by using the mechanism that the Finance Minister uses, which is to only provide and ring-fence money on the basis of using it for particular purposes. A great deal of discussion has taken place about OFMDFM taking a new power. However, that power already exists with the Finance Minister, who can make allocations, subject to those being used for particular purposes.

That could even still be done. However, the more open, transparent and democratic way that is set out in this Bill is the best way forward. The other route is less satisfactory, and certainly less democratic.

7.15 pm

For the benefit of those in the fourth group, I shall repeat the point that I made last Tuesday, during the Bill's Second Stage, and again today: if the deputy First Minister and I wished to grab more power, we would not require this enabling legislation. The power to transfer statutory functions between Departments already rests with the First Minister and the deputy First Minister, acting jointly. In the last debate about the Bill, I referred to the powers available under section 17 of the Northern Ireland Act 1998; the power also rests under article 8 of the Departments (Northern Ireland) Order 1999. Members will recall our bringing such a transfer to the Assembly for approval last year, in relation to relocating ordnance survey functions from DCAL to DFP. Therefore, if this were a power grab, and we were attempting to add more functions to the Office of the First Minister and deputy First Minister, other routes would be available to us.

Although clause 2 is not our only response to the economic downturn, it is an important element of the strategic approach to tackling poverty that the Executive have a statutory obligation to adopt under section 28E of the Northern Ireland Act 1998. We have formally

adopted the broad architecture and principles of the Lifetime Opportunities strategy in order to tackle social exclusion and deprivation. In addition, the Executive have agreed to the establishment of an Executive subcommittee on poverty and social exclusion, to be chaired by OFMDFM Ministers, which will be tasked to identify and agree several key actions that will contribute most to achieving the goals of the Lifetime Opportunities strategy. Tackling poverty is therefore a statutory obligation, and a major challenge, for the Executive. I can assure Members that we take that challenge seriously, and we have taken the opportunity offered by the Bill to adopt the necessary legislative authority to act further where the existing arrangements to tackle poverty are inadequate and we need to do more.

I do not wish to prejudge how the Executive might seek to use clause 2 in future; however, the Programme for Government commits us to working towards the elimination of child poverty by 2020, reducing child poverty by 50% by 2010 and working towards eliminating severe child poverty by 2012.

Furthermore, the child poverty inquiry report and recommendations produced by the Committee for the Office of the First Minister and deputy First Minister will provide a platform and a stimulus for such work. If I heard correctly, the leader of the Alliance Party indicated that OFMDFM has not responded to the recommendations from the Committee's child poverty inquiry; however, a response was issued to the Chairperson of the Committee on 12 December 2008. The Executive are totally committed to meeting that challenge, and they will work across Departments to ensure that child poverty targets are achieved and that the Executive's response to the recommendations of the child poverty inquiry report are fully implemented.

Clause 2 will be of assistance in making progress in both areas, and its enabling powers will be available to the Executive in order to address cross-cutting issues such as poverty. Clause 2 will enable us to act when there is an absence of funding arrangements or when existing arrangements are inadequate.

Much has been made of the fact that, on the face of the Bill, the power to trigger determinations and to designate Departments is vested in the First and deputy First Minister, and I explained why that is so when I spoke to the first group of amendments. I wish to reiterate and reinforce the safeguards that we are building into the decision-making process for using the enabling powers in clause 2. As I said earlier, and on several other occasions, the Executive are bringing a specific recommendation to the Assembly to amend the ministerial code in order to put matters of Executive responsibility beyond doubt.

Before the First Minister and the deputy First Minister can make a determination under clause 1 or clause 2 of

the Bill, the Executive must agree that the relevant circumstance or situation exists and that intervention by means of financial assistance is warranted and necessary. Before the First Minister and the deputy First Minister designate a Department to develop a scheme for providing financial assistance, the Executive must agree which Department, or Departments, should be so designated.

In addition, the Executive will be required to agree the scheme drawn up by the designated Department before it receives approval from the First Minister and deputy First Minister. We have written to the OFMDFM Committee to confirm the proposed changes to the ministerial code and to confirm that the Executive have agreed those changes.

Furthermore, by accepting amendment No 10, the Assembly has agreed that any regulations made under clause 2 require the approval of the Assembly before they can be made and brought into operation. I trust that Members will accept that the necessary checks and balances are being put in place to ensure that the powers contained in clause 2, as amended, are not misused or abused.

I say to those Members who intend to oppose clause 2 that the Government need to take legislative powers to help in their fight against poverty. No Member should stand in our way. Colleagues in Westminster acknowledged that last year, when Gordon Brown announced his intention to legislate to meet child poverty targets. In fact, clause 2 will put us ahead of our colleagues in Westminster, who are yet to announce the details of their legislative proposals. More importantly, as a relatively small jurisdiction, we have a greater potential to achieve the effective cross-departmental working that is required in our fight against poverty in particular. Not to exploit that opportunity, by voting against the inclusion of clause 2, would be to sell short our people, particularly those who are in, or at greatest risk of, poverty in the current economic downturn. It is they who will be looking to the Executive and the devolved Administration to make a meaningful difference to their lives.

The enabling provisions in clause 1 and clause 2 are very much two sides of the same coin, and the removal of clause 2 would devalue that currency. Therefore, I oppose the removal of clause 2, and I urge the Assembly to agree that clause 2 stands part of the Bill.

Mrs D Kelly: I do not wish to incur the wrath of the First Minister, but I will refer to my notes in an attempt to reflect accurately Members' contributions. I assure the House that I do not have a script before me, but I noted that the First Minister used a script in his response.

In Mrs Long's introduction to the debate on clause 2, she set out some of the reasons why the Alliance Party, the Ulster Unionist Party and the SDLP have

real and genuine concerns about clause 2 of the Bill. If the Assembly votes to include clause 2 as part of the Bill, it is our intention to table further amendments at the Bill's Further Consideration Stage.

In his rather patronising and condescending approach and answer to other parties, the First Minister did not impress upon us that we should not reiterate our argument, because it remains a good one to make.

Members were at pains to point out that clause 2 of the Bill applies to situations in which poverty, social exclusion and patterns of deprivation have to be tackled, and not, as Mrs Long said, the range of cross-cutting themes for which the First Minister and deputy First Minister have responsibility. The First Minister responded to some of the issues. He was at pains to point out that the First Minister and deputy First Minister have a number of powers at their disposal already, so one wonders why they have been so slow in proposing solutions in relation to the economic downturn and tackling poverty. After all, poverty did not happen suddenly in May 2007, when the Assembly was restored. Poverty has been around for a long time, and, unfortunately, it will be around for a long time to come.

As members of the Committee for the Office of the First Minister and deputy First Minister will know, the Committee has included several papers and several decisions in its work plan. However, on reaching the point at which the Committee is supposed to discuss those matters, all that it gets is a "paper to follow" message. Therefore, one can understand why my colleague Mr Attwood, and Mr Basil McCrea, are hearing rumours elsewhere and in the corridors that there is a lack of collective agreement by the DUP and Sinn Féin.

If one were to believe Sinn Féin and its desire to tackle poverty, one would have to ask why, in the face of an economic global crisis, it put its party political needs before the needs of the wider community. Had Ms Anderson allowed an intervention, we could have asked that question. However, in failing to allow interventions, she demonstrated that she lacks confidence in her argument.

There is some confusion among members of OFMDFM about the inquiry into child poverty. I understand that the junior Ministers are scheduled to come before the Assembly in the next few weeks. However, among the main findings of the Committee that carried out the inquiry were the lack of affordable childcare and the lack of opportunities for single parents, particularly young women, to return to the workplace. However, the Department of Education cannot even accept that preschool provision is its responsibility.

Ms Ní Chuilín: Given that the Minister for Social Development is about to force parents back to work,

particularly single parents who do not have access to affordable childcare, I am glad that the Member raised the issue of affordable childcare and that it will be on the record.

Mr B McCrea: I would simply like to congratulate Mrs Kelly on her ability to engage in a debate and take points of view. That is in stark contrast to Members from Sinn Féin; all they can do is issue statements, after which they say nothing. In a democracy, surely we can talk about the issues. If Sinn Féin really believes what it is saying, why do its Members not stand up and share it with the rest of the Assembly? Sinn Féin offers only platitudes. Congratulations, Mrs Kelly.

Mrs D Kelly: I thank the Member for that vote of confidence.

In answer to Ms Ní Chuilín, the Department of Education and her Minister have a considerable responsibility to deal with some of the issues relating to child poverty and childcare places. Affordable childcare should be available to allow people the option to return to work, but it does not exist because Sinn Féin will not accept that it is the responsibility of its Minister.

The First Minister: I thank the Member for raising the issue of childcare, thereby demonstrating, beyond doubt to anyone who listened to the last few minutes of debate, the need for clause 2. There is a clear dispute between two Departments about which should take responsibility for childcare. Those are exactly the kind of issues that OFMDFM must deal with by determining how to advance any cross-cutting issues. Perhaps the Member will propose that childcare is one such area that could be considered under clause 2 and developed by using that mechanism?

Mrs D Kelly: I am grateful for the First Minister's intervention because I understood that the two junior Ministers, Mr Kelly and Mr Donaldson, were the self-appointed champions for children. They have not produced many proposals. What ability have they shown in negotiating an understanding between the two Ministers concerned?

Mrs Long: The First Minister suggested that clause 2 would be one way to deal with disputes between Departments. Clause 2 is part of the Financial Assistance Bill and, therefore, relates specifically to financial assistance. If clause 2 is now being interpreted as a means to direct Departments on their responsibilities, that seems to go beyond what is contained in the legislation. I accept that there must be a solution to any dispute, but I am not sure that it comes under the category of financial assistance.

Mrs D Kelly: Mrs Long is quite right, because she has articulated how we fear that the Bill will really be used. It is a scheme — many people are scheming around here, that is for sure.

Mr Beggs: Does the Member agree that it is strange that the First Minister has now discovered that there are cross-cutting issues that are not being dealt with? *[Laughter.]*

It was the Office of the First Minister and deputy First Minister that removed the Executive programme funds that existed to deal with such issues. They have now discovered the hole that they have created and are trying to fill it, but they are doing so through an accelerated passage of the Bill instead of using the normal means of approving new legislation.

Mrs D Kelly: I am always pleased to assist the First Minister and the deputy First Minister in determining some of their work plans. *[Laughter.]*

The First Minister: I am grateful to the Member. However, anyone, and particularly someone who has spent a short time as a member of the Committee for Finance and Personnel, knows the additional cost of duplication. The Executive programme funds were stopped because civil servants in OFMDFM were dealing with the same issues as civil servants in other Departments.

The responsibility lies with OFMDFM, and clause 2 provides a mechanism for taking issues forward. Those issues will move forward under that mechanism without the duplication that was set up when the Ulster Unionist Party was the largest party.

7.30 pm

Mrs D Kelly: The First Minister has articulated — and, perhaps, in a roundabout way, admitted — the failure of his party and Sinn Féin with regard to the removal of the Executive funds. Sinn Féin and the DUP have been in charge for the past five years. Members will be surprised to learn that 31 former civil servants have been re-employed by the Assembly for £424,000 —

Mr Speaker: Order. I ask the Member take her seat. I have given her quite a bit of latitude. I ask her to return to the subject matter on the Floor, which is opposition to clause 2 of the Bill.

Mrs D Kelly: I accept that point, Mr Speaker, and I am grateful to return to addressing those issues. I was interrupted by so many interventions. Nevertheless, one likes to participate in a debate, rather than listen to the lectures that we receive from some sides of the House.

