
NORTHERN IRELAND ASSEMBLY

Tuesday 1 December 2009

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

Members observed two minutes' silence.

ASSEMBLY BUSINESS

Mr Kennedy: On a point of order, Mr Speaker. I am concerned about the proposed statement from the Minister of Education. During Question Time yesterday, in response to question 5 to the Minister of Education, which my colleague Mr Kinahan asked, she said:

“I am constrained in how far I can go at this point without risking the wrath of the Chair by providing the details that I wish to impart in the statement.” — *[Official Report, Vol 46, No 3, p173, col 2]*.

There is substantial concern that media outlets, both press and electronic, relayed the detail of the statement that the Minister of Education is about to make to the House. Mr Speaker, I find that unsatisfactory, and I ask that you investigate the matter and relay to the Minister of Education and all Ministers the importance of treating this House with proper respect.

Mr Speaker: I hear what the Member is saying. I have always encouraged Ministers to come to the House first. I have always encouraged Ministers to give the House its place. I recognise that that is not always possible. However, when I meet with Executive members, I encourage that it be the case as far as possible. I expect Ministers to give the House its place before going to the press.

Mr O'Dowd: Further to that point of order, Mr Speaker, I am of the firm understanding that there is no indication whatsoever that the Minister of Education made any statement to any press organisation or issued any press release before coming to the House. It appears that the Ulster Unionist Party raises a point of order every time that we enter the House to hear a ministerial statement. It might be useful to hold a class on how to use Standing Orders, because it is clear that that party does not realise what they are for.

Mr Speaker: I cannot add much to what I have already said. I am not blaming any Minister. All that I am saying is that, as far as possible, it is important that Ministers give the House its place without going to the

press, and that is what I said to Mr Kennedy. I am not blaming the Minister of Education.

I am not saying that the Minister went to the press. I am just establishing the principle that the House should be given its place in respect of particular Assembly issues.

Mr B McCrea: On a point of order, Mr Speaker. As Mr O'Dowd suggested, perhaps you can help me. Will you tell me whether it is necessary for the statement that the Minister of Education is about to make to be brought before the First Minister and deputy First Minister and whether it has been approved by the First Minister?

Mr Speaker: That is a matter for the Minister. It is up to any Minister whether he or she wants to make a statement to the House. Ministerial statements do not have to be approved by the First Minister and deputy First Minister.

MINISTERIAL STATEMENT

Education: Interim Governance and Management

Mr Speaker: I have received notice from the Minister of Education that she wishes to make a statement on interim governance and management arrangements for the education sector in the period before the education and skills authority (ESA) is established.

The Minister of Education (Ms Ruane): Go raibh maith agat, a Cheann Comhairle. I would like to confirm that I did not speak to any press in relation to this matter. I have always given the House its place, and I respect the House. Cuirim fáilte roimh an deis seo le ráiteas a thabhairt don Tionól inniu —

Mr Kennedy: On a point of order, Mr Speaker.

Mr Speaker: Order. I will be happy to take points of order after the statement.

A Member: We cannot hear.

Mr Speaker: OK; we will see whether we can improve the hearing.

The Minister of Education: Cuirim fáilte roimh an deis seo ráiteas a thabhairt don Tionól inniu faoi na socruithe idirthréimhseacha rialachais agus bainistithe atá á gcur i bhfeidhm agam don earnáil oideachais le linn na tréimhse sula mbainfear amach sprioc an Choiste Feidhmiúcháin an t-údarás um oideachas agus scileanna a bhunú.

I welcome the opportunity to make a statement to the Assembly about the transitional governance and management arrangements that I am putting in place for the education sector in the period before the Executive's objective of an education and skills authority is established. The Executive committed themselves to 1 January 2010 as the establishment date for the ESA, and I have devoted my energies and those of my Department to implementing that Executive commitment. However, the Bill has not reached Consideration Stage, and the agreed operational date of 1 January 2010 is no longer achievable.

The new year was to bring a new era for education here. Sadly, the failure to find a political agreement means that that era has been delayed. The implementation date for the ESA has been put off on several occasions since 2008. That has been unsettling for thousands of staff employed in the sector and potentially disruptive for front line services. We cannot continue to allow things to be delayed and keep on pushing the problems in front of us. By doing so, we forgo the benefits of improved educational standards and the greater efficiency that will be realised from the operation of the new authority in delivering front line services.

Creidim go láidir go gcinnteoidh na daoine ar fad a bhfuil spéis acu i leas na bpáistí atá i gceoilár ár gcórais oideachais go ndéanfar an t-aistriú chuig an údarás um oideachas agus scileanna a réidhe agus is féidir tríd. Áirítear ar an méid sin freagracht na bpolaiteoirí atá sa Seomra.

I believe firmly that all those who are interested in the children at the heart of our education system can and will ensure a smooth transition to the ESA as soon as possible. That includes the responsibility of politicians in the Chamber. I pay tribute to the many members and staff in the affected organisations for the contributions that they made towards that goal during the transition period. However, I recognise that the heightened uncertainty, which could impact on front line services if it is not managed, has to be dispelled. As the Minister of Education, I have the responsibility to act. I must ensure that momentum is maintained towards delivering this long-awaited Executive reform. The Assembly, too, must act in a responsible manner in the weeks and months ahead.

Caithfear leanúint leis na hiarrachtaí atá déanta ag an earnáil oideachais go dtí seo i dtreo choinbhéirseacht na ngníomhaíochtaí isteach san eagraíocht nua agus leanfar leo. The efforts that have already been made by the education sector towards the convergence of activities in a new organisation must and will continue.

There are significant financial implications too. Departments are already facing major resource constraints next year. The delay in ESA coming into being has impacted on the £8.3 million that we had expected to achieve this year from ESA, and any further delay could impact on savings in the coming year. Between this year and next, £21.3 million has already been taken out of the education budget and, thus, any delay in establishing ESA has a direct impact on education services. That is something that we simply cannot afford to let happen. The longer the establishment of ESA is put off, the longer education will have to await the benefits and absorb the financial loss.

Caithfear an coigilteas pleanáilte ón údarás um oideachas agus scileanna a fháil. Mar sin, tá rogha simplí ach géarthábhachtach le déanamh againn: is féidir an coigilteas a fháil trí ghearradh siar ar mhaorlathas; nó trí ghearradh siar ar theagasc agus ar fhoghlaim. Tá sé ar intinn agam gearradh siar ar mhaorlathas. Is éard atá i gceist ag ESA ná maorlathas a chuíchóiriú agus caighdeán oideachais a ardú. Tá an dá rud ríthábhachtach.

The planned savings from ESA must be made, so we face a simple but stark choice: savings can be made by cutting bureaucracy or by cutting back on teaching and learning. I intend to cut bureaucracy. ESA is about streamlining bureaucracy and raising educational standards. Both are vital. I have, therefore, been

considering the transitional governance and management arrangements for the period before ESA is established. We need to keep on the path of convergence. Therefore, I have decided to implement new arrangements to achieve that aim.

A smooth transition is on my agenda, as it should be for everyone in this Assembly. I am, therefore, using existing legislation to press ahead with interim arrangements from 1 January 2010. Those are designed to ensure that we continue to reduce bureaucracy and streamline education services in preparation for ESA; that momentum towards ESA is not lost and that work towards convergence of services across the nine existing organisations is accelerated; that greater uniformity is achieved in the services that are provided; that school improvement and raising standards are pursued more vigorously; that there are greater efforts to drive out savings through efficiencies to protect front line education services; and that there is increased financial oversight in this period of increased uncertainty.

Dá n-athbhunófaí na boird, bheadh sé seo contrártha le cuspóir an Choiste Feidhmiúcháin: athchóiriú radacach na struchtúr oideachais, agus bheadh sin ina chúis éiginnteachta do bhaill foirne agus do scoileanna. Is beag is fiú fad a chur le ballraíocht iomlán na mbord arís don idirthrímhse. Deir cuid mhór de chomhaltaí an ELB go bhfuil a gcion féin déanta acu le himeacht na mblianta, agus tá an ceart acu.

Simply reconstituting the boards would be contrary to the Executive's objective of radical reform of education structures and would only cause further uncertainty for staff and schools. I do not see value in simply extending the entire board membership again for a transitional period. Many education and library board members rightly state that they have already played their part over the years. I have, therefore, decided to use existing legislation to reduce the membership of the boards so that we have smaller decision-making structures in place. For Members' perusal, I have appended to the written copies of the statement the numbers that will be involved in each transitional board.

I plan to reduce membership of the boards by over half, taking into account equality legislation and discussions with the Commissioner for Public Appointments. I aim to ensure that the transitional boards will reflect the communities that they serve. My Department will be in contact with the relevant bodies that nominate to the boards about the details in the coming days.

Tá mé ag iniúchadh socrúithe cuí ballraíochta do Chomhairle na Scoileanna Caitliceacha faoi Chothabháil, don Chomhairle Curaclaim, Scrúdúcháin agus Measúnaithe, do Choimisiún na Foirne agus don Chomhairle Ógra.

10.45 am

I am also looking at the appropriate membership arrangements for the Council for Catholic Maintained Schools, the Council for the Curriculum, Examinations and Assessment, the Staff Commission for Education and Library Boards and the Youth Council. I have considered, too, how the organisations should operate in the interim period towards the implementation of the Executive's decision to establish ESA. There must be a stronger push on the preparations for ESA and a greater focus on the convergence activities.

I have asked the chairperson-designate of ESA, Sean Hogan, to take on a greater role during the transitional period. The chairperson-designate will convene meetings of the chairpersons of the transitional boards and of the other education bodies to ensure that there is a strong co-ordinated approach to the convergence activity. Performance management arrangements will be put in place for the chairpersons so that there is a clear focus for their work. It is important that the transitional boards work increasingly together on the reorganisation and delivery of services to facilitate transformation and convergence. Each board currently operates with a number of committees that perform functions delegated by the boards. I will be asking the transitional boards to introduce a committee structure that will help to facilitate transformation and convergence.

Ba mhaith liom a chinntiú go nglacann príomhfheidhmeannach ainmnithe an ESA, Gavin Boyd, ról níos díri sna hullmhúcháin. Beidh mé ag cur socrúithe i bhfeidhm do na hoifigigh cuntasáochta ar na boird agus ar na forais eile le gur féidir leo tuairisciú don Roinn tríd an bpríomhfheidhmeannach ainmnithe, atá ina oifigeach cuntasáochta leis an Roinn Oideachais

I want to ensure that the chief executive-designate of ESA, Gavin Boyd, now takes on a much more direct role in the preparations. I will be putting in place arrangements for the accounting officers in the boards and in the other bodies affected to report to the Department through the chief executive-designate, who is an accounting officer in the Department of Education.

I will be asking the chairperson and the chief executive designates to produce a convergence delivery plan with clear leadership roles for the incoming ESA directors and associated timescales for implementation. The plan should cover the reorganisation of back-office functions, managing cross-board services and determining how existing organisations should be directed to drive forward key policies, including 'Every School a Good School', the entitlement framework and area-based planning, as well as their adherence to equality duties under the Good Friday Agreement.

In the transitional period, there is a need for increased financial oversight so that we continue to ensure that

services are delivered and that the risks to a seamless transition to ESA are carefully managed. I have, therefore, asked my Department to review the financial delegations to the existing bodies.

As I said, all those arrangements are designed to reduce uncertainty and to ensure that progress continues to be made until ESA is established in line with the Executive's stated objective. The chair and chief executive designate of ESA will play a greater role for the Department in working with the nine existing organisations to ensure that there is a strong co-ordinated approach to the convergence activity. I have set out the measures that need to operate in the transitional period, which, I hope, will be very short. I will monitor the effectiveness of the measures and supplement them with other changes as necessary.

Níor cheart go mbeadh aon mhoill eile ar dhul chun cinn na reachtaíochta i dtreo aidhm an Choiste Feidhmiúcháin le haghaidh athchóiriú na seirbhísí oideachais. Ba chóir do gach duine ar suim leis todhchaí an oideachais anseo a bpáirt féin a imirt lena chinntiú go bhfuil an mhoill seo chomh beag agus is féidir.