Some other important points are missing from the Bill. There is a concern that not enough is being done to tackle poverty, social exclusion and deprivation. Nevertheless, a plethora of strategies and action plans from the First Minister and deputy First Minister have been delayed. Indeed, by agreeing to a strategic take-note debate, not a fundamental root-and-branch review of the Budget and Programme for Government, we are not dealing effectively with the economic

downturn and the crises of poverty, social exclusion and deprivation in our community.

I understand that Westminster — the home of the comprehensive spending review — is allowing such reviews and evaluations to take place formally, year by year. Proper consultation should have taken place, not only in relation to the Budget, where poverty and apparent crises could be best dealt with, and — as Mrs Long and others rightly pointed out — this legislation, and clause 2 in particular, does not need to be part of emergency crisis-dealing legislation; it does not need to be here at this stage. I would be interested to hear the views of people in civic society in relation to clause 2. However, that opportunity is being denied them by accelerated passage and by the inclusion of clause 2 in the Bill.

Ms Anderson defended civic society. Mind you, no civic forum has, as yet, appeared under the watch of Sinn Féin and partnership Government. That idea rings hollow, not only in the Chamber but across the wider community.

Mr Danny Kennedy was concerned that clause 2 would give OFMDFM unbounded power over all Departments. That was how he interpreted Ms Anderson's comments. A range of Members asked the First Minister directly whether he shared Ms Anderson's view that the legislation is a significant sea change, rather than enabling legislation. Unfortunately, he did not take the opportunity to respond. Mr Kennedy was careful to differentiate between his speaking on behalf of the Committee and on behalf of his party, which was in sharp contrast to the attitude of the First Minister, who gave the impression that all Executive members agreed all the points all the time, when we know quite clearly that that was not the case.

Mr Kennedy repeated the point about the politburo aspect of the Bill. He said that not only was it deeply divisive among the parties here, but that it had the potential to be deeply divisive among Ministers.

I have dealt already with some of the other remarks about proper scrutiny by others outside the House. It is most unfortunate that that part of our rationale and argument has not been listened to.

The First Minister said that he was very frustrated that we were not listening to his argument and explanation — and other Members remarked on that. However, we are equally frustrated that Sinn Féin and the DUP are not listening to our valid argument and that our concerns about clause 2 have not been addressed at all. It is regrettable that the First Minister comes across as rather patronising and seeking to insult the intellect of individual Members; it really belittles his own argument. It comes back to where the real frustration lies for the First Minister: although he has Sinn Féin at his feet now, he does not yet have

compliance from the other Ministers and parties in the Executive. We dare to question Mr Robinson as First Minister — that is what I thought we were elected to do. Certainly, we cannot rely on Sinn Féin to stand up to the DUP; that is for sure.

During the debate, comments were made about why there was no wake-up call among the Back-Benchers in the two parties. There is still time for that. Removing clause 2 from the Bill would allow for proper scrutiny, and it would give us the time and opportunity to see whether we got it right in this instance. It would allow us time to consider what measures can be used and how the Bill can be improved. Moreover, it would allow the whole community and our society to tackle the issues that affect those who are most marginalised. In fact, if we applied that methodology, it would allow those who are most marginalised to have a voice in the consultation process. The only way in which the marginalised members of our society are being represented here today is through the Ulster Unionist Party, the Alliance Party and the SDLP, and we are asking for the brakes to be put on clause 2. That would allow for proper scrutiny and debate and would put an end to the power grab in which the First Minister is continually engaged.

Question put,

The Assembly divided: Ayes 48; Noes 28.

AYES

Ms Anderson, Mr Boylan, Mr Brady, Mr Bresland, Mr Brolly, Lord Browne, Mr Buchanan, Mr Butler, Mr T Clarke, Mr W Clarke, Mr Craig, Mr Easton, Ms Gildernew, Mr Hamilton, Mr Hilditch, Mr Irwin, Mr G Kelly, Mr A Maskey, Mr P Maskey, Mr F McCann, Ms J McCann, Mr McCartney, Mr McCausland, Mr I McCrea, Mr McElduff, Miss McIlveen, Mr McKay, Mr McLaughlin, Mr McQuillan, Lord Morrow, Mr Moutray, Mr Murphy, Mr Newton, Ms Ní Chuilín, Mr O'Dowd, Mrs O'Neill, Mr Paisley Jnr, Ms S Ramsey, Mr G Robinson, Mrs I Robinson, Mr P Robinson, Mr Ross, Ms Ruane, Mr Shannon, Mr Spratt, Mr Storey, Mr Weir, Mr Wells.

Tellers for the Ayes: Mr Moutray and Mr Spratt.

NOES

Mr Armstrong, Mr Attwood, Mr Beggs, Mr D Bradley, Mrs M Bradley, Mr Burns, Mr Cobain, Rev Dr Robert Coulter, Mr Cree, Mr Elliott, Dr Farry, Mr Ford, Mr Gardiner, Mrs Hanna, Mrs D Kelly, Mr Kennedy, Ms Lo, Mrs Long, Mr A Maginness, Mr McCallister, Mr McClarty, Mr B McCrea, Dr McDonnell, Mr McFarland, Mr McGlone, Mr P Ramsey, Mr K Robinson, Mr Savage.

Tellers for the Noes: Mr Kennedy and Mrs Long.

Question accordingly agreed to.

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

Clause 3 (Schemes for financial assistance)

Amendment No 11 made: In page 3, line 16, at end insert

“(2) A scheme contained in regulations under section 1 or 2 may provide for the scheme to cease to have effect at the end of a specified period from the date on which the regulations are made; but (without prejudice to the operation of section 28 of the Interpretation Act (Northern Ireland) 1954) the scheme may include such saving provisions as the relevant department thinks necessary or appropriate for dealing with matters or proceedings under the scheme which are outstanding at the time the scheme ceases to have effect.” — [*The First Minister (Mr P Robinson).*]

Clause 3, as amended, ordered to stand part of the Bill.

Clauses 4 to 6 ordered to stand part of the Bill.

Long title agreed to.

Mr Speaker: That concludes the Consideration Stage of the Financial Assistance Bill. The Bill stands referred to the Speaker. Members may take their ease until we move to the next item of business.

ASSEMBLY BUSINESS

Mr Speaker: Before we move on, Members will be aware of the substantial number of points of order that were raised during proceedings yesterday and today. A number of the issues that Members raised appeared to be more points of business than points of order. In any case, I will consider all the matters that were raised and return to the legitimate points of order as appropriate in due course.

Several of the points of order that were made were not points of order, but there are two points of order that I wish to address without delay. The first relates to a reference that was made earlier today to an official. I remind all Members that it is not in order to refer to Assembly officials at any time in the House.

The second point of order relates to unparliamentary language. During this afternoon’s debate, Mr Durkan accused the First Minister of misleading the House. Members should be aware that such language is clearly unparliamentary. Therefore, I will call on Mr Durkan to withdraw that remark at the earliest opportunity. We will now move on.

Mr Attwood: On a point of order, Mr Speaker. I note that you named Mr Durkan, but you did not name Mr Peter Robinson, who was the Member —

Mr Speaker: Order. The Member is out of order, and he knows that he is out of order. I have made a clear ruling on the two issues on which I felt I could make a ruling. I am speaking about the language that has been used in the House today.

Mr Attwood: Further to that point of order, Mr Speaker. You indicated that Mr Durkan should take some action further to the comments that he made. Further to your ruling, is there no responsibility on any other Member to take any action in respect of comments that they made about officials of the House?

Mr Speaker: Order. As I said earlier, several points of order were raised yesterday and today, and I am extremely happy to come back to them. However, let me be absolutely clear about the issue of unparliamentary language: when a Member accuses another Member or a Minister of misleading the House, that is clearly unparliamentary language, and it must be dealt with.

Mr Attwood: Further to that point of order, Mr Speaker. Are you saying that you intend to come back to the issue of Mr Robinson’s treatment of staff of the House? Is that the case, or is the matter closed as far as you are concerned?

Mr Speaker: The Member is sailing very close to the wind on challenging the authority of the Speaker.

I ask the Member to please not go there. My ruling is absolutely clear; I am happy to respond to points of order. *[Interruption.]*

Order. I am happy to consult the Hansard report on whatever any Member says in the House. When referring to a Member or a Minister — as Mr Durkan did — the use of the phrase “misleading the House” is a clear example of unparliamentary language. I have told the Member already that I will deal with the issue when Mr Durkan is next in the House. *[Interruption.]*

Order. I will be happy to speak to the Member about all those issues.

EXECUTIVE COMMITTEE BUSINESS

Public Authorities (Reform) Bill

Final Stage

Mr Speaker: I call Mr Jelly — sorry, Mr Gerry Kelly to move the motion. *[Laughter.]*

The junior Minister (Office of the First Minister and deputy First Minister) (Mr G Kelly): Thank you for giving me my new name. *[Laughter.]*

I thank the Back-Bench Members of my party for their support. *[Laughter.]*

I beg to move

That the Final Stage of the Public Authorities (Reform) Bill [NIA 19/07] do now pass.

The Public Authorities (Reform) Bill arises from decisions that were made on certain public bodies as part of the review of public administration and that were confirmed by those Ministers with the relevant policy responsibilities following the restoration of devolution.

As Members will be aware, the Bill’s main purpose is twofold: first, to abolish the Fisheries Conservancy Board and to transfer its functions to the Department of Culture, Arts and Leisure; and secondly, to abolish the Disability Living Allowance Advisory Board, pending the extension to here of the remit of the board’s counterpart in Britain. The Bill also carries repeals of primary legislation that is no longer required following the dissolution, by separate subordinate legislation, of the bodies concerned.

At the outset, I record my gratitude to the Committee for the Office of the First Minister and deputy First Minister for its work in considering the Bill in liaison with the other Statutory Committees that have an interest in the Bill.

As I said, the Public Authorities (Reform) Bill will abolish the Fisheries Conservancy Board and transfer its statutory functions, staff, assets and liabilities to the Department of Culture, Arts and Leisure. Since the decision to abolish the Fisheries Conservancy Board was made, the Department has been working closely with the board to ensure that conservation and protection functions continue during the winding-up process by providing funding and assistance as required. Plans are also well advanced to ensure that functions transfer seamlessly; that new organisational structures are established; and that staff are briefed at the outset in order to ensure that the service that is provided after abolition is consistent with the needs of the public.

Resource needs have been assessed, and monetary bids have been made in order to finance the new

arrangements and to ensure that the former Fisheries Conservancy Board functions continue after transfer. It is estimated that it will cost the Department £1.1 million to carry out the former functions of the Fisheries Conservancy Board. That figure is similar to the current running costs of the board. Bids for additional resources for that important function will be reviewed over time, but are, as always, subject to other budgetary constraints and pressures. The real benefits of the transfer of the board's functions will, however, be non-financial in the creation of a more integrated, flexible and strategic conservation and protection service.

The conservation and protection of salmon and inland fisheries are of paramount importance, and we recognise the need to involve those who have an interest in those matters. The Department of Culture, Arts and Leisure will set up a new non-executive forum to advise, assist and inform the Department and provide valuable input into the decision-making process on matters concerning salmon and inland fisheries.

I understand that the Committee for Culture, Arts and Leisure has made a valuable contribution to the consultation process on this issue. If the Public Authorities (Reform) Bill is passed today, the Fisheries Conservancy Board will be wound up once the Bill receives Royal Assent and an order for the commencement of the Fisheries Conservancy Board provisions can be made.

The Bill also abolishes the Disability Living Allowance Advisory Board. Arrangements are being made for the remit of the equivalent advisory board in Britain to be extended to cover the provision of advice on disability living allowance and attendance allowance to our Department for Social Development.

That will bring the provision of advice in that area into line with the Social Security Advisory Committee and the Industrial Injuries Advisory Council, which also provide advice to both jurisdictions. Given that social security remains a reserved matter, the Department for Social Development and the Secretary of State for Work and Pensions in Britain will benefit from having consistent advice from a single authoritative source. The board does not have any staff, assets or executive functions, and no additional costs or savings are anticipated.

8.00 pm

The repeals of primary legislation in relation to the Pig Production Development Committee, Enterprise Ulster and the Laganside Corporation are simply to remove from the statute book primary legislation references that will no longer be required following the dissolution of the bodies concerned by separate subordinate legislation. A commencement Order or Orders will be required to bring all the Bill's provisions into operation. Those will be made by OFMDFM at

the request of the Ministers who have policy responsibility.

I commend the Bill to the House.

Question put and agreed to.

Resolved:

That the Public Authorities (Reform) Bill [NIA 19/07] do now pass.

The Official Report of the remainder of this day's sitting will be published on Wednesday 21 January 2009.

NORTHERN IRELAND ASSEMBLY

Tuesday 20 January 2009

(Mr Speaker in the Chair)

COMMITTEE BUSINESS

Report on the Devolution of Policing and Justice Matters

8.01 pm

Mr Speaker: The Business Committee has agreed to allow up to two hours for the debate. In accordance with the Business Committee's agreement to allocate additional time to Committee Chairpersons when moving and winding up a motion on a Committee report, up to 15 minutes will be allowed to propose and 15 minutes to wind up. All other Members who are called to speak will have five minutes.

The Chairperson of the Assembly and Executive Review Committee (Mr Spratt): I beg to move

That this Assembly approves the First Report of the Assembly and Executive Review Committee on the arrangements for the devolution of policing and justice matters.

The report before the House is the first of two planned reports on the arrangements for the devolution of policing and justice matters. It contains 15 recommendations about some, but not all, of the issues that must be addressed before any request is made to the Secretary of State for Northern Ireland to transfer a range of policing and justice matters. I intend to return to the detail of those 15 recommendations, but, before I do, I shall outline the background to the Committee's involvement in the issue.

Members will also be interested to hear about a range of other important issues that the Committee will begin to address next week before bringing a further report to the Assembly in due course. Some Members may seek to press me on when, precisely, that might be. However, I will not be drawn on that, and, later on, I shall explain why not.

The Assembly and Executive Review Committee was established as a direct result of the Northern Ireland (St Andrews Agreement) Act 2006. Section 18 of that Act also placed an obligation on the Assembly to make a report to the Secretary of State before 27

March 2008 on progress towards the devolution of policing and justice matters.

The Assembly referred the matter to the Assembly and Executive Review Committee, and its subsequent report was debated in the House on Tuesday 11 March 2008 before being referred to the Secretary of State. I have cause to remember that debate well, because it was my first official engagement as Chairperson of the Committee, having taken over from Jeffrey Donaldson, who had been appointed as a junior Minister.

On 23 September 2008, the Committee was granted a fresh mandate by the Assembly to further involve itself in matters relating to the devolution of policing and justice powers. To some extent, that was prompted by a letter that the First Minister and the deputy First Minister sent to me on 28 July 2008 in which they asked whether the Committee would undertake some further work on the devolution of policing and justice matters.

However, the Committee is a Committee of the Assembly, and it was both right and proper for it to seek the authority of the Assembly before acting on that letter. Having been given the authority by the Assembly to do so, one of the Committee's first acts was to invite the views of all the party leaders in the Assembly about the range of issues that they felt the Committee might consider. A similar invitation was extended to the First Minister and the deputy First Minister. That led the Committee to consider in detail a list of 26 issues, each of which it allocated to one of three categories: category 1, which were issues to be resolved in Committee pre-devolution; category 2, which were issues for the Committee to resolve pre-devolution but that required wider consultation and consideration; and category 3, which were issues to be resolved post-devolution.

I pay tribute to the members of the Committee for their respective contributions to its work since September 2008 on what is a sensitive, controversial and politically challenging issue. The level of attendance at Committee meetings was of a consistently high standard. As Chairperson, I always tried to ensure that proceedings were conducted so as to allow all members to express their opinion. Those discussions were often tense, robust and typical of what politics is about.

I do not want to give the impression that, when the Committee came to consider the category 1 list of issues, it was a smooth or straightforward task — it was not. The Committee was unable to reach agreement by consensus on some, but only some, of the report's recommendations. I am sure that other Committee members who participate in the debate will take the opportunity to elaborate on that point, and they are perfectly entitled to do so. Nonetheless, the

Committee hopes that the report will contribute positively to the successful devolution of a range of policing and justice powers.

My task today is to bring to the attention of the Assembly, in an objective, constructive and helpful way, the report's main elements. That the report is laid out in a way that is easy to follow is no small way owing to the diligence of the Committee Clerk and his staff. In the highly charged atmosphere in which at least some of the discussions took place, it would have been easy to lose sight of some of the issues under consideration. However, the structured way in which the Committee was encouraged to look at the category 1 list of issues allowed it to be thorough and to make progress on a number of fronts.

As I mentioned, this is the first of two planned reports. It deals with the departmental structure; the powers to be transferred; the timing thereof; and the appointment of the Minister. The first six recommendations of the report — on pages 10, 11 and 12 — deal with the Department and its structure. The Department is to be known as the "Department of Justice", and it is proposed to create it as additional to the 11 Departments that make up the Northern Ireland Executive. With the exception of the Judicial Appointments Commission, the various organisations that currently deliver the range of policing and justice services will, in the main, be attached and accountable to the Department of justice.

Recommendation 7 reaffirms an earlier decision, reflected in the Committee's original report, about the range of powers to be devolved, and recommendation 8 signals that those powers:

"should cease to be reserved matters at the point of devolution".

Quite when that will occur depends largely on the further work that the Committee needs to do. That is why, at present, there is not a specific date for the transfer of those powers.

Recommendations 9, 10, 11 and 12 — on pages 14 and 15 of the report — deal with what are described as "interim arrangements" for appointing, removing and replacing the Minister of justice. It is proposed that those arrangements will apply until May 2012.

The Committee decided that it wished to give further consideration to the Minister's role in, and relationship with, the Northern Ireland Executive. That residual issue, together with the question of the most appropriate location for the Public Prosecution Service, are matters to which the Committee will return, and will address in its second report.

Recommendations 13, 14 and 15 — on page 16 of the report — relate to procedural or technical issues. For example, recommendation 13 refers to the fact that the Committee decided that there was no need for a "shadow Minister", a "shadow department", or a

"shadow Statutory Committee". Recommendations 14 and 15 relate to avoiding potential conflicts of interest that might arise if Members of the Assembly who were members of the Policing Board were to become members of the Statutory Committee of justice.

I hope that Members will find this a helpful summary of the Committee's first report. The Committee's deliberations have been painstaking, and, occasionally, painful. I thank the Committee Clerk and his staff for the impartial and professional way in which they have facilitated the work of the Committee, and for providing procedural and other advice and support, not just me, but to all members of the Committee.

The Committee will now turn its attention to the category 2 list of issues. There may be as many as 12 issues with which to deal, and they have the potential to be even more challenging. However, I have every confidence that the Committee, with the support of the Committee staff, will be up to those challenges and that it will report to the Assembly again, in due course.

It is worth placing on record that the Committee last week agreed to appoint a specialist adviser on the significant issue of the financial implications involved in devolving policing and justice matters. It is also worth noting that the Committee expects the First Minister and the deputy First Minister to appear before it again soon during the course of its deliberations on the category 2 list of issues.

In addition to examining the financial implications of devolving policing and justice powers, the Committee's deliberations are likely to include how the relationships will work between the Minister of justice, his, or her, Department, the Assembly and organisations such as the Serious Organised Crime Agency and the security services; what needs to be done to maintain existing North/South policing and justice agreements; and whether there is a need for a justice sector of the North/South Ministerial Council.

At this time, I cannot say how long all that will take. However, what I can say — and what I believe that the Assembly would expect of the Committee — is that the Committee should take whatever time is necessary to give detailed and careful consideration to those issues, bearing in mind that the First Minister and the deputy First Minister said on 18 November 2008 that they wished to proceed on this matter without undue delay.

I commend the report to the Assembly.

8.15 pm

Mr A Maskey: Go raibh maith agat, a Cheann Comhairle. Cuirim fáilte roimh an tuarascáil seo, agus molaim don Tionól í.

I welcome the report and am very happy to commend it to the Assembly. It is a step forward in our efforts to

ensure that the smooth transfer of powers for policing and justice happens as soon as possible, which I believe is what the vast majority of the public want to see.

The report represents a considerable amount of work, as the Chairperson of the Committee said. The fact that we have reached such a degree of consensus should not be underestimated in any way. Sinn Féin — our party — is committed to ensuring the successful transfer of policing and justice powers into the hands of accountable, locally elected representatives.

I am pleased to note the commitment expressed by Peter Robinson and Martin McGuinness, the First and deputy First Ministers, in their statement on 18 November last year, to ensuring that this would happen without any undue delay. In fact, they went further and urged all political leaders to show a similar commitment and responsibility to building the necessary public confidence by doing all that they can to ensure that that happens. Therefore, ensuring the transfer of powers should be a priority for us all.

Hardly a day goes by without a matter of public importance being raised and in which, unfortunately, there are examples of crime or attacks on the vulnerable in our communities. We have absolutely no influence over many of those issues, and that is regrettable. On an almost daily basis, we hear of burglaries, serious assaults of a sexual nature, racist or homophobic assaults, and even the tragic murder of good citizens as a result of antisocial behaviour on our streets. Our communities are crying out for a police service that can help to maintain a safer community. They are also crying out for a wider justice system that will deal with offenders in a fair, just and proportionate manner, but in a way that clearly provides justice for the victims of crime.

Let me make it very clear, for all those who want to listen, that the level of crime against many of our communities is completely and entirely unacceptable. Therefore, I make no apologies to anyone for ensuring — certainly on behalf of my party — that we make all necessary efforts possible to ensure that a Department of justice is established. In that way, we will not only assume our own responsibilities, but help our communities to see their way through the many difficulties that they face. Therefore, my view and that of my party — and, perhaps, of many others — is that the transfer of powers will provide all communities with the necessary influence over locally elected representatives who will, then, be responsible for the justice system, and that influence can help to shape the system in the interests of our community.

The report makes many recommendations that will help to deliver a Department of justice and a Minister from among the Members elected to the Assembly. I remind Members that the arrangements for that are interim measures, subject to the sunset clause referred to in the

recommendations taking effect no later than May 2012. Those recommendations point the way forward, with, of course, much more work to be done.

Mr Elliott: Does the Member envisage that his party will, in the near future, command the position of Minister for that particular portfolio?

Mr A Maskey: I should say at this point that I am always prepared to engage in debate — despite it being suggested earlier that Members of our party are not very keen on that — but although I listened intently to some of this afternoon's debate, what I heard was a lot of acrimony and a lot of people scoring points but not delivering anything.

Let me make it very clear that I do not intend to take many interventions if I believe that those Members, many of whom we have heard speak already, will do nothing except try to score points without delivering anything. It is not about the debate — as the Chairperson of the Committee pointed out, we have had months of debate. Every one of the issues has been debated extensively and exhaustively on many occasions, both in the Committee and in the House, as well as in the media. I have no doubt that that will continue.

I believe that the recommendations point the way forward, and, as been said already, the Committee has identified a programme of work that it will continue with from as early as next week.

I mentioned earlier that I do not in any way underestimate the burden that crime and antisocial behaviour inflicts on many of our communities. I know full well that many people in our communities — and, indeed, in the wider criminal justice system — are working together to tackle those problems.