A further delay in the progress of the legislation towards the Executive's objective of reforming education services should not be allowed to occur. All those who have the future of education here at heart should now play their part in ensuring that the delay is minimal. I have appended to the written copies of the statement a breakdown of the membership of the transitional education and library boards.

Mr Speaker: Quite a number of Members wish to ask questions about the Minister's statement. Therefore, in order to get everybody in, I encourage Members to come to their questions quickly.

The Chairperson of the Committee for Education (Mr Storey): It is appropriate that I set the Minister of Education's statement in context.

As Chairperson of the Education Committee, I wish to first remind Members of what the Minister said to the House on 25 November 2008 during a statement on the review of public administration for education, just prior to the introduction of the first Education Bill:

"The RPA is a single legislative programme. My intention is that it will be implemented by means of two Acts that will be intimately linked. Full implementation of both Acts will be necessary in order to achieve the programme's objectives."

She also said:

"local democratic accountability...is vital for a service as important as education." — [*Official Report, Bound Volume 35, p257, cols 1-2*].

The position is as the Minister has just said: the first Education Bill has not reached Consideration Stage, and the second education Bill has not been introduced to the House. A total of 97 amendments and six notices of clause not stand part have been tabled on the first

Education Bill. No information on the scrutiny or the content of the second Bill has been brought before the House. Yet, the Minister today tells the Members of this legislative Assembly:

"I have decided to implement new arrangements to achieve that aim."

That is, the convergence of nine existing statutory bodies into an ESA.

Clearly, the House has not made its decisions on these Bills. So, for the Minister to now implement new arrangements —

Mr O'Dowd: Is that a speech or a question?

Mr Speaker: Order. It is well known in this House that when Chairpersons of Committees rise in their place they have some latitude before they put their question, and this morning is no different. I encourage the Chairperson to come to his question.

The Chairperson of the Committee for Education: The House has invested in its Committees power to scrutinise, and it ought to be the case that, when it comes to a very important issue, the Chairpersons have the right to ensure that they set in context the statement that has been made to the House. It is one thing to make preparations to implement legislation, but pre-empting the will of the Assembly is something that I think is very serious.

To reduce membership of the education and library boards by over half and to introduce transitional boards —

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

The Chairperson of the Committee for Education: I will get to the question.

I can find no reference to transitional boards in the Education and Libraries (Northern Ireland) Order 1986 or to the chairperson-designate of ESA having responsibility to ensure the delivery of convergence. Therefore, I have a number of questions for the Minister.

First, will the Minister state whether the legal status of the individual education and library boards and their chairpersons and chief executive accounting officers will be altered in any way by her proposals and, if so, should there not be legislation before the House? Secondly, what is the current legal status of the chairperson-designate of ESA and the chief executive-designate of ESA, and where specifically do powers exist for them to carry out the tasks that the Minister is proposing in relation to the current education and library boards and other bodies? In conclusion, I come to questions that will be very important for the Minister. The Minister said that she will take into account equality legislation. Has her Department equality-screened her proposals, will an EQIA be carried out and what is the timescale for that to be done?

The Minister of Education: Go raibh maith agat as an ráiteas sin.

I had a meeting with the Chairperson of the Education Committee prior to making this statement, and I thank him for that meeting. My officials and I have always worked with the Education Committee, and I will continue to do that.

I will answer the Chairperson's first question, which was whether the revised transitional arrangements are legal. The answer is yes. Officials have scrutinised the relevant statutes. I am using existing legislation; the transitional structures will be constituted within the existing education and equality legislation.

Mr O'Dowd: Go raibh maith agat, a Cheann Comhairle. It is worth putting it on the record that the Chairperson of the Committee for Education did not agree any statement of the Committee prior to this meeting.

The Chairperson of the Committee for Education: On a point of order, Mr Speaker.

Mr Speaker: I will take the point of order at the end of this item of business. There are no points of order during ministerial statements.

Mr O'Dowd: Members talk about efficient and effective government and about reducing bureaucracy and investing money in front line services. They talk the talk, but they cannot walk the walk. My question relates to savings in education. Some £21 million has been removed from the Minister's budget, because the Executive had agreed that the ESA would be established by 1 January 2010. How will the Department of Education deal with that loss of £21 million?

The Minister of Education: We will deal with it with great difficulty. Efficiency savings were identified on the basis that the ESA would be established in line with the Executive's agreement. The delay in establishing the ESA means that it has not been possible to deliver the savings in the way in which the Department intended, and, as the funding has been deducted from the budget, the reduction will have to be borne across education services. One factor that is more important than savings and one which, I hope, Members will reflect on is that many of our young people are being failed by our education system. Members need to ask themselves what impact the delay in the establishment of the ESA will mean for those young people, be they on the Falls Road or the Shankill Road.

The Chairperson of the Committee for Education: On a point of order, Mr Speaker.

Mr Speaker: Order. Let the Minister respond.

The Minister of Education: What impact will the delay have on the young people in the Waterside,

Coleraine or in any other part of the North? For me, that is the biggest question today.

Mr B McCrea: The Minister touched on the loss to her Department of £21.3 million between this year and next year. At an Education Committee meeting, officials confirmed that much of the saving that was to be brought by the ESA was already trapped due to difficulties with vacancy control and various other issues. The anticipated savings were, therefore, already in the system.

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

Mr B McCrea: Given that the Minister, in her statement, said that financial oversight is important, will she elaborate on the performance management arrangements of the chairperson-designate of the ESA? Do the education and library boards have a statutory obligation to listen to the chief executive-designate of the ESA?

The Minister of Education: The chairperson-designate and the chief executive-designate have key roles to play in the interim phase to keep the momentum going towards the new authority. Therefore, I have asked Sean Hogan, chairperson-designate, to take on the co-ordination of the work of the chairpersons of the education body, so that there is a stronger focus on the convergence activity. I also want the existing bodies to report to Gavin Boyd, chief executive-designate — he has been an accounting officer in the Department for a number of months — so that stronger linkages are put in place between the work of the existing organisations and the preparations for the ESA.

Mr D Bradley: Go raibh maith agat, a Cheann Comhairle. An féidir leis an Aire a dhearbhu go mbeidh ceapacháin ar bith a dhéantar san idirthréimhse de réir na reachtaíochta um fhostaíocht chothrom? An féidir léi a dhearbhu fosta nach ndéanfar éagóir ar bith ar théarmaí seirbhíse na n-oifigeach atá sna heagraíochtaí oideachais eile?

Will the Minister assure the House that any appointments or promotions made by the reduced education and library boards in the interim period will meet the requirements of equality legislation? Will she also assure us that the terms and conditions of board officers and those in the other relevant education bodies, such as CCEA, NICIE, CCMS and Comhairle na Gaelscolaíochta will not be adversely affected by the changes?

11.00 am

The Minister of Education: Go raibh maith agat as an cheist sin. I can confirm that I will take account of all equality legislation. As I said, I aim to ensure that the transitional boards reflect the community that they serve in a very even-handed way.

Mr Lunn: To follow on from Mr Storey's question about the legality of reconstituting the boards, if it is

legal to do what the Minister suggests, surely it would be legal to allow the existing boards to have a stay of execution and to continue in their present form. The Minister speaks about streamlining bureaucracy and taking financial considerations into account, yet board members are not paid. Therefore, would it not be simpler and quicker to allow them to remain in their present form?

The Minister of Education: The simple reconstitution of the boards is neither practical nor desirable. Many board members rightly state that they have played their part. Simply to reconstitute the boards for another three months or three years, or for whatever length of time it takes before there is political agreement, will cause only further uncertainty for staff and will be contrary to the Executive's stated objective. We need transitional arrangements to be put in place that are capable of accelerating the convergence process towards the ESA and ensuring that we are fit for purpose to face the financial year. We are about streamlining bureaucracy. What I have said is that I plan to reduce board membership by half.

Mr Ross: The Minister is on public record as saying that local democratic accountability is vital for a service as important as education. Can she, therefore, explain why the Belfast Education and Library Board will move from the position of having 14 elected councillors on the board to having only four? How will that board be representative of the community that it serves?

Furthermore, is the fact that the Minister has not consulted any of her Executive colleagues or the Committee for Education an indication that she has given up on trying to find consensus on any of the issues, or is it merely an indication that she knows that nobody will agree with her?

The Minister of Education: I never give up.
[*Interruption.*]

Mr Speaker: Order.

Mrs McGill: Go raibh maith agat, a Cheann Comhairle. The Minister answered my question in her response to Trevor Lunn. However, I declare an interest as a member of the Western Education and Library Board — a current member.

Mr Craig: I note with interest that the Minister said that she will ask the chairpersons of all the new bodies to converge and produce a delivery plan in conjunction with moving over to the ESA. I take it that she is really saying that Donal Flanagan, the chief executive of the CCMS, has just got the sack, because how will she deal with the fact that he instructed his members to have no dealings with the interim ESA set-up? I take it from what the Minister has said that she has just given that man the sack.

The Minister of Education: Absolutely not. I wish to make it very clear that all the organisations have worked closely with me and with my Department over the past number of years. I have chaired regular meetings with all the chairpersons of the existing organisations, and they have all played their part very well and very constructively, including Bishop McAreevey, who is the chairperson — the cathaoirleach — of the CCMS. My officials and I look forward to working with the chairpersons of the transitional boards and with the chairperson designate and chief executive designate of the ESA to ensure a smooth and seamless transition.

Mr Kennedy: The Minister indicated that she had not spoken to any media outlet. May I press her on whether her special advisers or the press relations people in her Department were responsible for the leaking of information? Has she instructed her permanent secretary to instigate a leak inquiry?

In streamlining the education and library boards, who will decide which elected members will retain their places on them, and how will that decision be made? Given the Minister's record, how can the House have confidence that she will not appoint her political cronies to those positions?

Finally, will the Minister explain to the House what the ramifications of the transitional reforms will be should the Assembly reject, or substantially amend, the Education Bill?

The Minister of Education: I can confirm that my special adviser did not talk to the press. He also respects the House.

Mr Kennedy: What about the PR people?

Mr Speaker: Order.

The Minister of Education: I can also confirm that —
[*Interruption.*]

Mr Speaker: Order.

The Minister of Education: I can also confirm that the PR people did not speak to the press.

Mrs M Bradley: The transitional arrangements may allay fears for a while, but we need certainty. Will the Minister clearly state when the Consideration Stage of the Education Bill, which provides for the establishment of ESA, will come before the House? Will she also specify the status that she is using to make the changes?

The Minister of Education: I am using existing legislation to make the necessary changes.

Mr Brady: Go raibh maith agat, a Cheann Comhairle. I thank the Minister for her statement. Will the Minister tell the House when the current board members will be informed about the revised governance arrangements? Will she also confirm whether the Commissioner for

Public Appointments has been consulted about the transitional arrangements?

The Minister of Education: I wanted to announce the changes to the Assembly first. Therefore, board members will be informed of the changes after the debate.

What was the Member's second question?

Mr Brady: I asked whether the Commissioner for Public Appointments has been consulted about the transitional arrangements.

[Interruption.]

Mr Speaker: Order.

The Minister of Education: The Commissioner for Public Appointments has been consulted, and the Department will work closely with her.

Mr Weir: I note that no reference was made to the South Eastern Board in the Minister's statement to the House and that there is to be a reduction in the overall membership of the transitional boards. If the process is to be carried out equitably, will there be a reduction in the number of commissioners who run the South Eastern Board?

Appendix a of the Minister's statement shows that 21 "others" will be appointed to the transitional boards. Will the Minister confirm that all 21 are existing members of education and library boards?

The Minister of Education: I will ask the commissioners to stay on for a short period. That is a proportionate approach, because the board has worked well under them, and it would be wrong to disrupt the system at this key time.

Ms Ní Chuilín: Go raibh maith agat. I thank the Minister for her statement. How will the failure to pass the Education Bill affect children transferring between primary and post-primary schools?

[Interruption.]

Mr Speaker: Order.

The Minister of Education: My proposals for a new exceptional circumstances body were dependent on the passage of the Education Bill. I am considering the introduction of other measures to ensure that children are not further disadvantaged by the arrangements that a small number of breakaway grammar schools have put in place this year. *[Interruption.]*

Mr Speaker: Order.

The Minister of Education: I will make every effort to ensure that children do not bear the brunt of the obstruction or inaction of others, as I did when the Executive failed to consider my proposals for transfer in 2008.

Lord Morrow: Most of the Members who are in the House today and those who read the Minister's statement later will come to the conclusion that she may as well have not made it, because it offers no conclusions. Does the Minister accept that her Department is on the verge of meltdown and that her statement contains nothing to prevent that? Will she assure the House that she will adopt a more consensual approach, rather than the belligerent and confrontational manner that she has adopted to date, and sort out our education system once and for all?

The Minister of Education: I brought forward the proposals today to ensure a smooth transition for all our children and young people and to deal with the effects of political parties trying to block very important legislation. *[Interruption.]*

Mr Speaker: Order.

The Minister of Education: Perhaps the Member will go back to his constituency — *[Interruption.]*

Mr Speaker: Order.

The Minister of Education: Perhaps he will go back to his constituency and explain to the young people who are being failed by the system how his party's policies and the delay in the introduction of ESA help them.

Mr K Robinson: I note the Minister's statement today. Many Members feel that the Minister is introducing what amount to educational commissars at a time when the Committee for Education and the House have grave difficulty with the progression of the Education Bill. Does she not realise that not only is that causing the educational world some difficulty but it is adding to the fragility of the current state of the House?

The Minister of Education: I absolutely accept that the delay in bringing forward an Executive decision is very serious, and that is why I have brought forward proposals today. Faced with delay and obstruction, I have a duty to act for the benefit of children and young people. That is what I am doing.

Mr I McCrea: The appendix to the Minister's statement refers to 24 councillors and, as my colleague Peter Weir said, to 21 others. Will the Minister detail how the 24 councillors will be selected? Can she also answer the question that my colleague asked about the selection of the 21 others?

The Minister of Education: That is one of the areas that is under discussion with the Office of the Commissioner for Public Appointments, and the chairpersons and chief executives will be informed in due course of the outcomes of those discussions. I assure Members that I will take equality legislation into account, and I aim to ensure that the transitional boards will reflect the community that they serve.

Ms J McCann: Go raibh maith agat, a Cheann Comhairle. I thank the Minister for her statement. Will she expand on why the arrangements that she detailed are necessary? Will she also explain, not only to those in the House but to people in the community, who are important, exactly what or who is causing the delay in the establishment of ESA?

The Minister of Education: The Education Bill has not proceeded to Consideration Stage because the Executive have not yet considered the amendments that I, the Committee for Education and individual Members have tabled. I trust that my Executive colleagues will recognise the need to consider the amendments urgently so that the much needed reform of education administration, which the Executive have agreed, can go ahead. That is essential, because we can ensure that schools will be well supported and that children will get the best chance. It is no secret that Members on the unionist Benches are trying to block change.

Dr Farry: I thank the Minister for her statement. I appreciate the situation that the Minister is in at the moment. Further to her previous answer, will she expand on what processes are under way to try to find agreement on the way forward for the Bill between parties on the Executive so that we can have some clarity and so that the transitional period will be closed? Can the Minister also clarify the situation on speculation in the media about lowering the threshold for delegated financial authority? That was mentioned in media reports last night but was not referred to in her statement.

The Minister of Education: I am putting financial arrangements in place, and I will bring forward details on those in the coming days.

Mr McClarty: In light of the fact that the Education Bill has not reached Consideration Stage, will the Minister inform the House what her centrally controlled convergence plan will be converging towards?

The Minister of Education: The convergence plan will be implementing the badly needed reforms and ensuring that there is a smooth transition for all our children and young people. It will also ensure that ‘Every School a Good School’, area-based planning and the entitlement framework will be policies that will be implemented fully. The convergence plan will ensure that we use the scarce resources that we have to the best possible effect.

Mr McCallister: I note that the Minister passed on most questions. She said that she must ensure that momentum is maintained and that there will be a smooth transition process. What does she feel that she could have done better?

The Minister of Education: I think that the House agrees that it would be better for everyone if all the parties that had originally agreed an Executive decision

had followed through with that decision. I am ready and waiting to make sure that the ESA is established.
[*Interruption.*]

Mr Speaker: Order.

The Minister of Education: In the absence of that body, I have brought forward proposals, because I am not prepared to stand idly by while children are failed by the system.

Mr Speaker: Order. That ends questions to the Minister of Education on her statement.

The Chairperson of the Committee for Education: On a point of order, Mr Speaker. Some Members of the House seem to think that it is funny that Members want to raise points of order. However, this is a serious issue.

Will you confirm — [*Interruption.*]

Mr Speaker: Order, order.

11.15 am

The Chairperson of the Committee for Education: We are well used to the arrogance of the party opposite; it is nothing new.

Mr Speaker, will you confirm that I, as the Chairperson of a Statutory Committee of the House, have every right to ask questions of the Minister that are relevant to the Committee on the basis of its debates and discussions and on information that has been made available to the Committee? Secondly, will you make a ruling on the totally dismissive nature of the Minister of Education in the way in which she dealt with some questions, whereby, in the normal way that she deals with the House, she dismissed, and, therefore, did not answer, the questions that were asked on a very serious point and a very serious issue in relation to what was said in the House today?

Mr Speaker: With regard to the latter issue, I have always said in the House that it is up to all Ministers to decide how they might answer a question. I certainly do not intend to sit in judgement on how a Minister might answer a question. With regard to the Member’s first point, that is certainly a responsibility of the Committee for Education and its Chairperson; it is not an issue for the House. It rests with the Committee.

Mr Ross: Further to that point of order, Mr Speaker, you said that it is up to Ministers to decide how they answer questions. However, is there not a directive that Ministers give at least some type of answer to questions? No answer whatsoever was given to my question about the Belfast Education and Library Board or to other Members’ questions.

Mr Speaker: As Members know, I encourage Ministers, as far as possible, to answer questions as fully as possible, but I will not sit in judgement on how a Minister might answer a question — that is the key — because that would be a very difficult role.

Mr B McCrea: On a point of order, Mr Speaker.

Mr Speaker: Is it a point of order on the same issue, Mr McCrea? We really need to move on.

Mr B McCrea: I appreciate the need to move on because we have other important business. However, this is a fundamentally important issue. When Members ask a direct question, are they not entitled to a response?

Mr Speaker: I hear what the Member is saying, but I cannot add any more to what I have already said this morning, and I feel that we should move on.

EXECUTIVE COMMITTEE BUSINESS

Goods Vehicles (Licensing of Operators) Bill

Final Stage

The Minister of the Environment (Mr Poots): I beg to move

That the Goods Vehicles (Licensing of Operators) Bill [NIA 15/07] do now pass.

Today, as one might expect, I want to draw attention to the purpose, aims and objectives of the Bill, to thank the Committee for the Environment and other Members for their contribution to its passage and to say something about looking forward to working with the Committee to develop the regulations that are needed to give the Bill full effect.

I will go back in time and pick up on the early days of the proposals that are now included in the Bill. Members will see why many people, my officials among them, are relieved that we have arrived at Final Stage. I guess that those who are sitting in the Officials' Box to my left may still be biting their nails and wondering what could go wrong.

Nearly 18 years have passed since legislative change for the freight industry was first reviewed. It would not be out of place to call it 'The Long and Winding Road'. In 1991, the issue was the responsibility of direct rule Ministers. In fact, a total of 14 Ministers have, in some way or another, had responsibility for leading the process to its current position: that is, nine direct rule Ministers and five devolved Ministers.

I will return to the real business of today's debate. I remind Members of the purpose and aims of the Bill. Its purpose is to provide enabling legislation to create a new legal framework for freight licensing. It is the outcome of a number of comprehensive reviews that were conducted by officials and has been drafted with great skill by the Office of the Legislative Counsel (OLC) and hand tailored to meet the demands of an important sector of industry in Northern Ireland. The aims of the Bill are to improve the standard of goods vehicles on the roads, promote fairer competition in the sector through the reduction of illegal freight operational activity, provide a fairer share of the burden of regulation and develop a better approach to dealing with the environmental impact of the industry.

The Bill is the third major piece of primary legislation to have been introduced by road safety division in as many years. It follows the Road Traffic (Northern Ireland) Order 2007 and the Taxis Act 2008, and, together, the three Bills represent a commendable endeavour to improve road safety. It is the first Bill that I have brought to Final Stage as Minister of the Environment. I do not expect it to be a Christmas number one, but if it were, I

would have to share the royalties with my predecessors, Arlene Foster and Sammy Wilson. I expect it to be the first of many Bills, and, although some of those will be of greater significance than others, I am proud that my first Bill deals with bread-and-butter issues such as the freight and logistics industry.

The freight industry is of significant importance to the Northern Ireland economy. Some 25,000 goods vehicles lift over 75 million tons of freight in Northern Ireland every year and transport it by road. The most popular commodities are crude minerals, food, drink, tobacco and building materials. Most end users do not appreciate the planning effort and risks that are associated with the road-based industry, and all that is reasonably possible must be done to reduce the risks and ensure the effectiveness of that key industry in Northern Ireland. For those reasons, I am pleased to ask the House to support the Bill.

I thank Members for their attention to the Goods Vehicles (Licensing of Operators) Bill, not only during Consideration Stage, when the amendments were approved, but in the detailed consideration of the Bill in Committee. I am pleased with the level of consensus that the Bill enjoyed in all parts of the House, and I particularly thank the members of the Committee for the Environment and its current and former Chairpersons for the Committee's considered evidence taking and detailed scrutiny of the Bill, its useful suggestions for amendments and its comprehensive report, which was published in December 2008.

My officials have aged slightly during the Bill's passage; I think that they were about 21 when they started. They are appreciative of the constructive working relationship that has been established between them and Committee members and, on their behalf, I thank the Committee.

The Bill, as it stands to be voted on in the Assembly, shows that a Minister, a Committee and officials can achieve positive outcomes by working together. I look forward to continuing that relationship as I consult with the Committee for the Environment on the detailed proposals for the Bill's implementation. I commend the Goods Vehicles (Licensing of Operators) Bill to the House.

The Chairperson of the Committee for the Environment (Mrs D Kelly): I thank the Minister for moving the Final Stage of the Goods Vehicles (Licensing of Operators) Bill. The Committee welcomes the Final Stage of that important Bill, which is needed to deal with all matters relating to the regulation of road freight operators. The Committee recognises that the Bill has the potential to enhance road safety, improve the image of the freight sector and contribute to the fight against organised crime.

The Bill was referred to the Committee on 21 May 2008, and members conducted detailed scrutiny, making recommendations and prompting amendments where they deemed necessary. The Committee considered that the key issues relating to the Bill were the fact that the own-account sector is not currently regulated; the financial impact of the proposed new arrangements on operators; the definition of "operating centre"; organised crime; the poor reputation of Northern Ireland's haulage system; cross-border issues; exemptions; planning; and enforcement.

The Committee outlined its recommendations for the Bill at Consideration Stage, and it would be remiss of me not to thank the Deputy Chairperson for speaking in my absence on behalf of the Committee on that occasion. Committee members had particular areas of concern, and I request that the Minister and his Department keep a close eye on those. The first of those is the issue of flagging out. Several stakeholders expressed concern that the Bill would distort operating conditions and competitiveness across the border and that businesses would be under pressure to relocate their operating centres. The Committee feels that that issue will require monitoring by the Department so that we are aware of any negative impacts of the Bill in that regard.

The second issue is that of the financial impact of the proposed new arrangements for operators. Many stakeholders expressed concern about the Bill's cost implications. In addition to the licensing process, costs will be associated with extra paperwork, insurance implications, obtaining professional competence and more time off the road for maintenance. The Committee calls on the Department to ensure that, in the current economic climate, any increased costs and bureaucracy that the industry faces are kept to an absolute minimum.

The third and final issue is enforcement, which the Committee discussed at length. Although members support the Bill and recognise its importance in improving the industry and, consequently, road safety, they feel that it will not bring about the intended improvements unless it is properly enforced. I, therefore, call on the Minister to ensure that adequate resources are allocated to ensure proper enforcement, and I urge him again to consider the feasibility of appointing an independent traffic commissioner for the North.