Everyone knows that our criminal justice system is simply not performing in the manner that is required in order to give the necessary confidence to the whole community. Its work is simply not joined up, and it is obviously not yet either representative or fully accountable — or responsive, I might add — to the needs of the community. A single Department that is headed by a locally elected Minister and that has all the associated scrutiny would help us to bring a much greater focus to finding the necessary solutions to crime in our communities. I believe that everyone will welcome that. Go raibh maith agat.

Mr McFarland: I thank the Chairperson, the Deputy Chairperson, the Committee Clerk and staff of the Assembly and Executive Review Committee for their stewardship and support in the production of this report.

Members will recall that the Preparation for Government Committee met over the summer of 2006 to open all-party discussions on policing and justice. Members will also recall that the DUP used to get extremely upset over accusations that it was negotiating

with Sinn Féin, claiming that the discussions were only a scoping exercise. Who would have believed that such a faltering scoping exercise would lead to today's debate?

Policing has, of course, been an issue for a very long time. In 1972, the Ulster Unionist Government crashed Stormont because policing and justice powers were withdrawn. Over recent years, unionism has been vexed about the possibility of policing and justice powers being returned. At one level, it has been difficult to understand that concern, given that the Chief Constable runs operational policing, and neither the Policing Board nor the Assembly can interfere with his decisions. The Policing Board runs the personnel, buildings and finance aspects of policing; the Court Service will be transferred as an agency; the Lord Chief Justice runs the judiciary; and the Prison Service is an agency. That being the case, what power will the justice Minister have? He could introduce legislation, which would be subject to a cross-community vote, thus limiting his powers to interfere with policing and justice.

The issue has perhaps not been about interference. However, hidden under the euphemism of "unionist confidence", the real issue was the threat that a senior Member of Sinn Féin — with a criminal record — might be in charge of policing.

The former Taoiseach Bertie Ahern has told us that he was present in St Andrews when the DUP leadership agreed to devolve policing and justice.

Some Members: No.

Mr McFarland: On that basis, Sinn Féin held an Ard-Fheis at which it agreed to support policing. Sinn Féin then became upset at the DUP's reluctance to fulfil its part of a deal that was kept secret from the public and from the Assembly. The result was Sinn Féin/DUP paralysis and a suspension of the Executive for some 154 days in the midst of the most serious economic crisis that we have seen for a century.

The pressure on the DUP was so great that it caved in, and the McGuinness/Robinson deal on the devolution of policing and justice emerged in November. Looking at the timetable of that agreement, we see a fast-track process that has phase 1, which is the bulk of the modalities, being forced through the Assembly today.

A letter from the First Minister and deputy First Minister politburo states that it expects the Treasury to complete deliberations on the phase 2 issues — finance — on 31 March. Presumably, that will allow policing and justice powers to be transferred in early May. Watch this space.

How can that be? What about unionist confidence? My colleagues will later examine the DUP attitude to unionist confidence. However, comrade Robinson and comrade McGuinness of the politburo have decided

not to carry out a public consultation. Instead, they have stated:

"We remain open to views from any quarter at all stages of this process."

Therefore, unionist confidence will exist when Peter and Martin say that it will.

Mr A Maskey: Will the Member give way?

Mr McFarland: I am not giving way.

That is amazing, given DUP comments.

The Ulster Unionist Party is opposed to various parts of the report, and I want to cover some of those now. Since the St Andrews Agreement, the DUP has colluded with Sinn Féin to corrupt the democratic process of the Assembly. In that agreement, the DUP allowed Sinn Féin to remove the Assembly's selection of the First Minister and deputy First Minister, saving DUP Members from having to put their hands up to vote for Martin McGuinness as deputy First Minister.

Today, the politburo wants to force on the Assembly the voting system that they removed in respect of the First Minister and the deputy First Minister, so that DUP/Sinn Féin can put in, discipline and remove, any future justice Minister. The Assembly has a laid-down system for selecting Ministers, and today's change would be a corruption of Assembly democracy in order to gain political control.

The DUP and Sinn Féin could not agree on the justice Minister's relationship with the Executive, and that has been put off until the phase-two discussions. What is that all about? Do not be surprised if the eventual justice Minister is, in effect, half a Minister, with the politburo only allowing that person to attend Executive meetings when policing and justice matters are being discussed — potential candidates please note.

Why is all this happening, and why have the DUP and Sinn Féin refused to take that ministry? It is all to do with their concern as to who the Minister will be. Of course, there is no sunset clause, and the deal does not stop Sinn Féin from taking the justice ministry in 2012.

Despite what Ian Paisley Jnr of the DUP said recently —

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

Mr Beggs: Will the Member give way?

Mr McFarland: Yes.

Mr Speaker: The Member's time is up.

Mr Beggs: Does the Member —

Mr Speaker: Order. The Member's time is up.
[Laughter.]

I asked the Member to take his seat.

Mr McFarland: I was letting my friend speak, Mr Speaker.

Mr Speaker: Order. I clearly indicated to the Member that his time was almost up. By the time the other Member intervened, his time was certainly up. I call Mrs Carmel Hanna.

Mrs Hanna: I thank the Committee staff for their courtesy and support.

In 1998, when I became a Member of the Assembly, one of the first Committees that I was appointed to was the Ad Hoc Committee on the Procedural Consequences of Devolution; a Committee that was concerned with the devolution of policing and justice. Ten years on, I do not think that we are much further forward.

In common with every Member, matters of law and order, crime and antisocial behaviour are a major part of my constituency workload. Most matters are relatively low key; however, they can be very important and distressing to the individual constituent concerned, especially to older people.

My constituency, South Belfast, has by far the highest crime rate in Northern Ireland. Drug dealing is rife, as has been recorded recently in the media, and people in the area are at the end of their tether. In the university area, there has been a spate of rapes and sexual assaults, many of which remain unsolved. There have been racist attacks, with very few people ever made amenable to the law.

In the paper last week was one of the saddest stories that I have read; an interview with the widow of the late Harry Holland, who was murdered so brutally in west Belfast last year. Mrs Holland told 'The Irish News' that her late husband had died in vain; that crime and antisocial behaviour are worse than ever.

There is no logical reason why the devolution of policing and justice should be delayed. The people want it; they want local politicians who are answerable to them to be in charge, and not some part-time English MP who does not know Ballygawley from Banbridge. They want the issues of crime, and the fear of crime, bail, sentencing policies, delays in court hearings, and the handing down of illogical and capricious sentences to be sorted out. They want reform of the Public Prosecution Service and the officials there — who get very good salaries, and who, despite spending millions in legal fees, have been spectacularly unable to secure a conviction in three high profile cases — to be made accountable.

The text of the Good Friday Agreement, which ranks very highly for the SDLP, states:

"The participants also note that the British Government remains ready in principle, with the broad support of the political parties, and after consultation, as appropriate, with the Irish Government, in the context of ongoing implementation of the relevant

recommendations, to devolve responsibility for policing and justice issues."

8.30 pm

Policing and justice was, until recently at least, one of the few issues on which the SDLP and Sinn Féin agreed. I have quotations from Gerry Adams, who has said repeatedly that public confidence exits throughout the community for devolution of policing and justice. All of that changed in November 2008, when Martin McGuinness signed a joint statement with Peter Robinson which pledged that their parties would commence the process of building confidence; consult party organisations and external stakeholders; engage in public consultation; and secure necessary community confidence. How long is a piece of string?

Sinn Féin has, therefore, somersaulted from saying that public confidence exists to now saying that it needs to be built up. Worse still, that party signed up to an open process before policing and justice could be devolved. Put simply, Sinn Féin sold the pass; it handed over the keys of the shop to the DUP. The SDLP still stands for the Good Friday Agreement. In July 2008, Martin McGuinness agreed that, at all times, the justice Minister should be elected by cross-community vote, thereby handing a veto to the DUP for all time.

A Member: Will the Member give way?

Mrs Hanna: No, I am sorry; I have very little time left.

The justice Minister should be selected by d'Hondt, as is the case with all other Ministers. The Minister should be a full and equal Member of the Executive, and the justice Ministry a separate Department. A definitive date for the devolution of policing and justice is needed in order for the necessary powers to be provided to get to grips with crime in society.

Mr Ford: This seems to be, yet again, another important debate. It is a pity that the Business Committee manages to give us days of nothing much, and then days of intensive activity such as this. I welcome the publication of the report, and congratulate the Committee Chairperson, Mr Spratt, for the way in which he set out its recommendations, and the staff who assisted him in doing so.

The Alliance Party wants the devolution of policing and justice to happen as soon as is possible and practicable. However, I noted that the Chairperson drew attention to several difficulties in the category 2 list of issues, which the Committee will now examine. If there is to be a coherent Executive and stability of devolution, it is essential that moves are made to complete the final package. As Alan McFarland acknowledged, no power over the justice system has emanated from this Building since 1972. There is a need to ensure that those powers are returned.

The Alliance Party has always considered the timing of devolution of policing and justice to be conditioned, rather than calendar-led. By any stretch, however, the point has been reached when progress must be led by the calendar and conditions. In that context, it is pleasant to be able broadly to welcome such a constructive and positive report, despite the fact that my party has no representative on the Committee, as the First Minister acknowledged last week.

Certainly, my party broadly welcomes the report because there is little in it as it stands with which to disagree. The key issues are, as the Chairperson has to some extent acknowledged, among those that have been left out of the report. The Alliance Party is concerned about the concept of joined-up Government in this place. Indeed, it has been accused of banging on about the issue all the time. It seems that unless justice is devolved, there will not be the level of coherence that is required in order to build joined-up Government.

Consider the fact that a consultation on community safety is currently under way. What is the point in the Northern Ireland Office and its various agencies being engaged in a consultation about community safety, when it effects are of far more concern to a range of devolved Departments, particularly those of health, education, and employment and learning, than to bodies such as the Police Service and the Probation Service? Community safety cannot operate in its own little vacuum or silo. That is why progress on devolution of policing and justice must happen soon.

There are, certainly, problems ahead in areas such as police numbers, because there is no way that it would be acceptable in the current situation to reduce the number of officers from 7,500, which was set out by the Patten Report; nor is there any way that that could be managed, because it does not set out a plan for doing so. There will be massive knock-on effects on morale and efficiency, and one only has to consider the current shortage of detectives.

The glaring gap is finance, which was highlighted by Mr Spratt. There are massive issues concerning the future financing of policing, in particular, and the justice system, in general. During yesterday's debate on the number of Departments, Stephen Farry said that the cost of establishing a Department, and transferring the powers that currently reside with the NIO and its agencies, is relatively small, and getting the devolution of policing and justice will be key to improving joined-up government.

Real and ongoing costs — concerning policing and the capital programme for prisons, for example — have to be met and weighed against the costs of dealing with the past. Much of the legacy of the past is the result of short-term expediency and, in particular, decisions made by the former Prime Minister when he

wished to buy off certain people at various stages of negotiations.

Those costs are the responsibility of the Westminster Government, and the Assembly and the people of Northern Ireland should not have to bear any responsibility for them. We welcome the recent actions of the First Minister and the deputy First Minister in engaging with the Treasury to get a proper financial package. However, unfortunately, the so-called £50 million package to underpin devolution is not a happy example. That situation should act as a lesson, and a lot more work needs to be done to ensure that the same mistakes are not made again.

As Carmel Hanna said, we all regularly face issues relating to policing and justice in our constituency casework. Constituents bring those kinds of concerns to us all the time. We must ensure that we can deal with the issues by relating them to a local Department. If devolution is to work, we have to be seen to be tackling issues such as the perception of higher crime rates, even if that is not always the reality. We cannot simply sit around, work devolution as we have been doing and leave Westminster to deal with those matters. The devolution of policing and justice would demonstrate cross-community ownership of the important issues and would be an important signpost on the way forward.