On behalf of the Committee, I thank the Minister for addressing its concerns and for bringing forward amendments in response to the Committee's scrutiny of the Bill. Once again, I put on record my thanks to the Committee staff and departmental officials for their hard work in assisting the Committee during its scrutiny of the Bill. The outcome is improved legislation that will genuinely help to protect lives.

The House will know that the Minister has several other Bills in the pipeline. I welcome his constructive working relationship with the Committee and look forward to working with him on those Bills.

Mr McQuillan: I thank the Minister for the opportunity to discuss, at this Final Stage, the Goods Vehicles (Licensing of Operators) Bill.

We all understand the importance of road safety in Northern Ireland, and it is with this legislation that we will be able to control and monitor the operators of goods vehicles. The current situation in Northern Ireland allows any heavy goods vehicle operator to use our roads without having their vehicles and drivers properly regulated. That includes operators with only one vehicle as well as a large operator with a fleet of however many vehicles. The proposed legislation will allow the Department of the Environment, through the licensing of operators, to ensure, for example, that drivers' hours are correctly enforced, that only roadworthy vehicles are used, and that, if not, corrective action will be enforced, with subsequent penalties.

The legislation will bring Northern Ireland into line with Great Britain, which enforces the licensing of operators. It will apply to all operators fairly and will ensure that all vehicles are maintained and used on the road by an experienced and responsible driver, thereby reducing the possibility of accidents and keeping the roads safer. I support the Bill.

Mr Boylan: Go raibh maith agat, a Cheann Comhairle. Ba mhaith liom cúpla focal a rá.

I thank the Bill Office, the Committee Clerk and her staff, and anyone else who contributed in bringing the Bill to the Chamber. I also pay tribute to the former Chairperson of the Committee.

The Bill, when implemented, will complement the road safety strategy. It will also paint freight operators in a better light in the eyes of the public, which was an issue that raised its head in discussions on enforcement during scrutiny of the Bill. However, I want to bring to the Minister's attention the fears that were expressed to the Committee about the effect that operator centres would have on independent carriers who operate from home. The Minister told the Committee when he appeared before it that that policy was only in the form of guidelines. I would appreciate it if that rationale and common sense could be applied to some of the independent operators in relation to planning.

The Minister said that this was his first Bill, and it may be a Christmas number one. However, the Committee spent a long time scrutinising the Taxis Bill, which has taken a long time to implement on the ground. I hope that this Bill will be fully implemented more quickly.

11.30 am

Mr Kinahan: I congratulate the Environment Minister on the Final Stage of his first Bill.

As Members know, goods vehicle operators are Northern Ireland's lifeblood. They need all the support that they can get. I congratulate the Committee, the Minister and the Department on their hard work. Many Members will be aware that, as the Committee's junior member, I was not involved in any of that. However, I congratulate it on that work, which I know to have been thorough. I also encourage the Assembly to keep an eye on the concerns that have been raised and to ensure that enforcement is effective. I look forward to the day when Northern Ireland's freight industry is seen as one of the best in Europe. My party supports the Bill.

Mr Ford: One example of what happens in this place when a good Bill is made better by a Committee is that there is nothing left to say when the Bill reaches Final Stage. If one happens to be the sixth Member to speak in the debate, one has even less to say. I shall, nonetheless, do my best to say a few words.

I welcome the fact that we have reached the Bill's Final Stage and have done so with such unanimity around the Chamber. In that context, it is right that Committee members, especially old, grey-haired, bearded veterans of two Committee Bills, so far, should thank the current Minister, the former Minister Arlene Foster — I am not sure that the one who came between them was necessarily as enthusiastic for the Bill as has been suggested — departmental officials and Committee staff for the good work that they did together to ensure that a good bit of proposed legislation will be even better in its implementation.

Key issues needed to be addressed — for example, road safety and having a level playing field for legitimate freight transport operators in Northern Ireland who, at present, suffer due to the behaviour of others who observe the law somewhat less than they should and get through loopholes in the inadequate current law. It is therefore welcome that the Bill was introduced by Arlene Foster and completed by Edwin Poots.

Of course, the issue is not just to pass the Bill through the House today. As the Deputy Chairperson of the Committee has already highlighted, enforcement of the Bill's provisions is also significant. A major issue remains to be followed through with regard to secondary legislation. Therefore, although it is a pleasure to see the Bill team smiling and happy at your end of the Chamber, Mr Speaker, I trust that we will not detain them too long and that they will be back at their desks to prepare the secondary legislation that is now needed. I wish the Minister good speed in taking that forward.

The Minister of the Environment: I thank Members for their contributions to the debate. It is particularly relevant that Mr Ford could not find anything negative to say. That is significant and demonstrates the unanimity that has been achieved.

Mr Ford: Trevor Clarke is not present. *[Laughter.]*

The Minister of the Environment: I also want to thank the Chairperson of the Environment Committee.

One of several issues that have been raised is flagging out and the relocation of operating centres outside Northern Ireland. The Department has looked at that and believes that there is not a considerable amount of evidence to show that that will happen. Given the deficit that would exist, if there were savings to be made, they would, at best, be minimal. We do not believe that the benefits that would be derived would be significant. Therefore, in that respect, we do not believe that significant flagging out, if any, will occur. However, the Department will continue to consider and keep an eye on that issue.

Mr I McCrea: The Minister referred to flagging out. Will the Department of the Environment's enforcement powers apply to vehicles that come into Northern Ireland from the Republic of Ireland, where there is not the same level of enforcement and requirement to keep vehicles to an adequate standard?

The Minister of the Environment: The Department's powers will apply to vehicles used on Northern Ireland's roads. Such vehicles will be expected to be of the same standard as those registered in Northern Ireland.

When we implement the regulations, it will be done through the regulatory process that will flow from the Bill. We will be looking for adequate powers to impound vehicles that are not roadworthy, an appropriate level of fines to dissuade people from the notion that it is a good thing to use vehicles that are not roadworthy and extensive powers to deal with people who wish to break the law.

The second issue raised by the Chairperson of the Committee related to the financial impact for the operators. They will have to spend more on maintenance and ensure that vehicles are in proper roadworthy condition. That money ought to have been spent in the first instance. The operators who are doing the job properly and whose vehicles are in a roadworthy condition are already doing that and competing in the market. Sometimes they are competing against those who are taking short cuts, and those who take short cuts have an unfair advantage over those currently operating their vehicles safely and in accordance with the law.

Another point is that those who operate their vehicles to the highest levels indicate that there are savings to be made by having vehicles kept in a well-maintained

condition. Keeping a vehicle well maintained is a cost-effective thing to do.

As a result of the comprehensive spending review, we have enhanced enforcement resources, which will increase over a three-year period. Because a fairer licensing structure will be introduced by the Bill, we expect there to be a further improvement in the resources that will be dedicated to freight enforcement. Therefore, we will have the appropriate enforcement officers in place to deal with it.

The prompt implementation of the Bill has also been raised. A lot of regulations flow from this Bill, and indications have been given that the Assembly would like to see faster progress made on the regulations associated with the Taxis Act (Northern Ireland) 2008. I will pass that on to my officials, and I trust that, with respect to both pieces of legislation, we will be able to respond effectively and bring forward appropriate regulations within an appropriate timescale.

Subject to the Bill's passage, I look forward to working with the Committee to fulfil those plans and to improve the regulation of the freight industry for its own benefit, that of its users and that of the wider Northern Ireland public. I am delighted to have brought the Bill to this Stage.

Question put and agreed to.

Resolved:

That the Goods Vehicle (Licensing of Operators) Bill [NIA 15/07] do now pass.

Department of Justice Bill

Final Stage

The deputy First Minister (Mr M McGuinness):

Go raibh maith agat, a Cheann Comhairle. I beg to move

That the Department of Justice Bill [NIA 1/09] do now pass.

This is a very short Bill with three clauses and one schedule. It is possibly one of the shortest Bills to be brought before the Assembly, and yet it has generated considerable debate in the Chamber. In total, in its Second Stage, Consideration Stage and Further Consideration Stage, there have been over 20 hours of debate. That does not take into account the time spent in scrutiny of it by the Committee for the Office of the First Minister and deputy First Minister.

There is good reason for the Assembly's entirely appropriate interest in the Bill. It is an essential part of a process that has great relevance to us all. At the end of Second Stage, the First Minister said:

"The devolution of policing and justice will bring significant additional responsibilities but, more importantly, it will carry enormous potential for all of us here and for all our people. It will bring real local accountability and real local leadership and provide genuine synergies between policing and justice policies and the wider social and economic initiatives of the Executive and the Assembly." — [*Official Report, Vol 43, No 4 Part 2, p253, col 2*].

Those are some of the reasons why the First Minister and I have consistently maintained that we want to see devolution of policing and justice powers without undue delay.

The Bill itself does not give effect to devolution. That will happen only after a further process, as set out in the Northern Ireland Act 2009, that will begin when the Assembly approves, by cross-community vote, a resolution requesting the transfer of powers. However, the Bill means that structures can be established quickly to support the powers once a decision to proceed has been taken.

The purpose of the Bill is that simple. It will enable the establishment of a Department of justice and make arrangements for appointing its Minister by drawing on one of the models that is outlined under the Westminster legislation.

Despite its brevity, the Bill has deep roots. The Good Friday Agreement recognised the imperative of having a criminal justice system that delivers a fair and impartial system of justice to the community, that is responsive to the community's concerns, that encourages community involvement, where appropriate, that has the confidence of all parts of the community and that delivers justice efficiently and effectively.

Responsibility for policing and justice was, however, reserved from the Assembly under the terms of the 1998 Act, which established the arrangements for the

devolved Administration. The matter was revisited in subsequent discussions, but it was not until the St Andrews Agreement in 2006 that the way forward became clear. With the establishment of this Assembly in 2007, the Assembly and Executive Review Committee commenced its valuable work on the legal and practical implications of the devolution of policing and justice powers.

It was against that background that the First Minister and I announced in November 2008 that we had reached agreement on a number of key issues relating to the devolution of policing and justice powers. In particular, we had come to a view that there should be a Department known as the Department of Justice to exercise the majority of policing and justice powers and that the justice Minister should be elected on the basis of a cross-community vote in the Assembly.

Those will be interim arrangements that will last until 2012, before which the Assembly will need to come to a considered view on permanent arrangements. We also took the opportunity of using that announcement to state that the devolution of policing and justice powers should happen without undue delay, and we made public a paper setting out a process by which devolution will be achieved.

Since then, preparations for the devolution of policing and justice powers have continued to progress in line with that process paper. In January 2009, the Assembly and Executive Review Committee reported on arrangements for the devolution of policing and justice matters. The Assembly endorsed that report, and legislative changes have been enacted at Westminster to reflect some of its recommendations.

One of the essential steps that was identified in the process paper was the satisfactory conclusion of financial discussions involving us, the NIO, the Treasury and the British Prime Minister. Those discussions have been pursued intensively in recent months. An offer of a generous financial package to meet the pressures faced by bodies delivering policing and justice functions has now been set out by Gordon Brown in a letter that he made public on 21 October.

The passage of the Bill will complete another of the essential steps in the process. When I introduced the Bill on 14 September, I said that it was succinct. The first clause establishes a Department of justice, and the second clause sets out a process for appointing a Minister of justice by vote of the Assembly, requiring that not only a majority of Members vote on the resolution but that a majority of designated nationalists and designated unionists vote. That condition will ensure that there is cross-community support for the new Minister. The First Minister and I are on record as saying that, initially, neither of our parties would

nominate one of its own members for the post of Minister of justice.

The third clause ensures that the preceding clauses, which are the operative parts of the Bill, will not come into operation until the First Minister and I jointly make a commencement Order. That will be in the final stages before devolution is achieved.

The schedule to the Bill is technical in nature and tidies up a number of references in existing legislation to the future Department by amending them to use the new title of Department of Justice. The content of the Bill was agreed by the Executive in the summer, and it has now been scrutinised in the OFMDFM Committee as well as in the Chamber during exhaustive debates at Second, Consideration and Further Consideration Stages.

11.45 am

I would like to take this opportunity to thank all those who have contributed, through constructive debate, in getting the Bill to this point. In particular, we are grateful to the Committee for the Office of the First Minister and deputy First Minister for its prompt but thorough scrutiny of the Bill and for its ultimate approval of the Bill as drafted. Earlier, I referred to the valuable work of the Assembly and Executive Review Committee, which provided the essential framework for the provisions of the Bill. I also thank Members who tabled and debated amendments at Consideration Stage and Further Consideration Stage. The fact that the wording of the Bill has remained as introduced, even after such lengthy debates, is, I hope, a measure of its robustness. I thank Members for their forceful challenges in that regard. Such challenges are a valuable part of the passage of any Bill in concentrating minds on the objectives of legislation and the means employed to achieve them.

I am no less convinced that the Bill's objectives are right and its means appropriate than I was on its introduction on 14 September 2009. I commend the Bill to the Assembly.

Mr Spratt: I declare an interest as Chairperson of the Assembly and Executive Review Committee and as a member of the Northern Ireland Policing Board. I want to make it very clear that I am not speaking as Chairperson of that Committee.

As the deputy First Minister said, the Bill is very short, and it has certainly had its fair share of debate in the House. The deputy First Minister referred, I think, to some 20 hours of debate. He will be pleased to know that I intend to add only two or three minutes to that to say that we, on this side of the House, support the Bill in its passage through Final Stage.

The deputy First Minister referred to the work that has been done on the Bill, including that done by the

Assembly and Executive Review Committee. I hope that that Committee made a valuable contribution, particularly through the financial work that it did, and that that was helpful in the discussions that took place. The Committee will report to the House on that work in the not too distant future. I hope that it assisted in getting the financial package that the deputy First Minister referred to and which was laid out and made public in the Prime Minister's letter.

The Bill is very short but necessary to set up and pave the way for the Department of justice. In the long debates on the many amendments that came before the House, in particular from the SDLP, those amendments were duly debated, given due care by the House and dealt with. We are now beyond that stage, and we, on this side of the House, support the Bill in its Final Stage.

Members will be pleased to know that I do not intend to say anything other than that.

Ms Anderson: Go raibh maith agat, a Cheann Comhairle. Éirím le tacaíocht a thabhairt don mholadh seo. I support the Bill in its Final Stage. I declare an interest as a member of the Policing Board.

The Bill and all the discussions that we have had around it demonstrate that the process to deliver policing and justice into the hands of locally elected politicians is moving ahead. Unfortunately, along the way, we witnessed what I think were attempts by the SDLP, through unsuccessful amendment after unsuccessful amendment, to almost hijack and frustrate the process. Although it is everyone's entitlement to table amendments when Bills are being processed and discussed, the SDLP's continued opposition clearly demonstrates a lack of leadership and shows the disarray that that party is in. The SDLP spent months demanding that it be given a future justice Ministry. We were then faced with its opposition to the Bill and the establishment of a justice Department.

In reality, the SDLP's opposition to the Bill was not about scrutiny. There were amendments on scrutiny and North/South co-operation, but the opposition was not based on either of those issues. The opposition was based on the SDLP trying to get its hands on the Ministry and putting its party political interests before the needs of the people.

Mr Speaker: I ask the Member to return to addressing the contents of the Bill, because the House has already debated the amendments.

Ms Anderson: I accept that the amendments have been debated, but it is important to note them at Final Stage.

As the Minister said, a title for the justice Department has been agreed, and the process paper was discussed at length, not only at the Assembly and Executive Review Committee but also when it was

reported to the House. The financial package was also fought for and agreed.

As the most popular Minister, the deputy First Minister said, the Bill's passage represents another important part of the process. We must secure cross-community support for the Bill. Sinn Féin has always stated that it will support an SDLP candidate for justice Minister, if that party is able to nominate one.

We must all show leadership in the process. When the commencement Order comes through and the Department of justice is established, we will need to realise that many of our constituents want to see us taking control of our own destiny. That is what the people whom we represent demand. I and many other Members recall seeing the faces of many distressed constituents who are sick and tired of the revolving door justice system that allows hoods and thugs back on the streets only an hour after their arrest.

As we were discussing the Bill and the amendments that were tabled to it at its different stages, our constituents had had enough of seeing death drivers walking the streets and being granted bail after continually attacking the community. Following the transfer of policing and justice, the statutory framework that governs what constitutes a crime and its appropriate penalties will become the responsibility of an Assembly Minister. For instance, it will be possible to deal with sexual offences, to which Members often refer, more appropriately within that framework. That is what society wants from the transfer of policing and justice.

The Bill presents us with the opportunity to take on a new responsibility in the Executive and in the Chamber. We must all embrace the opportunity and provide the kind of leadership that the vast majority of our constituents want and need, regardless of their political affiliation. Although there are issues, many of which were discussed in the Chamber, we must use the time ahead to secure a consensus built on equality and mutual respect.

For that reason, I call on all Members to ensure that we give the Bill the appropriate support, that we move forward together and that the Bill is supported in a way that allows us to demonstrate unity to the many people who are sick, sore and tired of the debate on policing and justice. People want to see action, and they want to see it now.

Mr B McCrea: Today I will speak on policing and justice for the first time in some time. Many Members have spoken at some length on the Bill, but we are nearing the final elements of its passage. Although it is not my normal style, I have been provided with a few notes. I will not bore the House by reading all of them.

I genuinely hope that every party in the House wants progress to be made in Northern Ireland. That is why the Ulster Unionist Party is participating in an

Executive that is, at best, dysfunctional. The Ulster Unionist Party has always stated that it is, in principle, in favour of the devolution of policing and justice. We have always believed that it would be of great benefit to the entire community in Northern Ireland if justice were to be administered from this place.

I will deviate a little bit to address matters that colleagues have raised previously. There was some discussion about the need for leadership. In fact, certain parties in the House remonstrated about the lack of leadership. Parties might disagree with other parties, but that does not mean that they do not show leadership. In an Assembly such as this, it is entirely appropriate for Members to have differences of opinion, which they can bring to the House for discussion in a proper manner. Even if a motion is defeated, it does mean that it was wrong to bring it to the House.

I mentioned leadership. I want to talk about the other key word that was mentioned: respect. The phrase "mutual respect" was mentioned towards the end of a certain Member's contribution. There are lessons to be learnt. It is not only the case that some people must proffer respect to Benches near the front; it must come in the other direction as well. Everybody here has a mandate, and we all have a voice on behalf of other people who are not here. Therefore, I urge sections of the House to respect suggestions made by those of us who disagree with them.

Mr Storey: I want to talk about mutual respect. In my constituency at the weekend, a leading member of the party opposite took part in an event and, basically, made threats about deadlines and timetables concerning the devolution of policing and justice. However, the irony is that he made his statement in the village of Dunloy, which is the very place where there is no respect for the tradition of Orangemen who only want to parade from their Orange hall to their place of worship. However, they have not been allowed to exercise that God-given right for eight or nine years, because a small element of vociferous republicans in that village has prevented it. Is that not a lack of mutual respect?

Mr Speaker: Order. I must insist that even interventions, as far as possible, relate to the contents of the Bill. That is the only subject that we are discussing this morning. I know that Members might want to go slightly outside that. Provided that they do not go too far outside it, we can resolve the issue. However, as far as possible, Members should try to keep to the contents of the Bill. Although I will allow some latitude, I must say that to the whole House.

Mr B McCrea: I am grateful for that, Mr Speaker. I think that I have broken new ground, given that I am now being admonished for the interventions of others.

However, the Speaker and colleagues on both sides have raised important points: the language used by people is an issue. In the past — not always but in general — I have sought to convey the message that, if we are to build mutual respect and offer genuine leadership, our language must address, in a civilised and seemly way, the genuine concerns raised by colleagues to my left. In the spirit of Christmas, I must also respect the fact that words of wisdom come from Benches to my right.

I am sure that the deputy First Minister will not mind my mentioning that, according to the ‘Belfast Telegraph’, he is making something of an impact.

12.00 noon

There may be something for all of us in the legislation. There is much that unites us. I am wearing a ribbon on my lapel in support of the campaign against domestic violence, and I know that Mr Storey spoke most eloquently in Larne last night on that subject. Ms Anderson explained that we want the Department of Justice Bill to pass because we want to tackle issues that unite us. Surely there can be little that we abhor more than violence against the most vulnerable people in society. We are absolutely committed, on a cross-party basis, to stopping that. There is complete unanimity in the House against violence against elderly people, which is the most obscene of crimes, and we want to find ways to deal with those issues.

I would welcome the opportunity to address the somewhat tetchy relationship that exists between the Public Prosecution Service and the PSNI. I want speedier justice; I want the Court Service to have responsibility, and, most importantly, I want the justice system to focus on the concerns and tribulations of victims. There is definitely a feeling in society that our justice system focuses on the perpetrators of crime, not on the victims of crime. We could unite on those issues if there was goodwill, mutual respect and a genuine way to move on together.

It may have been a year ago that the deputy First Minister responded to the Alliance Party by saying that we must be careful about the language that we use, because it can inflame situations unnecessarily. With that said, the Ulster Unionist Party believes that the only long-term strategic direction for the Assembly and this part of the world to take is one in which we achieve complete community confidence in the forces of law and order; in which policing and justice are at the centre of democracy; and in which we are all democrats.

I hope that the message is loud and clear that we are positively behind the devolution of policing and justice powers. However, we have some legitimate concerns that should be raised and addressed. As democratically elected politicians, we should have asked ourselves

some telling questions long before this process began. I will say this as gently as I can: Sinn Féin and the DUP have not asked each other those difficult questions. In fact, they may not have even asked them of themselves. Therefore, we started down the road to devolution ill-prepared for the journey and the destination.

What are those questions? First, is the Assembly ready for such an important, significant and controversial mandate? I do not presuppose the answer, but it is right to pose the question. We are not alone in asking that question. In its 2007 manifesto, the Alliance Party stated:

“Alliance believes that the timing for the devolution of policing and justice should be primarily determined by the correct conditions being in place, including the executive operating in a collective and responsible manner.”

On 4 August 2008, Mr Ford stated:

“The Alliance Party will not be taking the Policing and Justice Ministry. This Executive is failing in its duties”.

I have to ask the Alliance Party: what has changed between then and now?

The Department of Education, as we heard earlier, is still in a mess. The transfer debacle is ongoing, and now we are facing the potential administrative meltdown of the entire system because of the controversial stalling of the Education Bill. There is still a limited amount of legislation coming to the House, no progress on A Shared Future, and Executive meetings are still being run, I am told, in a shambolic manner.

The Ulster Unionist Party’s answer to the first question is that we are concerned that we are not administratively ready to take on a mandate such as policing and justice. Other parties here must answer, or at least address, that question.

The second question that the DUP should perhaps have asked Sinn Féin and that Sinn Féin should have —

Mr Speaker: Order. I have already said to Members that it is important that they address the content of the Bill. They may be imaginative in developing their arguments as long as they keep to the content of the Bill. I urge the Member, as far as possible, to keep to the content of the Bill.

Mr B McCrea: I am grateful for your direction, Mr Speaker. I apologised earlier, as I am reading from a prepared speech, which is not normal for me. I will try my level best to deal with the issues. There are important things to say, and we are trying to contribute properly to the debate to bring it to a satisfactory conclusion.

The question asked was whether Sinn Féin is ideologically ready to devolve United Kingdom justice to Northern Ireland. It is a serious and fundamentally important question. The Ulster Unionist Party poses that question in recognition of our troubled past and in full recognition of the journey that many Members

have made over the past 15 years. We do not mean to be negative, just to pose a question that must be asked.

Northern Ireland is facing the highest level of dissident republican threat that it has faced in the past 10 or 15 years. The recent events in Fermanagh and at the Policing Board, as well as the tragic events in March, illustrate perfectly that some are intent on violence at all costs. The next justice Minister, whoever that may be and with whatever influence the DUP and Sinn Féin will have over them, will have to address robustly the threat of terrorism. If Northern Ireland is to have the future that we all want, the Police Service will have to deal with that threat within its powers and remove those people from society, because they offer nothing to our future.

Is Sinn Féin ready for reality, and will it give the PSNI and the next justice Minister the full support and resources that they need to tackle terrorism and criminality? I do not wish to put Sinn Féin on the spot unnecessarily, but that is a question that has been asked by my community.