Mr McCausland: The report that is before the Assembly today is to be welcomed, because policing and justice is one of the most important issues that we face. It is also important to say that devolution of policing and justice is good for Northern Ireland. It gives us responsibility for several issues that we would not have responsibility for otherwise, and some of them are of particular concern to many people in this community.

Policing and justice is also a complex issue due to its architecture and structure. I once counted 26 different organisations and bodies that are involved in policing and justice. Therefore, the Committee has undertaken a complex process.

I am deeply indebted to Carmel Hanna for her DUP party political broadcast. She clarified the position that is set out already: that there will be no Sinn Féin Minister in the initial period of devolution and thereafter.

Mr Paisley Jnr: For all time.

Mr McCausland: For all time, the DUP will have a veto on the matter. I commend Carmel Hanna, and I am deeply indebted to her for setting out the position so clearly. There are some people in the Chamber who are slow learners on this matter, and who have not quite —

Mr B McCrea: I am sorry, because I realise that I should have paid more attention. Can I just check that you are saying that the DUP will have a veto for all time?

Mr Paisley Jnr: That is what Carmel said.

Mr B McCrea: I just want to make sure that Nelson is saying that.

The Speaker: A minute will be added to Mr McCausland's speaking time.

Mr McCausland: In earlier debates today, I noticed that Basil McCrea had difficulties with his hearing, and it seems that his problem is ongoing. Some other Members in the Chamber would be well-advised to listen more, because they might learn a bit more if they did.

The Committee's report sets out several issues. It clearly sets out that there is a process that now has to be taken forward. Confidence is a key issue and the actions listed in group 5, on page 225 of the report, clearly sets out the process that has to be gone through to ensure that there is proper community confidence in this aspect of devolution. The Committee is also committed to carefully examining the key issue of cost, rather than simply leaving it for the Exchequer, the Treasury or anyone else to come up with the figures.

The Committee will conduct its own piece of work on that matter, which, in a sense, will complement the process undertaken by the Office of the First Minister and deputy First Minister (OFMDFM) and others. However, it is an important matter for the Committee. If Members read the arrangements in the report about that process, some of the silly points made a while ago from my right might be answered.

The DUP is certainly not wedded to the d'Hondt system. I believe that some people are wedded to the d'Hondt system and almost feel that it came down from Mount Sinai or descended from heaven and that there is no other way to look at the world. As was clear from the Committee's discussions, that is a lesson that the Ulster Unionists and the SDLP need to learn. It is important that there is cross-community support, and the method and process outlined in the report will ensure cross-community support as we progress with this issue.

I trust that we will be able to make progress on the category 2 issues. Much more work needs to be done in that area, as well as on the ongoing issue of finance and building community confidence. People sometimes ask when that will happen; the answer is, of course, when those matters are completed. However, there are no set times or deadlines. There is work to be done, and the Committee will continue until it has completed that work. It is not a case of setting dates.

Mr Kennedy: It is interesting what the Member said, because his view contradicts that of the Prime Minister, and the Secretary of State who, in his

Christmas message, said that the early devolution of policing and justice — the final piece of the jigsaw — was complete and that the deal was done. Who do we believe: Nelson McCausland, the Secretary of State or Gordon Brown?

Mr McCausland: I am touched by Danny Kennedy's utter confidence in Shaun Woodward or any other of those Ministers. His confidence is quite touching. However, I will, for him, simply repeat the facts so that he is clear and not in any doubt or confusion about the matter: there will be no Sinn Féin justice Minister in the initial period and thereafter. The DUP has a veto over that matter. The time has not been, and will not be, set. The process will be followed through. Once again, it is sad, because if Danny Kennedy would only learn to listen, he might learn an awful lot more.

Mr O'Dowd: Thank you. Go raibh maith agat, a Cheann Comhairle. I, too, welcome the publication of the report as a step in the process towards the devolution of policing and justice matters. I know that it has been a long day for some Members, but perhaps they could read the report. Recommendation 9 states:

"Permanent arrangements would be put in place by May 2012, and there would be no fall back arrangements. This will require the political parties to agree a way forward".

Recommendation 9 also states that Sinn Féin and the DUP will not nominate any member of their parties as Minister for justice for the interim period. Moreover, the recommendation states:

"These arrangements would be subject to a sunset clause which would bring them to an end not later than May 2012."

Mr B McCrea: Will the Member give way?

Mr O'Dowd: No, I will not give way. I want to get into my flow. Sinn Féin — and only Sinn Féin — will decide whether or not it will nominate a justice Minister after that period. The arrangements — *[Interruption.]*

Mr Speaker: Order. Members should not try to speak from a sedentary position. The Member has the Floor.

Mr O'Dowd: The arrangements that will apply after May 2012 have yet to be decided and will be subject to political discussions and negotiations among the political parties.

Let us deal with the report that is now before us. I understand that a number of political parties in the Chamber have already started their European election campaign. The report before us and the letter from OFMDFM set out the process with which the Assembly and Executive Review Committee has agreed to proceed. *[Interruption.]*

Mr Speaker, it is very difficult to hear —

Mr Speaker: Order. The Member has the Floor.

8.45 pm

Mr O'Dowd: I have no difficulty with being harangued from the Floor — I am keen on doing the same to other Members. However, it is very difficult when one cannot hear oneself speak.

Hoping, or wishing, that the policing and justice arrangements will happen, is not going to make them happen. I listened carefully to the SDLP Members, at meetings of the Committee, when speaking to the media, and this evening in the Chamber, and I am still awaiting a plan from that party on how to make policing and justice arrangements a reality — how to bring devolution about.

I know that the first premise of their speech writers is to blame Sinn Féin no matter what the subject is — they work from that premise, and then write a speech in accordance with it. The SDLP has a single transferable speech: they could have removed references to policing and justice from their speeches on this subject and have probably used them in the previous debate.

I am more than happy to listen to any other political party. I have sat through presentations on the first report produced by the Assembly and Executive Review Committee and on this report, and I have not heard the SDLP outline any way in which the devolution of policing and justice will be achieved that they could promote to the DUP, the Ulster Unionist Party, Sinn Féin, the Alliance Party and others. If they have a plan, I am more than happy to look at it.

The interim arrangements for the election of a justice Minister are based on cross-community support — one of the principles of the Good Friday Agreement. If the SDLP wishes to nominate someone for that post, surely it is up to the SDLP — not Sinn Féin — to convince the Members opposite that its nominee is the right person for the job. Perhaps the SDLP would like Sinn Féin to convince the DUP and the Ulster Unionist Party that that is the case — that is the impression that one gets when one listens to some radio and television interviews.

When the devolution of policing and justice matters eventually takes place, and a Department and Minister with that remit are established, it will be relevant to the debate we had in the Chamber yesterday on efficient Government. Policing and justice is one of the largest-spending areas of Government, yet we have no control over that finance whatsoever. There is a call for further finance to be invested in that area, and my party is supportive of that call, but we must also ensure that the finance already available for that purpose is being spent wisely.

One of the important things about the devolution of policing and justice is that the Northern Ireland Audit Office will have a role in examining the books of the

policing and justice Department for the first time. That will be a vital component in ensuring that an efficient service is in place. I commend the Committee's report to the Assembly, and I expect those who wish for the devolution of policing and justice to support the report, because it is a step forward. One Member said that they sat on a devolution Committee in 1998 — I did not see any reports produced by that Committee. This report allows us to move forward.

Mr Paisley Jnr: To a degree, the real division in the House this evening has been masked by part of the debate. Anyone who has followed the Committee hearings — which have been very good hearings, as the Chairperson has said — will realise that, as unionists, we sat through those Committee hearings, week in, week out, as spectators of a squabble between the SDLP and Sinn Féin. We were spectators of the dispute about who are the better negotiators for the nationalist people; spectators of the quarrel about who has got the best deal for the nationalist people; spectators of the quarrel about who has given up which part of the Belfast Agreement; spectators of the quarrel about who has ditched the d'Hondt mechanism, and spectators of the quarrel about who has lost the debate on policing.

As unionists, we should sit back this evening with this 300 page report and recognise that unionists have reversed a trend. For most of my lifetime I saw unionism on the back foot. I saw my country and my people being pushed around and bullied.

Tonight, we see a situation in which nationalists have gained very little from a demand and a debate that they proposed that sought the devolution of policing and justice powers. It will happen — the vital question will be answered. Policing and justice powers will come to this Assembly when its leadership determines that it is the right time. For the DUP, that is when the unionist people are satisfied and confident that it is the right time to devolve those powers.

Mr A Maskey: Will the Member give way?

Mr Paisley Jnr: Yes.

On second thoughts, I will not give way.

The issue highlights that the unionist people were spectators for a short period of time while other unionists produced an agenda for policing and justice. They told us that the devolution of policing and justice powers had to be achieved by 2005. They told us that the d'Hondt system would be used, which would automatically have given that power to Sinn Féin under the electoral arrangements of the time. They also said that that would happen immediately.

As unionists, we laid down electoral commitments. This report fulfils those electoral commitments for us, because it answers the question that Mr Attwood and

the press claim was left unanswered. It answers that question loudly and clearly — the devolution of policing and justice powers will take place only when unionists are confident for that to happen. The Ministry will only go to a Member in whom we have confidence. It has been spelt out very clearly — that Ministry will not have gone to Sinn Féin by 2012.

After 2012 — as Carmel Hanna reminded the House — it does not matter who Sinn Féin or the SDLP nominate; the Democratic Unionist Party has been handed a veto for all time. Let us hope that that is a benign veto — *[Interruption.]*

Mr Speaker: Order.

Mr Paisley Jnr: It must be remembered that the veto is benign. We will use it wisely, and on the basis that we want policing and justice powers to be devolved to a person in whom the people of Northern Ireland — Catholic and Protestant; unionist and nationalist — can have confidence to exercise those powers sensibly, sanely and appropriately.

That is a good deal for unionists. In this House, unionists should recognise when something has been achieved, rather than spitting in the face of those who have happened to achieve it. We have given the unionist people the confidence that they need — instead of them being on their back heels, which has been the case far too often.

I commend this report, and I am happy to support its recommendations. I look forward to the Assembly and Executive Review Committee continuing its important work of ensuring that we secure the proper resources to deliver effective policing and justice powers in Northern Ireland.

Mr B McCrea: I am not much the wiser about this matter. Some people claim that they have a categorical guarantee, and others claim that those people categorically do not. We have to read through a 300-page report — perhaps the answer is in there.

I am disappointed that Mr McCausland is not around — is he hiding? He said that the devolution of policing and justice powers was a good thing. That is rather strange, because he also said that it would place an intolerable strain on the Assembly. When he started his discussion and talked about counting up the number of bodies, I thought that he was heading in a different direction. However, he was talking about the number of bodies in the criminal-justice system. He accused me of having poor hearing, but he singularly failed to answer the question.

On the subject of quotes, it was the question about which Ian Paisley Jnr just spoke. Anybody who watched the ‘Politics Show’ recently would have heard Gerry Kelly say that he had the right to nominate

himself for the position of Minister of justice. This is what Ian Paisley Jnr had to say:

“I can categorically state, with a copper-bottomed guarantee, that Sinn Féin will not be the policing and justice minister in Northern Ireland — now, up to” —

Mr Weir: Will the Member give way?

Mr O’Dowd: Will the Member give way?

Mr B McCrea: Of course I will give way; you know me and democratic debate. However, if Mr Weir will just allow me to finish the sentence, he will then be able to comment on it:

“now, up to 2012, and after 2012.”

After dealing with Mr Weir’s intervention, I shall invite Mr O’Dowd to intervene, so that he can tell me whether that statement is wrong.