The recent events surrounding the arrest of Sean Hughes raise serious questions about certain parties' commitments to supporting all arms of the law and about their actual knowledge of the police and legal system. To accuse a UK-wide, independent investigatory body such as SOCA of acting politically is a very worrying progression. I ask all parties whether they are mature enough to devolve those institutions without jeopardising the work of the police or the security of men, women and children.

Mr Speaker: Order. Once again, if the Member fails to address, or to relate his remarks to, the contents of the Bill in some way, I really will have to move on.

Mr B McCrea: Mr Speaker, I am somewhat at a loss. We, as a party, are trying to make a very constructive policy position clear. Serious debates are taking place even now, and we think that this is germane.

Mr Speaker: I appreciate what the Member is saying, but I ask that he ties whatever he is saying to the contents of the Bill. That is what I am trying to achieve from the Member.

Mr B McCrea: If I can refer directly to the Bill, Mr Speaker, I must say that, during discussions on the Bill, questions have been asked about the particular vision for a justice Department in Northern Ireland.

Some Members who are not present in the Chamber have made confusing statements about the way forward. In the 'News Letter' in October, Mr Donaldson stated that he had no idea what power the justice Minister would have as it was one of the issues yet to be agreed. The headlines in last Friday's edition of the 'News Letter' further illustrate the ongoing issues that have to be resolved.

The Department of Justice Bill will create a shell of a Department, and there is no agreement on how to fill it. A power will be accepted without knowledge of how, by whom, for what purposes and for how long it will be administered. Would such a scenario arise anywhere else in western Europe? The entire process raises a number of questions, and we bring those issues forward in the debate on the Bill. A more detailed look at the process raises questions that other parties have tried to put forward somewhat inconclusively.

A deal has been contrived between two parties, aided and abetted by a third party. That deal excludes the SDLP and the UUP. We have tried to say that it is not the right way forward and that we want the Bill to reflect genuinely the views of all Members. The issue is so important that it behoves us all to find consensus.

Dr Farry: The Member has made a number of comments in relation to the Alliance Party. It would take too long to address them all in one intervention, so I will come back to them.

The Member said that deals are being made, aided and abetted by the Alliance Party. Can he give me an example of any deal on policing and justice that has been made between my party and either the DUP or Sinn Féin? There has been speculation surrounding my party, but I am not aware of any deals. Indeed, we have raised a number of issues on which we want clarification. Will the Member also reflect on the reality that his party is a full member of the Assembly and Executive Review Committee, and my party is not? Of all the parties in the Chamber, it is the Alliance Party, not the Member's party or the SDLP, that is most disadvantaged in the discussions.

Mr B McCrea: As the Member knows, I am always happy to allow helpful interventions, and I will address that issue. The Assembly and Executive Review Committee has also been sidelined. We all know that agreement will be reached by people outside that Committee. The Bill has been pushed through by a triumvirate of the DUP, Sinn Féin and the Alliance Party, which has rejected the genuine concerns of the SDLP and the Ulster Unionists. I would be happy to hear clarification to the contrary from the Alliance Party.

The First Minister (Mr P Robinson): I know that the Member is having a difficulty, because he does not seem to have any thoughts of his own on the issue and is unable to move away from the script that was prepared for him. Will he explain to the House how the Ulster Unionist Party is not involved when it is a full member of the Assembly and Executive Review Committee, which deals with the progression of the devolution of policing and justice? Will he tell us how his party is not involved when his leader has had at least four phone calls and meetings with the Prime Minister on policing and justice? Will he tell us how his party is not involved

when it has had a meeting on policing and justice with the Secretary of State? Will he tell us how his party is not involved when there have been numerous debates on policing and justice in the Assembly?

All parties in the Assembly have had every opportunity to have their say at one point or another. All that the legislation is doing is putting in place the ability to have policing and justice devolved when the other decisions have been taken. As the Member said, one of those decisions is to determine what powers will be exercised solely by a justice Minister and what powers will be referred to the Executive. It is not unusual for the necessary apparatus to be put in place in order that the powers can be devolved when everything else has been agreed.

Mr B McCrea: I thank the First Minister for his comments, but let me tell him quite clearly that I have no problem talking for myself on any issue or tackling matters directly. What I was expected to do — *[Interruption.]*

Mr Speaker: Order.

Mr B McCrea: What I was asked to do was to put forward a helpful position on behalf of the party. I can deviate and express my personal opinion, and I can certainly address the language in which certain Members address other Members.

12.15 pm

Earlier in the debate, I talked about the need for mutual respect, temperate language, and the need to reach consensus. Frankly, I have seen very little of that in certain situations. I am trying to make a contribution that will move the situation forward in relation to certain serious matters. If we come to a point at which the DUP and, for that matter, Sinn Féin, do not need our contribution or support, so be it. However, we have made a positive contribution.

Our party feels that it is not included in these matters because it is totally ignored when discussions take place. We have a contribution to make in building confidence in the community that we represent. If there is some failure or misunderstanding, it is for the leaders of the various political parties to address. All that I can do, in addressing this Bill, is explain our thinking.

The First Minister: I notice that the Member has avoided answering any of the issues that I raised. I will throw another one towards him. The deputy First Minister and I met the leader of the Ulster Unionist Party and offered to set up a Committee to deal with education, policing and justice, and all the other issues in an informal setting. Weeks after we made that offer, we are still waiting for anybody to take it up.

Mr B McCrea: Therein lies the problem with communication. I have heard the First Minister raise

that point before and I have discussed it with the leader of the Ulster Unionist Party. We do not want some sham procedure in which we produce papers for others to sign off. If genuine engagement and a genuine coalition Government are desired, the First Minister has to talk properly with people. He needs to engage with and listen to others. *[Interruption.]*

Mr Speaker: Order.

Mr B McCrea: The First Minister may well laugh. It shows the seriousness with which he takes this issue. I am being quite clear in response to a direct question. The Ulster Unionist Party is prepared to engage, but in a proper way. We will not just sit there and — *[Interruption.]*

Mr Speaker: Order. Allow the Member to continue.

Mr B McCrea: I have already given way twice to the First Minister to allow him to make his point.

Lord Morrow: Will the Member give way?

Mr B McCrea: I will give way, but I want to make my point.

Lord Morrow: I have listened intently to what Mr Basil McCrea has said. Does he want to be taken seriously in here or not? I suspect that he does. He will not be taken seriously if he sets up straw men and then knocks them down. I am very sincere in this regard, and I want you to answer. The First Minister has stated that your party leader has been consulted. They have had meetings on a number of occasions. With respect, if you have an internal problem of communication in your group, you should address that internally rather than trying to flout it here on the Floor of the House.

Will you be good enough to tell the House that you have been consulted? It may be that you either do not like what you are hearing or you do not understand it. There is no shame in that, but let us not put up straw men here and say that you have not been consulted when it is quite clear that you have been consulted on more than one occasion.

Mr Speaker: Members should address their remarks through the Chair.

Mr B McCrea: I will answer that question directly: there are all sorts of ways to be consulted. In fact, when I became involved in politics, I discovered that, in politics, consultation does not mean the same as it does in the real world. In politics, consultation involves being told what is to be done and then, when people hear whether we agree or disagree, doing it the same way anyway. That is not real engagement. People want to be involved in a coalition Government. It may well be that there is some confusion in the message, but it is not a one-way street: it is a two-way street. Let me say clearly to the Lord Morrow that I have spoken

to the leader of the Ulster Unionist Party about these issues.

My party's message is that the type of engagement, consultation and discussion that is being offered is not satisfactory to resolve our concerns. It may well be that we cannot find a way to do that, but I am telling the DUP where the problem lies.

We are prepared to engage with all Members and parties, whether they are in the Executive or not. Policing and justice is a serious issue that we want to see addressed and are prepared to address. However, we will not be railroaded into something that we are not part of. I do not know how to make that any clearer. One can say that one has been consulted and talked to, but we all know how the political game works. Therefore, when it comes to the issue, I do not know whether the DUP thinks that the UUP's input and involvement is useful. That is a matter for the DUP but, if it does want the UUP's input, things are not going very well. We are prepared to discuss the issues, because we all want to find a way to make policing and justice work.

Dr Farry: I appreciate that the Member is trying to be constructive. At the start of his speech, he reflected on Martina Anderson's comments about the important issues that need to be discussed. At the beginning of September, my party leader, David Ford, wrote to Sir Reg Empey suggesting that parties need to meet to discuss the programme that any future Minister might wish to undertake. Sir Reg Empey merely acknowledged the letter, saying that his party officers would discuss it. He has not responded further to that invitation. I ask Mr McCrea to take that point to his party leader. In light of what he has just said, it is in his party's interests to engage in that type of discussion.

Mr B McCrea: Lots of parties here send letters to lots of people requesting meetings, but nothing happens. However — *[Interruption.]*

Mr Speaker: Order. Allow the Member to continue.

Mr B McCrea: However, in response to Dr Farry, I will say that in other situations, notably those to do with education, there has been engagement and we have responded. I wonder whether Dr Farry wishes to clarify the following statement that he made:

“As things stand the legislation suggests that any minister including an Alliance Minister could be elected on a cross-community vote in the assembly but also removed by such a vote. Under a political whim the DUP and SF could reach a conclusion they want to remove a minister from office. If a Minister is looking over a shoulder then their ability to take those decisions is going to be significantly impaired.”

Mr Weir: Will the Member give way?

Mr B McCrea: Mr Speaker will stop talking to me if I carry on.

Those were Dr Farry's words, so I ask him and his Alliance colleagues: as things stand, has the Bill changed since he said that?

Mr Speaker: Please make your remarks through the Chair.

Dr Farry: I am more than happy to clarify that point. My party believes that, on balance, a cross-community vote is the best way to elect a Minister and to provide him or her with legitimacy. However, it poses a number of risks for that Minister, particularly for one who has come from any of the three parties other than the DUP and Sinn Féin. Time after time, in the Chamber and elsewhere, my party has stressed that the best protection against the arbitrary removal of any Minister from any of those three parties is agreement on a substantive Programme for Government addendum to cover policing and justice in advance of devolution. If the Member's party is happy to engage in such a process, we will have that protection not just for Ministers but for the integrity of the devolution project.

Mr B McCrea: I thank the Member for that clarification, and we are prepared to discuss those issues. However, the impression that we have is that the Alliance Party has supported the DUP and Sinn Féin at every stage. Therefore, we have little confidence that dialogue between our parties on those substantive issues will produce a meaningful outcome.

On a personal note, given that the Alliance Party occasionally gives the impression of being the moral guardian of this place and tries to bring people together, I am surprised at its stance on the issue.

I simply do not understand why the Alliance Party adopts a position that supports the DUP and Sinn Féin but which will not give it anything of any substance. I also do not understand why the Alliance Party ignores the genuine concerns of the UUP and the SDLP. The process of the Bill has been a revelation to me. If there is a change in the Alliance Party's stance or if it wishes to engage on these matters, my party is all ears.

My party would prefer to have genuine, round-table, all-party discussions because, to be frank, the discussion on the devolution of policing and justice is not going terribly well. There is talk of crises, free fall, meltdown and things not going right. If we are to tackle the issue in the timescale in which parties here say that they want it to be tackled, we need to get round the table and start talking about it. That, surely, is the premise of the Bill. The Bill must address those issues.

We are unhappy about the sunset clause and what will happen in 2012. I think that history will judge the Bill to be the most ill-thought-out piece of legislation, which will cause only further brinkmanship —

A Member: It says here that —

Mr Speaker: Order. Allow the Member to speak.

Mr B McCrea: I hear an intervention from a sedentary position. As you know, Mr Speaker, I am quite happy to rise to my feet to deal with any issue or topic, but when it comes to important issues —
[*Interruption.*]

Mr Speaker: Order. Allow the Member to continue.

Mr B McCrea: When it comes to this issue —

The First Minister: On a point of order, Mr Speaker. Is it in order for us to find out who wrote that speech for him?

Mr Speaker: I ask the Member to continue.

Mr B McCrea: If Members want to find that out, perhaps they should engage in meetings with us, and we will be able to tell them that what I have outlined is the collective view of the Ulster Unionist Party Assembly group.

I will move on to the questions that DUP Members have been asking themselves. It appears that some DUP Members have been asking very different questions from other Members. Given the number of interventions that I have taken, I look forward to some clarification on that matter. Mr Donaldson rather haphazardly asked himself whether the full-time Reserve was a deal-breaker on devolution. He answered that it was a deal-breaker. I do not need to give the quote because it is well known. However, I ask the First Minister, since he is here in person, whether he agrees with the stated position that the full-time Reserve is an operational matter for the Chief Constable. Does he demur from the views that have been put forward by the honourable Member for Lagan Valley?

The First Minister: The Rt Hon Member.

Mr B McCrea: Yes, I agree.

I ask Mr Robinson whether he still believes that it is an operational matter, and I ask Mr Donaldson, who, I am quite sure, is listening from another place, whether he still believes that the DUP will not agree to devolution if the full-time Reserve is disbanded.

Mr Donaldson and other Members talked about public confidence. The Ulster Unionist Party has long believed that adequate public confidence is crucial for the devolution of policing and justice, which is why we have been appalled by the process so far. Mr Robinson said that the following actions constitute the process to effect the transfer of policing and justice powers:

- “Commence process of building confidence to achieve cross community buy-in
- Consult party organisations ...
- Public consultation
- Secure necessary community confidence for transfer of P&J.”

I ask Mr Robinson where we are in that process.

Yesterday, talking about a date for the devolution of policing and justice —

The First Minister: Would the Member like an answer?

Mr B McCrea: Gregory Campbell stated —

The First Minister: Does the Member not want an answer?

Mr B McCrea: Of course I would like an answer.

12.30 pm

The First Minister: If someone else researched and wrote the Member’s speech, I accept that he will have difficulty knowing where the quote came from. In case he does not know, the Member quoted from the process document that the deputy First Minister and I agreed last November. One of the sets of processes that we must go through is building confidence and selling the package that has been agreed. That is precisely what will happen when we have agreed the package. At that point, I am sure that the Member will want to join us in selling it to the community and asking people to buy into the devolution of policing and justice. Perhaps he will tell us whether he will do that.

Mr B McCrea: Mr Speaker —

Mrs D Kelly: Will the Member give way?

Mr B McCrea: I give way to everyone.

Mrs D Kelly: It is interesting to hear the First Minister’s interpretation of what was agreed last year, because it differs from that of Sinn Féin, which thought that a date had been agreed. That is why the deputy First Minister said that, if there is no date for the devolution of policing and justice by Christmas, we will be in deep trouble. Clearly, there is a communication problem between the First Minister and deputy First Minister.

Mr B McCrea: I am grateful to the Member for that point of information. If clarification has to come from other parts of the Chamber, I am all ears. If the First Minister wishes to intervene, I am happy to take his intervention.

The First Minister talks about dates and misunderstandings. It is helpful that Mr Campbell is in the Chamber, because he can clarify something for me, if he so wishes. Yesterday, he stated that:

“It will take years, for not only my colleagues and myself, but for many in the unionist community to see Sinn Féin continuing to work the Northern Ireland Assembly and not using it as some sort of battering ram, because that’s where we are now.”

That is somewhat different to the timescale on which others are operating.

In Friday’s ‘News Letter’, Mr Campbell’s leader made no mention of years or community confidence. He laid the blame for the delay in the devolution of

policing and justice squarely at the feet of Sinn Féin. In his conference speech, he said —

Mr Campbell: Will the Member give way?

Mr B McCrea: That was a slightly delayed reaction from Mr Campbell.

Mr Campbell: I was hoping that the Member would complete the quote. The Member keeps talking about timelines and dates. We are all aware of the outstanding issues of community confidence. The Member says that he believes in openness and transparency. In light of that, will he join us in resolving the outstanding issues, so that it will not take years or decades for policing and justice to be devolved? Will he join us in ensuring that policing and justice is devolved in a manner and time frame that everyone in the community finds acceptable? We are working on the outstanding issues. Will the Member join us?

Mr B McCrea: Yes. We would like to be involved in resolving those issues. We have laid out a number of our concerns, such as education and the need for full, frank and inclusive debate. We are open to such debate, as we have made clear. The response to Mr Campbell's question is yes. I know that our involvement would truncate the negotiations and discussions, but the answer is yes. We want to have proper discussions and round-table, all-party, inclusive debates to resolve the issue to the satisfaction of all.

Our biggest concern about the devolution of policing and justice is that we do not think that the Assembly can run anything, never mind policing and justice. Let us look at a host of areas, including education and local government reform. The UUP's position is that, if the Assembly can start to show the people of Northern Ireland that it is capable of governing, then, and only then, should policing and justice be devolved. The justice Bill is connected to that process, and the devolution of policing and justice can happen whenever Members want. Some parties want it to happen before Christmas, and others think that it will take considerably longer. However, as other Members pointed out, we are not timeline-led; we are condition-led. Show us the conditions in which this place can deal with the issues, and the Ulster Unionist Party will not be found wanting.

We are concerned about some of the issues that have been raised, but they can be resolved through discussion and all-party talks. That is what we call for, and that is what the people of Northern Ireland want.

We do not expect parties that have legitimate mandates to be reviled for daring to put up a contrary position.

Mr Speaker: Order. Has the Member finished?

Mr B McCrea: You called me to order, Mr Speaker.

Mr Speaker: I was calling other Members to order.

Dr Farry: I appreciate that the Member is coming to the end of his speech. However, I would be grateful if he could clarify for the House whether his party is going to vote for or against the motion to pass the Final Stage of the Bill; he did not mention that.

Mr B McCrea: It is like all good books and films; you do not rush to read the last page until you have read the whole book. *[Interruption.]*

Mr Speaker: Order. Allow the Member to continue.

Mr B McCrea: Before I accepted those interventions, I was talking about the First Minister's conference speech, in which he stated:

“Those who are opposed to devolution seek to exploit the imperfections of the present system.”

Can we read from that that Mr Robinson is now fully committed to devolving policing and justice powers as soon as possible? The answer to that question will be interesting. If that is the case, where does that leave Members such as Mr Campbell, Mr Donaldson and Dr McCrea?

The First Minister: Does the Member want an answer?

Mr B McCrea: As the First Minister knows, I will be happy to take an answer. Any answer might be helpful for the people of Northern Ireland.

The First Minister: The next time that somebody writes a speech for the Member, it might be worthwhile if they insert wee gaps so that the Member can pause now and again to allow other Members to respond to his questions.

I am on public record as indicating that I want policing and justice powers to be devolved. I am also on public record as saying that I want it to happen without undue delay.

Mr B McCrea: I am sorry, Mr Speaker, I was just making a little gap in my speech. I am grateful for the lecture and for the advice on good public speaking; it is always useful to get advice. It has been useful to have an interchange such as this, in that Members aired serious issues. I think that some progress has been made.

We have come an extremely long way in Northern Ireland in the past 10 years, and I believe that we should not jeopardise that by hastily devolving policing and justice powers into institutions that are not ready and to parties that have not thought long and hard enough about the potential ramifications of their actions. I have made it clear throughout the debate that the timeline is not the issue; the concern is our ability to address the issues. If the issues are addressed, people will find that we have reached a particular position.

The people of Northern Ireland are not actually talking about policing and justice powers, which is more of a political issue. The people of Northern Ireland are

talking about education, jobs, energy costs and crime on our streets. They are not talking about devolution. In fact, many people do not actually understand what will be different when those powers are devolved. Nevertheless, we should get it right.

Mr Weir: I thank the Member for his patience in giving way. Will he clarify why the Ulster Unionists are now so opposed to the devolution of policing and justice powers when they were perfectly prepared to devolve those powers in 2005 before Sinn Féin had given its support to the police, before it had decommissioned, and, indeed, before the terrorist campaign had been put behind it?

Mr B McCrea: I will break with tradition and actually answer that question. When people pose that question, it is interesting to note that they do not recognise that we are in a completely different place now and that circumstances have changed. From my experience, in all walks of life, people have an imperfect knowledge about what is happening, and they make calculated decisions. I am sure that Members from all parties will find that. Nobody ever has the complete answer to everything.

The Member asked me to comment on what happened in the past, and it is important to learn lessons from the past. However, we are where we are now, and the Ulster Unionist Party is outlining its position on the Department of Justice Bill — a piece of enabling legislation — in a way that it thinks might be helpful.

The DUP must demonstrate to the Assembly, and to the public, that it can govern and that it has the responsibility, maturity and right attitude to do so. That will remove some concern. How might we do that? The Assembly could begin the process of achieving community confidence by demonstrating that, when it tackles issues, it is prepared to listen to others and to advance their views. If we could do that, that would build confidence. Nothing would send a more powerful message to the people of Northern Ireland than if the entire Assembly were able to agree to the Bill's proposals, and I regret the fact that certain Members have felt that that has not been necessary. However, that, in essence, is what the discussion is all about.

I have some —

Mr Speaker: Order. I do not wish to interrupt the Member, but I am also conscious that the Business Committee has arranged to meet at 12.30 pm today. Are you finished or coming to the end of what you are saying, Mr McCrea, or should I suspend the sitting and allow you to continue after lunch?

Mr B McCrea: It may be better to suspend the sitting to allow the Business Committee to meet. I will continue my remarks when we return.

Mr Speaker: I propose, by leave of the Assembly, to suspend the sitting until 2.00 pm. On resumption, Mr McCrea will finish his contribution.

The sitting was suspended at 12.41 pm.

On resuming (Mr Speaker in the Chair) —
2.00 pm

Mr B McCrea: No doubt, Members will be relieved to know that I do not have much more to say on the matter. However, I conclude by saying that the Ulster Unionist Party is not, in principle, opposed to the devolution of policing and justice to the Northern Ireland Assembly, but it remains of the view that the Bill leaves too many questions unanswered. The deputy First Minister referred to the legislation and the various models at Westminster, and part of that included a discussion on the sunset clause, without which no discussion of the Bill is complete. It remains unfinished business. We would prefer that the matter was dealt with now so that it does not become an overhang to be dealt with in the future.

In our opinion, the Bill represents gerrymandering in its most undiluted form, and I use that much maligned word because I can think of no other word to describe it. It is a side deal between the DUP and Sinn Féin, a side deal concocted in November 2008 in which Sinn Féin set out its terms for allowing Peter Robinson to reconvene the Executive after 154 days of not meeting. The other parties, including mine, were not party to the original deal, and we have been mostly sidelined in the discussions since then.

The crux of our concern is that no specific powers have been outlined for the new justice Minister, and Jeffrey Donaldson admitted as much in a letter to the 'News Letter' a couple of weeks ago. Furthermore, no specific powers have been outlined for the new justice Department. On Saturday, Peter Robinson accused Sinn Féin of holding up the decision-making process governing the justice Minister and that Minister's relationship with the Executive. In other words, we have been asked to agree the creation of a new Ministry and the appointment of a new Minister without actually knowing the powers and duties of either and without knowing to whom the new Minister would be accountable. Mr Speaker, you can call that what you will, but it does not seem to be democracy.

There is a challenge for all Members. An opinion poll in the 'Belfast Telegraph' indicated that almost 60% of people believe that the Assembly has either made no difference or has made matters worse. Regrettably, 74% of people in Northern Ireland rate our performance as average, poor or very poor, and I know that I am part and parcel of that. Those ratings are low because people believe that we are making a mess of the transfer process in education, council boundaries and our Shared Future strategy, to name just a few. Therefore, why would they trust us to make a good job of policing and justice, particularly when the background negotiations have been so prolonged

and acrimonious and where so much fog and ambiguity have surrounded those issues?

The Ulster Unionist Party is not unsympathetic to the policing and justice situation; we made it clear that we would like issues to be addressed constructively. However, let us try to get some things right before lumbering ourselves with a potential albatross. The Ulster Unionist Party has said many times in many debates that policing and justice — the core of democracy — is simply too important an issue to get wrong. The Ulster Unionist Party still believes that the major parties have not yet got it right. Therefore, it is with regret that I say that the Ulster Unionist Party will not be supporting the passage of the Bill.