Mr Weir: I thank the Member for giving way. He is quite right; anyone can nominate themselves. Similarly, the Member could nominate himself as the accountant of the year; however, that does not mean that he would get the award. *[Laughter.]*

Mr O’Dowd: Sinn Féin is not interested in the politics of veto, because, in the Chamber, we all share a mutual veto. Sinn Féin is concerned about delivering policing and justice powers and a local Minister to the people. Exercising the politics of veto will get us nowhere; my party is looking forward to the devolution of policing and justice powers.

Mr Speaker: The Member will be allowed an extra minute to speak.

Mr B McCrea: Thank you, Mr Speaker. Before I move on to what I really want to say, I notice that the debate has caused mirth and merriment on the Back Benches. These are strange times, when we hear cheap, snide remarks that do not properly address the issue. It does not behove the Member to deal with the matter in such a manner; some serious points must be dealt with.

My colleagues and I have a list of quotes, so we will have a quiz. Who said a year ago:

“As far as we are concerned it is simply not on the agenda.”?

It was Nigel Dodds. Apparently, the devolution of policing and justice powers is back on the agenda.

Although I have a quote by the First Minister, I will not mention it, because it forms part of Mr Kennedy’s speech. There was somewhat of a rush to use the quote, because it is so juicy.

The first question about policing and justice is whether this establishment is ready to take on those powers. Although we have yet to sort out education, poverty or any of the other matters that we have been discussing today, we want to add that most troublesome burden to our plate.

Secondly, are the Members that I see in the Chamber collectively mature enough to take difficult decisions, because there will be issues about sentencing that Members will have to deal with. Regrettably, given what I have witnessed today, many Members would not qualify to take such decisions because of their level of maturity.

Thirdly, and by no means the least important, when it comes to finance, which will be discussed later, Members must appreciate that when they assume responsibility for policing and justice, they will also assume responsibility for the money. However, if unplanned-for matters arise, the money to deal with them must come from DSD, Health, DETI and other departmental budgets, and mechanisms such as the Financial Assistance Bill will provide part of the recipe for taking money away from essential services. Therefore, Members should be careful about what they wish for.

Mr A Maskey: Will the Member give way?

Mr B McCrea: Of course.

Mr A Maskey: I thank the Member for giving way; I was beginning to take the earlier knock-backs personally.

When the Member deals with the report at some point, he might refer to the fact that in a joint press conference on 18 November 2008 Peter Robinson committed himself and Martin McGuinness to supporting the devolution of policing and justice powers without delay. Furthermore, they suggested that all political leaders have a responsibility to help to build public confidence in order to secure the transfer of those powers. When the Member addresses the matter of the report, will he inform Members whether the Ulster Unionist Party intends to assume its responsibility for delivering that public confidence?

Mr B McCrea: I would have answered the Member's question if he had left me with more than 15 seconds in which to respond to his intervention. The Ulster Unionist Party is interested in debating sensibly and reasonably, but this report is being rushed through for party-political advantage. It has nothing to do with policing and justice.

9.00 pm

Mr A Maginness: Any small amount of progress that was made by the Assembly and Executive Review Committee during the deliberations on the report has been fundamentally undermined by today's debate, because we have seen Ian Paisley Jnr and his colleague from North Belfast Nelson McCausland gloating about the DUP veto on the appointment of a justice Minister. During the summer, we said that no nationalist need apply for the position of justice Minister, and today's

debate confirms that the DUP has won a veto over the appointment of such a person.

Mr McGlone: It is not correct to say that the DUP has won a veto — at St Andrews, it was handed a veto by the members of provisional Sinn Féin, who, with poor negotiating, passed on — *[Interruption.]*

Ms Ní Chuilín: On a point of order, Mr Speaker. On 24 November 2008, I asked you for a ruling when the same Member used the term "provisional Sinn Féin", and you provided one. Will you remind the Member that my party is called Sinn Féin? Sin é. He understands that.

Mr Speaker: I made a clear ruling that such terminology should not be used in the House. Mr McGlone may continue.

Mr McGlone: I am sorry for causing so much insult don ghluaiseacht sin. Cibé ar bith. I do not hear any response. They are abandoned; I forgot about that.

As a result of those negotiating skills, a veto was handed to the DUP, loosely and glibly, and that party has gloated about it in the Chamber tonight. Again we see that gloating, and my colleague is correct: no nationalist need apply.

Mr Speaker: Alban Maginness has an extra minute in which to speak.

Mr A Maginness: I thank Mr McGlone for his timely intervention. However, the situation is even worse than that which he describes; it is not merely a matter of a veto over the appointment of a justice Minister; it signifies a real and substantial departure from the Good Friday Agreement. The d'Hondt principle lies at the heart of the Good Friday Agreement. However, the bilateral agreement arrangement between the DUP and Sinn Féin is a departure from d'Hondt, because the cross-community vote, which Sinn Féin has agreed to with the DUP, hands a veto to the DUP. Worse than that, it detracts from the fundamentals of power sharing that are enshrined in the Good Friday Agreement.

If the d'Hondt system were applied, there would not be any problem with a veto, because it would be the responsibility of the parties to sort out who the Minister should be by exercising d'Hondt.

The DUP has a clear agenda to diminish power sharing. We saw the chipping away of power sharing in today's debate on the Financial Assistance Bill, in yesterday's debate on the reduction of Departments and in the report on the devolution of policing and justice in which the fundamental principle of d'Hondt is being undermined. The DUP's agenda is to try to roll back the Good Friday Agreement, and, unfortunately, Sinn Féin does not appreciate the danger that lies in that agenda.

I pay tribute to the Chairperson and members of the Assembly and Executive Review Committee, but the report on the devolution of policing and justice matters is a litany of evasions and avoidances.

The report avoids or evades addressing the difficult issues, such as the powers of the Minister. The SDLP wants the new Minister to have the same full powers as any other Minister. The report, however, states that the Minister's powers and position, and role in, and relationship with, the Executive are to be decided later. That is avoidance, a delay, and a prevarication on the status of the Minister. It has been said that there will be a half Minister, or perhaps there will be a virtual Minister. However, if the DUP gets its way, the Minister will not, by anyone's reckoning, have the full standing or status enjoyed by any other Minister.

The situation is most unsatisfactory. If the Assembly wants to be a fully fledged, powerful institution, it must have immediate control of law and order. Any self-respecting legislature in any other part of the world would have control of law and order. Our people want that control, our people desire that control, and we should work towards establishing that control.

Mr Hamilton: I support the motion. I welcome the report, its recommendations and its conclusions. I join my colleagues in strongly supporting the devolution of policing and justice powers to Stormont. I am cognisant that my forefathers originally fought to establish policing and justice powers in Stormont in the early 1920s. Indeed, the Stormont Parliament was prorogued in 1972 due, in part, to the removal of policing powers.

It is certainly a unionist ideal to have policing powers based in the Building; in no way is it anathema to the unionist family. I join my colleague Ian Paisley Jnr in welcoming the report from the perspective that it represents a good deal for unionism. It is a particularly good deal when contrasted with other unionist parties' plans for the devolution of policing and justice powers to the Building.

The DUP has been clear and consistent; its manifesto pledges supported the devolution of policing and justice powers, but only under certain conditions. The two principal conditions were the requirement for community confidence and, as others mentioned, no Sinn Féin Minister, and the report's recommendations highlight a good deal for unionism in both respects.

Historically, other unionist parties in the Chamber have had somewhat different views on the timing of the devolution of policing and justice powers, and they placed few conditions on that in the past.

Mr B McCrea: Will the Member give way?

Mr Hamilton: Bear with me for a second.

They would have devolved the policing and justice powers by 2005; the mid-point of the last mandate of

the Assembly. Everyone remembers David Trimble and the nightmare that he left behind. I think that he is making a bit of a comeback and infiltrating his party by stealth in an attempt to win back the leadership that was taken from him some years ago. Even further back in time, on 21 October 2000, he said:

"I can think of nothing better to give everyone confidence, and to bind all the community behind law enforcement, than to see the central political policy direction of the criminal justice system — including policing — in the hands of Seamus Mallon and I, and our successors."

It is telling that, even in 2000, the Ulster Unionist Party was contemplating the devolution of policing and justice powers into OFMDFM, with no concern for what the future would hold. Typically, the Ulster Unionist Party showed no vision and did not consider what might happen in the future; there would have been a real possibility that a Sinn Féin Minister, via the Office of First Minister and deputy First Minister, could have taken control of policing and justice. I had promised to give way to Mr Basil McCrea, and I will do so now.

Mr B McCrea: Mr Hamilton mentioned consistency. I put to him a comment made by Mr Dodds in 2006 about the prospect of proposals for the devolution of policing and justice:

"In fact, they are so remote that it is difficult to envisage when it might happen."

"So remote" are the proposals that that the DUP is now all in favour of them. As recently as November, Mr Dodds made a point about political lifetimes in reference to Sinn Féin. Yet now we hear that it is not a question of waiting for a political lifetime; only until 2012. That is not consistent, and the DUP's attempt to put the blame on the past actions of my party does it a disservice.

If we are going to sort this out properly, we must start by being honest with one another.

Mr Speaker: The Member will have an extra minute added on to his time.

Mr Hamilton: Thank you, Mr Speaker. I am somewhat baffled by Basil McCrea's position. The Ulster Unionist Party is trying to take a robust, macho approach, and trying to be tougher than tough on the issue, yet its track record does not stand up to scrutiny. If one goes back to 2006 and the Preparation for Government — *[Interruption.]*

Mr Speaker: Order.

Mr Hamilton: I hear the points that have been made about whether Members of Sinn Féin will be nominated for the Ministry, suggesting that we have been done on the issue, and that it has been seen through. Anybody can be nominated for the Ministry. However, that does not mean that he or she will get the position. Recommendations 9, 10, 11 and 12 of the report make

it clear that nobody will get that position unless the DUP says so. That is the case now and in the future.

On 14 December 2006, the UUP's representative on the Sub-Group on Policing and Justice Matters said:

“if the barrier to Sinn Féin announcing support for the police was removed and devolution is restored, this could provide the necessary confidence.”

Even two or three years ago on the issue of confidence, the UUP was saying that if Sinn Féin endorsed policing, it would somehow be entitled to be in positions of power and that the devolution of policing and justice could happen.

Mr Beggs: Will the Member give way?

Mr Hamilton: No; I have little time left.

I have also heard the criticism that the DUP has given in on the matter. I have listened to Mr Attwood so much during the course of the Committee that I cannot believe that that I am going to quote him. In fact, if he were elsewhere, I might yield my time to him to repeat some of the things that he has said recently. This month, he said that the DUP had a veto over the issue and that the DUP was running the justice show. That makes a lie of what the Ulster Unionist Party has been saying.

The report represents progress on key aspects of the devolution of policing and justice. However, there are outstanding issues surrounding accountability and where the Minister would sit in the Executive. There is also the important issue of community confidence and the financial situation, which is probably the biggest issue that we face in the devolution of policing and justice. I am glad that every member of the Committee — no matter what he or she says here — is committed to doing sterling work and to complementing the work that is going on elsewhere. I welcome the report; it represents a good deal for unionism and it represents a good deal for everyone here.

Mr Ross: I welcome the opportunity to speak on the report, and it is important that the Assembly gets the chance to do that. As other Members have said, some of the more important issues, such as the precise role of the Minister and the relationship with the Executive on financial matters, will come at a later stage. That may take a considerable time.

Nonetheless, the first report has several important recommendations for Members to consider. As Mr Hamilton said, this party has made it clear that it wants to see the devolution of policing and justice; it said so in its 2007 manifesto and since then. However, we only want to see it when the conditions are right and there is sufficient confidence in the community. As Mr Hamilton said, why would we not want to see it? It is something that unionism wants, and it brought down the old Stormont when those powers were taken away.

Given Northern Ireland's history over the past 40 years, there are obvious sensitivities surrounding policing and justice, how it will operate and who will head it. Significant progress has been made, and the Assembly and Executive Review Committee has been working hard for months to reach this stage. Clear progress has been made on several issues surrounding the justice Department, such as ensuring that there will be a single Department, deciding how the Minister will be appointed, and maintaining the independence of the judiciary by ensuring that there will be no political role in the appointment of judges. There has been agreement on who the first Attorney General could be.

It is important that the issue of community confidence was acknowledged in the report. I listened to comments made by Mr Alex Maskey and Mrs Hanna, who said that the public were ready for the devolution of policing and justice. I am not sure what they base those comments on, but I know that the unionist community needs that confidence to be built up. The DUP is in the process of trying to build up that confidence, and we will decide when that confidence is there. I know that the people whom I represent —

Mr D Bradley: Is it the DUP's view that Sinn Féin should continue to wear sackcloth and do its penance until the DUP decides that it has been sufficiently cleansed to be in a position to take up the justice Ministry?

Mr Speaker: The Member will have an extra minute.
9.15 pm

Mr Ross: I am sure that that dig was directed more at the people sitting to the Member's right than at anyone else in the Chamber. I am also sure that the Member can continue in that vein in his own speaking time.

The people whom I represent would be uncomfortable with a Sinn Féin Minister, and they would, quite rightly, be appalled by that prospect. We have consistently said that there will not be a Sinn Féin justice Minister. I welcome the fact that the report contains a clear commitment that Sinn Féin will not be nominating for that post. Safeguards are also in place for the appointment of that Minister, and the unionist community will have the safeguards there.

Mr Beggs: The Member is giving assurances that, in the future, there will be no Sinn Féin Minister. Will he tell us what will happen after the sunset clause takes effect? Reference has been made to recommendations in the report that give a date. Are we in danger of having no Minister in charge of a billion pound budget after 2012?

Mr Ross: If the Member had read the report, he would know that if there is no agreement by 2012, there is no fallback position. Therefore, the safeguards will not go; there will be nothing to fall back on. The

Member should have read that in the report. We said that it is essential that the conditions are right and that we have the necessary community confidence. It is important that the justice Minister commands support from the communities in Northern Ireland, both unionist and nationalist.

Thus, recommendations 9 and 10 in the report on the mechanism for appointing a justice Minister are very significant as they require buy-in from both communities. It means that the unionist community must have confidence in who that Minister would be. Having a cross-community support requirement is a sensible way forward. It recognises the unique nature of the justice Department and the sensitivities around it, and it ensures that there will be buy-in from both communities — or as Alban Maginness put it in his contribution, it means that the DUP maintains a veto on who that person would be. Indeed, we have maintained our triple-lock veto on the entire devolution of those powers, which is important in showing the unionist community that we would not have a justice Minister who is not acceptable to us.

Mr O'Dowd: Will the Member agree that his key comment so far is that the justice Minister must have the confidence of the entire community? Therefore, if we follow the DUP's logic to its conclusion, and if Sinn Féin adopts the same attitude as the DUP does, there will never be a DUP Minister.

Mr Ross: It is very clear that it is important that there is buy-in from both communities on the issue. I readily acknowledge that there is sensitivity around that issue in the nationalist community, too — that is why it is important that there is buy-in from both communities. That does not mean that we are just going to accept anybody who is not responsible for us, and we maintain that veto. If there is no agreement, there will be no justice Minister.

Mr Paisley Jnr: Will the Member accept that we have just heard an argument that Sinn Féin is now going to block the devolution of policing and justice powers in the future?

Mr Ross: I agree that it seems very strange, given the party's tactics over the past year.

I have listened to a lot of heckling from the Ulster Unionist Party, both during my speech and other Members' speeches. Basil McCrea asked whether we are ready for policing and justice powers to be devolved. The answer is, no, we are not, which is why we do not have a timetable nor will we be led by any calendar. However, it is very hypocritical for the Ulster Unionist Party to come out with that line now; its members are in no position to lecture anybody. Earlier, my colleague Simon Hamilton remarked that the Ulster Unionist Party was ready to devolve policing and justice powers by 2005. Crucially, its members did

not want to see anything from Sinn Féin in terms of support for policing and the criminal justice system. That is important.

Mr Speaker: The Member's time is up.

Mr Kennedy: I pay tribute to the Chairperson of the Assembly and Executive Review Committee, the Committee Clerk and all the officials. It is no exaggeration to say that the debate will help to decide one of the most important issues that the devolved institutions have faced since 1998. The issue helped to destabilise the Assembly under its previous mandate, and, of course, led to the demise of its predecessor institution, the old Stormont Parliament.

It is clear that the report does not have the support of all Committee members. As evidenced by the votes recorded in the report, the Ulster Unionist Party has serious reservations about its key recommendations on the appointment of a Minister for justice and policing. My party has always contended that policing and justice powers can be devolved when sufficient confidence exists in the community to allow it to happen. Does such confidence now exist? Let us look at what the now First Minister said about that confidence a mere two years ago:

“It doesn't exist. I cannot see it for the foreseeable future existing and like Nigel”

— Dodds, the now Finance Minister —

“— indeed I think that I probably said it before Nigel that it wouldn't be in my lifetime, let alone my political lifetime.”

It appears that the definition of a lifetime, let alone a political lifetime, has radically changed in the past two years.

Mr Ross: That is not Nigel Dodds's position, and Mr Kennedy would know, had he listened, that the remark was that there would be no Sinn Féin justice Minister in a political lifetime. That remains the position.

Mr Kennedy: I am sorry that Mr Dodds is not here to defend himself, although he has a little helper to do it. Anyway, it is precisely because community confidence does not yet exist that the DUP and Sinn Féin have, together, invented the interim arrangement or, if one likes, a special arrangement that flows from a special relationship.

Nor does the DUP/Sinn Féin game of poker with policing and justice powers stop there. The deadline of May 2012 looms large over the patched-together expedient for the appointment of the justice Minister. According to recommendation 9, from which the Ulster Unionist Party and the SDLP dissented, although it had the support of DUP/Sinn Féin, permanent arrangements will be put in place by 2012, and there will be no fallback arrangements.

In other words, those two parties — which were unable to call even an Executive meeting during 154 days of a global economic crisis, and some of whose MLAs are still unable to bring themselves to speak to each other — now ask us to trust them to create permanent arrangements by 2012 — with no fallback, no safety net, and in the face of gridlock.

Policing and justice powers are among the most sensitive issues that our community faces.

Mr P Robinson: There will be an election before 2012, so will the Member confirm that he is saying that those two parties will remain the largest after that election? *[Laughter.]*

Mr Kennedy: The First Minister knows that he is in his position temporarily.

Mr Speaker: The Member may have an extra minute.

Mr Kennedy: The truth is that the First Minister knows that a deal has been done between his party and Sinn Féin. The Prime Minister knows it; the Secretary of State knows it; only some of his Back-Benchers in the Assembly know it. However, the people of Northern Ireland are not so easily fooled, and they now know it, too. We will see what the next verdict of the people of Northern Ireland, and of the unionist electorate, is on policing and justice.

To have complete instability in the Assembly over the past nine months is no way for any legislators to prepare for the devolution of policing and justice powers. The signs are that it is still not stable, with ongoing republican dissident activity and the potential threat of republican violence.

Mr Elliott: Does the Member agree that it is even more difficult to accept that we have a permanently stable society here while Semtex that was brought into the country by the Provisional IRA, which is inextricably linked to a party that sits in the Assembly, remains in the community?

Mr Kennedy: That is a very well-made point. Yes, the DUP response to that fact has been deafening. Perhaps for reasons of political expediency, nobody wants to upset the political apple cart. The deal is done; everything is in place. The Secretary of State knows it, the Prime Minister knows it, Peter Robinson knows it and the people of Northern Ireland know it. Ulster Unionists remain opposed to that deal for the very reasons that we have stated. I oppose the motion.

Dr Farry: I welcome the report, in so far as it moves forward such an important issue as the devolution of policing and justice powers. It is not a bad report, given the absence of any formal Alliance Party representation on the Committee. No doubt my party would have made the report even better. However, in so far as it goes, progress is being made.

Over recent weeks, there has been a sense in the community of serious engagement among parties on policing and justice, and there has been steady progress. We have been moving away from political grandstanding on the issue, although tonight's debate may force me to revise that opinion. Nevertheless, we are making steady — if not spectacular — progress.

My party has no difficulty in supporting the bulk of the report's recommendations. The Assembly may accept the report this evening, but there is a lot left to do, such as the consideration of other important issues — not least finance — and the taking of formal decisions either here or in Westminster on matters that require further legislation and potential changes to Standing Orders. Therefore, over the coming weeks and months, Members will have plenty of other opportunities to discuss in detail the issues in the report.

There has been much discussion between the nationalist and unionist parties about mutual recriminations. The debate has been very backward looking — I want to try to look forward.

Mr B McCrea: If called on by the people, would the Member be prepared to let his name, or that of one of his party colleagues, be put forward for the position of justice Minister? If so, we could sort out a lot of issues here and now.

Dr Farry: As the Member well knows, there is a programme set out by the First Minister and deputy First Minister on how the process will unfold. We should take things one step at a time — we can all make our judgements as the debate unfolds. *[Laughter.]*

I want to look to the future on the devolution of policing and justice, because it is important for the community. Devolving those powers is not just about copper-fastening the peace process and securing what some people describe as the last piece in the jigsaw. Instead, it is about delivering joined-up government. Policing and justice do not sit in a silo; although, due to the nature of the Northern Ireland Office, they unfortunately do at present. If we are to deliver rounded solutions to the people of Northern Ireland to address antisocial behaviour, provide community safety and tackle levels of offending, joined-up solutions are required, not just from a Minister of policing and justice alone, but from one who acts in co-operation with Ministers from other Departments. Therefore, if we get this right and produce proper co-operation among Departments, there is a real prize for our society.

My party is satisfied that we can proceed with policing and justice in the very near future. We are at a stage where confidence can be established. Obviously, we must respect the views of others on that, and we cannot move forward until there is a critical mass of

support in the Chamber on a cross-community basis, but we are getting there. Although the current difficulty is the lack of stability in the Executive, one could make the argument that the formal devolution of policing and justice may copper-fasten stability and provide the missing link. Therefore, there is a prize that we should keep our focus on.

We must keep an open mind on structures and not become prisoners of what happened in the past. I am a supporter of the Good Friday Agreement, and always have been. However, for me, the Good Friday Agreement is about its underpinning principles, including power sharing — I am not a hostage to any institutional designs, particularly those that have outlived their usefulness or never worked in the first place. Therefore, we should keep an open mind about how to address the issue of structures. Instead of worrying about the precise nature of structures, the important thing in the eyes of the public is that we provide proper policy solutions to the problems that Members have identified, such as crime and antisocial behaviour on the streets.

The most critical issue is finance. It may be possible for us to deliver policing and justice within our current Budget, but the big difficulty is the legacy of the past — costs can easily mushroom and get out of any Minister, Committee or Assembly's control, because there are particular legal commitments and requirements that must be met.

Most people here are more than capable of going through all the risks that exist in that regard. To my mind, the British Government need to focus a lot of their attention on that area. The legacy of the past was not caused by the Assembly, although individual Members may have had a responsibility in creating it. However, it is unfair to lumber the people of Northern Ireland, who are looking to the future with hope, with the cost of dealing with the past. The British Government will have to face up to that if they want the devolution of policing and justice to be a success in the very near future.

9.30 pm

Mr Attwood: Responding to some of the points that were raised during the debate, I will start with the comments of my fellow member of the Assembly and Executive Review Committee Ian Paisley Jnr, who stated correctly that unionism has got something out of the report. That is true, and nationalism has got less from it. However, that surely misses the point, which is that the community has got absolutely nothing. It has been 18 months since restoration, and the way that things are shaping up, it could be another 18 months before justice and policing is devolved.

There was a constant stream throughout the debate about how the Assembly responds to the issues of

crime in our community — Stephen Farry was the last Member who spoke to articulate that point. Tonight, the community knows that the Assembly has done — and is doing — nothing to take control of those issues. Given that hard fact, I do not think that the community will understand ultimately how the DUP can share responsibility for certain matters at the Policing Board with Sinn Féin and the SDLP. Also, depending on what happens in London today, the board may have to appoint a new Chief Constable in the next few months. The Policing Board has to deal with some of the most sensitive issues imaginable, including, for example, the collapsed Omagh bombing trial. Given that, people will not understand how the DUP can share policing responsibility a mile away from this Building, but not share responsibility for justice issues. It is confusing, and it is a contradiction that the DUP needs to face up to.

The DUP is being tactical in its approach to the devolution of justice and with its forthcoming motions about the North/South Ministerial Council and the Civic Forum. The party's motion yesterday about collapsing a number of Departments was tactical positioning in advance of the European election in order to close down the flak that will come at them from Jim Allister. Therefore, everyone must understand that the DUP approaches are not simply about having control when the devolution of justice might arise: it is all about positioning to maximise its vote in the European election.

Sinn Féin Members made several interesting statements, the most curious of which was Alex Maskey's challenge to Basil McCrea about what the Ulster Unionist Party is doing to build confidence. Never has there been a more eloquent statement of surrender to the DUP. If the DUP has an issue about community confidence and about the failure of people to show leadership around community confidence, a lot of that —

Mr A Maskey: Will the Member give way?

Mr Attwood: I will give way in a moment.

A lot of that is sourced in how the republican movement treated the unionist community over the past 40 years. Therefore, in challenging Basil McCrea and the Ulster Unionist Party to show leadership and build confidence, the Member was conceding how the Republican movement damaged and destroyed confidence in the community for 40 years, to the point where he had to surrender to the DUP requirement to have community confidence. The point that disturbs me about that particular surrender —

Mr A Maskey: I made the point earlier that we will listen to a lot of attempts to score points from people who are delivering absolutely nothing, and of course the SDLP has not done one scintilla to get the transfer of policing and justice powers brought forward by one

moment. That aside, Mr Attwood should not try to twist anyone's words, not least mine. I asked the Member for Lagan Valley Basil McCrea directly what he was doing about the question of public confidence. I do not accept that there is no question of public confidence in the broader unionist community.

In fact, I am sure that there is confidence in the broader unionist community. However, it was the Ulster Unionist Party Member who suggested that that confidence was not there. I merely asked him, if that was the case, what he was doing about it. Mr Attwood should not twist my words.

Mr Speaker: The Member will have an extra minute.

Mr Attwood: Now the contradiction is confirmed. On one hand, Alex Maskey is telling the Assembly and the community tonight that he knows that there is confidence within unionism. If that is the case, why, in November, did Martin McGuinness sign off with Peter Robinson, a 37-step process, five steps of which are specifically about building confidence in the community by consulting with parties and other stakeholders?

If there is so much confidence in the unionist community, why did Martin McGuinness agree to do that, when, several months previously, Gerry Adams said in 'An Phoblacht' — and in paper after paper in Northern Ireland — that community confidence existed, and that the only issue was whether the DUP had the confidence to respond to it?

Sinn Féin cannot have it both ways; that is the message of the Assembly and Executive Review Committee's report. In September, Gerry Adams told the nationalist community that there was enough community confidence, and that his party would obtain a deadline within two weeks. Two months later, Sinn Féin turned round and told the nationalist community that there was no community confidence and that, by the way, it had not secured a date for the devolution of justice and policing. When it comes to representing nationalist interests, the nationalist community will draw its own conclusions about those who hold to their words; Sinn Féin does not.

The Deputy Chairperson of the Assembly and Executive Review Committee (Mr McCartney): Go raibh maith agat, a Cheann Comhairle. Mar LeasChathaoirleach ba mhaith liom fáilte a chur roimh an tuarascáil seo. Rinne an Coiste obair mhaith, agus ba mhaith liom buíochas a ghabháil le gach aon duine a chuidigh leis an tuarascáil.

The Members who spoke in the debate laid out the perspectives of their respective parties. Indeed, some indulged themselves by outlining their own perspectives on the Committee's report, and their views will now be on the record. Therefore, I shall now summarise each of their contributions; the merits or demerits of their cases are there to be read.

If my calculations are correct, 14 Members, five of whom are not members of the Committee, made substantive contributions to the debate and there were 13 interventions. In his opening remarks, the Chairperson of the Committee, Jimmy Spratt, rightly pointed out the fact that, during the Committee's deliberations, he was always keen to ensure that members were given every opportunity to express their views and those of their respective parties. Indeed, under Mr Spratt's direction, the Committee went as far as extending to those parties in the Assembly that have no representation on the Committee the right to attend the discussions on the transfer of policing and justice matters and to actively participate in what the Committee wished to be an inclusive process. The Committee acknowledges those who availed themselves of that opportunity in the spirit in which it was offered; their attendance and contribution is appreciated. The two hours set aside for this debate provided a similar opportunity for other Members to make a contribution.

Mr Spratt also pointed out that, at the time of the publication of the Committee's previous report to the Assembly, he had only been the Chairperson for seven days. This time, he can rightfully claim that he steered the Committee through this important report — a report that will contribute significantly to the transfer of policing and justice powers to their proper place in the Assembly. Mar sin de, gabhaim mo bhuíochas leis.

I also wish to acknowledge the excellent work — and even higher degree of patience — of the Committee Clerk and his staff throughout the weeks that it took the Committee to complete and agree the report. Agus gabhaim mo bhuíochas leo fosta.

Most of the parties that are represented in the Assembly contributed to the Committee's report. A consistent theme throughout the process was that all the parties favour the devolution of policing and justice powers, and all of us, whether in or outside the Committee, know that it is the right thing to do. There were disagreements, and those are reflected in the report and in the debate, but I re-emphasise that there was no disagreement that there should be a justice Department and that powers attached to policing and justice should be transferred to the Assembly.

Jimmy Spratt also emphasised that this report is one of two planned reports, and that the Committee's work on the category 2 issues will be the focus of its attention in the coming weeks. At the outset, the Committee identified 26 issues that required detailed consideration. They provide a road map on which the ultimate destination is the successful devolution of a range of policing and justice powers and the establishment of a Department of justice and a justice Minister.

The Committee has already covered much ground along that road, and tonight's debate is an important

milestone as we report to the Assembly on where we are now, and where we intend to go next.

As both I and the Chairperson have previously stated, the first report is now complete. As well as recording agreements that have already been reached, the report points to issues that are still to be addressed. Among those are the financial implications of transferring policing and justice powers. The Committee will deal with that matter and all other matters as we endeavour to make an assessment of the cost that will be involved.

The organisations that are currently involved in delivering the range of policing and justice services have been asked to provide the Committee with an assessment of the financial pressures that they face. The Committee intends to call some of those organisations to give oral evidence.

Before concluding my remarks as Deputy Chairperson of the Committee, I shall make a number of points as a member of the Committee and reflect my party's and my own position. I suggest that, in future, the Committee should include a glossary of terms so that all members can understand the difference between "interim arrangements" and "at all times". Included in that list should be a definition of "veto", "mutual veto", "nothing" and "surrender".

The SDLP talked about chipping away at the Good Friday Agreement and warned Sinn Féin of the dangers of those who would try to get away with that. Perhaps SDLP Members should read their leader's recent speech at Oxford and understand that those who think that power sharing is up for negotiation and can be chipped away gain succour from his speech. They should advise him accordingly.

I know that all the comments are from party perspectives, but if Ian Paisley Jnr believes that the work of the Committee was down to a quarrel between the SDLP and Sinn Féin, perhaps the next report should read "needs to pay more attention", or, at least, it should state that he needs to read the minutes of the Committee meetings.

As deputy Chairperson of the Committee, I commend the 'First Report on the Arrangements for the Devolution of Policing and Justice Matters' to the Assembly. I reassure all Members that the Committee, under direction of the Chairperson, will continue apace with its work so that the transfer of policing and justice can proceed without undue delay.

Question put.

The Assembly divided: Ayes 51; Noes 16.

AYES

Ms Anderson, Mr Boylan, Mr Brady, Mr Bresland, Mr Brolly, Lord Browne, Mr Buchanan, Mr Butler,

Mr T Clarke, Mr W Clarke, Mr Craig, Mr Easton, Dr Farry, Mr Ford, Ms Gildernew, Mr Hamilton, Mr Hilditch, Mr Irwin, Mr G Kelly, Mr A Maskey, Mr P Maskey, Mr F McCann, Ms J McCann, Mr McCartney, Mr McCausland, Mr I McCrea, Mr McElduff, Miss McIlveen, Mr McKay, Mr McLaughlin, Mr McQuillan, Lord Morrow, Mr Moutray, Mr Moutray, Mr Murphy, Mr Newton, Ms Ni Chuilín, Mr O'Dowd, Mrs O'Neill, Mr Paisley Jnr, Ms S Ramsey, Ms S Ramsey, Mr G Robinson, Mr P Robinson, Mr Ross, Ms Ruane, Mr Shannon, Mr Spratt, Mr Storey, Mr Weir, Mr Wells.

Tellers for the Ayes: Mr Moutray and Ms S Ramsey.

NOES

Mr Armstrong, Mr Beggs, Mr Cobain, Rev Dr Robert Coulter, Mr Cree, Mr Elliott, Sir Reg Empey, Mr Gardiner, Mr Kennedy, Mr McCallister, Mr McClarty, Mr B McCrea, Mr McFarland, Mr McGimpsey, Mr K Robinson, Mr Savage.

Tellers for the Noes: Mr Kennedy and Mr McCallister.

Question accordingly agreed to.

Resolved:

That this Assembly approves the First Report of the Assembly and Executive Review Committee on the arrangements for the devolution of policing and justice matters.

PRIVATE MEMBERS' BUSINESS

Gaza Crisis

Motion proposed: That this Assembly condemns the appalling loss of life and scale of injuries among the civilian population in Gaza; calls on those responsible for all attacks involving civilian casualties to cease; calls for humanitarian aid organisations to have the freedom of movement to deliver their aid unhindered to the people of Gaza; and further calls for an immediate ceasefire and withdrawal of Israeli forces from Gaza and for the international community to mobilise to secure these objectives. — [Ms Ni Chuilín.]

Amendment proposed: Leave out all after “Assembly” and insert

“regrets the loss of life amongst the civilian populations in the ongoing conflict in Gaza and Israel; calls on the international community to use every influence to establish a verifiable ceasefire, bringing an end to all attacks on civilians in Gaza and Israel; and urges the restarting of the Middle East peace process, with the aim of delivering peace and security for Israel and an independent, democratic, and viable Palestinian state.” — [Mr Kennedy.]

Question, That the amendment be made, *put and agreed to.*

Main Question, as amended, put and agreed to.

Resolved:

That this Assembly regrets the loss of life amongst the civilian populations in the ongoing conflict in Gaza and Israel; calls on the international community to use every influence to establish a verifiable ceasefire, bringing an end to all attacks on civilians in Gaza and Israel; and urges the restarting of the Middle East peace process, with the aim of delivering peace and security for Israel and an independent, democratic, and viable Palestinian state.

Adjourned at 9.54 pm.

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