Mr A Maginness: This is a proxy debate. It is really an argument between the DUP and Sinn Féin over the actual transfer of policing and justice powers to the Assembly. Unfortunately, that debate goes on outside the Chamber.

It is time for sober reflection in the Chamber, as well as outside, because this institution and the Executive are threatened by the destabilising argument over the devolution of justice and policing. I appeal in particular to the DUP and Sinn Féin not to prejudice the good work of the Assembly and to rethink their position so that an agreement can be reached. The people we serve deserve more from us on this issue. It should not be used as something that threatens the Assembly.

Before I address the detail of the Bill, let me make it plain that we in the SDLP fully support the transfer of justice and policing powers to the Assembly. We believe that that is very important indeed. We do not want to see the transfer before Christmas; we wanted to see the transfer of justice and policing powers a long time ago, and we believe that it is now timely that such a transfer takes place.

As the deputy First Minister said, the Bill does not bring about the actual transfer of justice and policing powers. It does not bring about actual devolution, and, as I said, the argument about that transfer goes on outside the Chamber. However, I want to make it very plain that we are fully supportive of the immediate transfer of justice and policing powers to the Assembly.

We have said before and will continue to say that the Bill is defective in two crucial aspects. The first is the future stability of a Department of justice and a Minister for justice, and the second is the method used to appoint or elect the Minister for justice. Those are two crucial issues. In dealing with the issue of instability, it is right and proper for us to highlight, as Mr Basil McCrea did in his speech, the so-called sunset clause. I accept that it is not a part of the Bill, but nonetheless one cannot read the Bill without reference to the sunset clause in schedule 1 to the 2009 Act. It is a very dangerous piece of legislation, because

it writes an instability into the Department of justice and policing, which, I believe, will undermine the effective working of the Department of justice and the effective operation of that Department by a Minister for justice.

It is a matter of regret that we must point that out to the House. It is regrettable and could destabilise this institution if a Minister for justice is appointed or after a subsequent election in 2011 or earlier. It creates such instability in the institution that it could threaten any future Assembly. It is not some minor matter of detail, some fiddly point or simply some smart observation by the SDLP. It is a real danger that is written into the operation of any Department of justice, and parties should rethink that seriously.

The SDLP has been scolded by DUP and Sinn Féin Members for raising concerns in the House, but it is our job as legislators to raise concerns. That may be an alien concept to some Members, but it is proper parliamentary process to scrutinise legislation that comes before the House, and it is our duty to do so. The fact that we press our case may not please others, but it is proper that we do that. We do so not to obstruct legislation or the devolution of justice and policing but to make devolution perfect. We make our arguments to strengthen the legislation, and we will not accept criticism on the grounds that we should not make arguments. It is right and proper that we do so.

We have made arguments previously to do with the election of a Minister of justice by cross-community support, but it is important to re-emphasise and reiterate those arguments. The election of a Minister by that method would mark a serious departure from the d'Hondt mechanism, which supports the principle of democratic inclusion. The d'Hondt mechanism supports the principle of partnership, the means by which this political institution and our other political institutions can make progress to bring together our fractured society and to create the conditions in which we can achieve reconciliation. If we abandon the principle of partnership, we abandon the hope of bringing society together, of binding the wounds and of bringing about the unity of our people. Those hopes are good for all in society, so the partnership principle is fundamental to the agreement and to the working of this institution.

If we depart from d'Hondt, we effectively undermine and weaken partnership in this institution. Partnership is at the core of the agreement, and it should be the hallmark of the workings of this institution. It is also the fairest way to bring about proper representation and a level of input from every significant political opinion. If we abandon that, we abandon fairness. Therefore, I emphasise the importance of maintaining d'Hondt.

In practice, the legislation will import a veto into the election of a Minister. The d'Hondt system does not permit that, and rightly so. In a sense, it creates a level playing field for all political parties. Therefore, the introduction of a veto damages the political process, and we must resist that. I ask parties to rethink what they are doing, because they are damaging a critical and sensitive political calibration in the Assembly and in the other institutions. If we really want to achieve partnership, we should maintain the d'Hondt mechanism. In itself, d'Hondt is not a principle, but it highlights the principle of inclusive democracy and partnership, which is such an important and integral part of the political dispensation.

2.15 pm

We have been told that we object to and criticise the legislation for self-serving reasons alone, because the SDLP would be the beneficiaries were d'Hondt run for the post of justice Minister. That is not true. The SDLP is committed to d'Hondt and would like, in the first instance, d'Hondt to be completely rerun. If that is required, let us do that. If that cannot be achieved, let us top up d'Hondt. In any event, we are not saying that we claim the Department as an SDLP Department. It is a matter —

Mr Hamilton: Will the Member give way?

Mr A Maginness: I will take the Member's intervention in a moment. It is for us to protect the d'Hondt principle, and if that means a DUP, Sinn Féin or Ulster Unionist justice Minister, so be it.

Mr Hamilton: Is the Member now saying that the SDLP's firm position — I use the word "firm" because the party's position appears to be a little wobbly — is to want a complete rerunning of d'Hondt? If so, that would appear to be at total odds with SDLP comments made at earlier stages of the Bill, including those from Mr O'Loan, who spoke about his party being denied the Department.

Mr A Maginness: Unlike the DUP, we do not change our position from day to day or from personality to personality. We heard from Mr Campbell that it may take years for justice and policing powers to be devolved. Other colleagues of Mr Hamilton have said that it will take a lifetime. No, the SDLP's position from the outset — I emphasise this — has been a commitment to d'Hondt and its total rerunning.

We have said that, in circumstances in which that is not done by agreement among the parties, we will accept a top-up situation, whereby d'Hondt is run to fill the post of justice Minister. However, on realising that in a top-up situation the SDLP would get the post, other parties were determined to frustrate that scenario. Indeed, Mr McCrea and his party leader made it clear that a cross-community vote in those circumstances would be tantamount to gerrymandering. The suggestion

did not come from the SDLP, but we accept that, when other parties are attempting to frustrate the d'Hondt process, they are doing so to engineer a situation in which, in the event of there being a top-up by d'Hondt, the SDLP does not get the justice portfolio.

Cross-community voting imports a veto into the appointment of a Minister. If the Member does not believe me, he need only listen to the First Minister, who on 9 July this year said that he would veto an SDLP Minister. I am not bringing some academic proposition to the House but something that the First Minister has predicted. It is he who said that he will exercise a veto, and a veto should have no place in the selection or election of a justice Minister. That is wrong and is alien to the spirit of partnership that should pervade this institution, the Executive and our political culture in Northern Ireland. It is through partnership that we will all progress to healing our society's wounds. Therefore, I totally reject the suggestion that the SDLP is supporting d'Hondt simply on the basis of some self-serving proposition — we are not.

Further to that, the 2009 Act, which again is related because it precedes the Bill, contains a mechanism whereby the Minister for justice can be removed from office by cross-community vote. The very fact that that is in legislation will threaten the Minister for justice's freedom, manoeuvrability and exercise of clear and independent judgement. The Minister will know that, if he or she offends both the major parties in the Executive, he or she could be threatened with exclusion from the Executive. That is another departure from the rules that the House has established. The House should not take that lightly. Surely, the Assembly wants a Minister for justice who is free to act on his or her own judgement to the betterment of all in the House and in society.

I believe and my party believes that there is a pressing need for the transfer of justice powers to Northern Ireland. In his contribution earlier, Mr Basil McCrea referred to the problems of criminality that confront older people. Indeed, other Members also referred to that particular problem. Domestic violence is a problem, as is getting proper justice for victims of crime and their families. That is an important issue that all of us should be addressing in this House. The best way to do that is through the establishment of a Department of justice and Minister for justice.

There are many other issues: the Public Prosecution Service (PPS); sentencing policy; community policing; the reform of criminal legal aid; the Prison Service; youth justice. The list is endless. We should be addressing those and other issues in this House. The people whom we serve would be grateful if we did that.

I refer to that list because it is timely that the transfer takes place. However, the Bill removes

timeliness from the transfer process. It makes no reference to any date or time. The transfer could take place in 2015 or beyond. Timeliness is important: now is the right time to do this. Some people will say that it is not the right time because of such-and-such. There will never be a good time. However, it is timely because of the long list of issues that need to be addressed by us, as legislators, and by any future Minister for justice. Time is of the essence. Now is the right time for us to make that transfer.

Mr Speaker, you will recall that, in an amendment to the Bill, my party proposed that 7 December 2009 would be an appropriate date not for the devolution of justice and policing but for kick-starting the process, using that as the key to the establishment of a Department and for the appointment of a Minister. Surely, that was a timely date to select in order to progress the transfer of policing and justice in a goodly fashion.

The defects that we have identified in the Bill are rightly and properly brought to the attention of the House. Far from doing the House a disservice, obstructing the transfer of policing and justice or opposing devolution, we would strengthen the process by our arguments, criticisms and amendments, which were rejected by the DUP and Sinn Féin. Those amendments would have strengthened the legislation and brought back the basic principle of partnership, which I have referred to and which is absent from the Bill. Only through partnership can we progress to a mature and reconciled society.

Mr Ford: The Member has set out a list of strong reasons why the House should move forward on the devolution of justice, a view with which I entirely agree. However, he and his colleagues voted against the Bill at Second Stage.

The amendments that the Member and his colleagues put forward were argued comprehensively in the Chamber and defeated. In those circumstances, the Member and his colleagues can either accept the only possible plan for the devolution of justice contained in the Bill as it stands following Further Consideration Stage or else state that they are opposed to it. I am unsure from what the Member says which position he takes.

Mr A Maginness: It is difficult to take criticism from Mr Ford, who, for a long time and on many occasions, said that the devolution of policing and justice was not a priority. It is therefore disingenuous of Mr Ford to raise that point. At the conclusion of our contribution to the debate, we will make known our voting intentions to Mr Ford and to other Members.

Dr Farry: The Alliance Party welcomes the Final Stage of the Bill, which has been on a strange and frustrating journey. The Alliance Party supports the devolution of policing and justice. It may not be the number one issue on the lips of the public of Northern

Ireland, but it is important. It is important in making further political progress — an important aspect of the peace process — for accountability in policy making and resource allocation, and for joined-up government, as it will put criminal justice alongside other issues that provide outcomes for the people of Northern Ireland. It should lead to a reduction in offending and antisocial behaviour and to a more effective way of dealing with offenders.

The Bill is critical to achieving the devolution of policing and justice. There are other issues on the outside, but this Bill deserves to be judged on its merits. It is not a side step or a step backwards but a step in the right direction.

We have clarity on the powers and responsibilities that will be devolved; that is governed by Westminster legislation. We also have clarity on the financial package. Today, if we pass the Bill, we take yet another step forward.

Other issues remain to be addressed, including the relationship between the justice Minister and the Executive and those relating to the process by which a justice Minister will have a programme for government in place that will govern the exercise of power. My party has taken an extremely strong stance on the importance of having such a programme in place before devolution one that is agreed by both the Executive and the Assembly to give greater surety to the process. There is the wider issue of the decision to be taken by parties to see the devolution of policing and justice occur.

2.30 pm

Confidence may be an issue today, before policing and justice powers are devolved. Every party in the Chamber can have an influence and can help to build confidence. Through leadership, confidence can be delivered. However, there is also the confidence that will exist after devolution, because devolution is not something that happens on a certain date, after which we can all sit back and congratulate ourselves. In many respects, that is when the real work will begin. Confidence will come from seeing devolution work and seeing it make a real difference to the people of Northern Ireland. Therefore, confidence happens before and after devolution.

With respect to the issues that have been raised in relation to devolution, it is important that we keep focused on those that are relevant. My party thinks that it is entirely appropriate for parties to discuss financial matters relating to the exercise of power to ensure that we do not short-change ourselves or leave people, particularly those on the front line, without the resources to do the job on behalf of the community. It is equally important that we focus on a Programme for Government in order to clarify policies. However, we think that the

other issues that have been thrown into the mix are not directly related to the devolution of policing and justice and are holding the process back.

The Bill is relatively simple and straightforward and has two different aspects. First, it provides for the creation of a Department, and, secondly, it provides for the mechanism for an election. Clearly, a justice Department needs to be created for devolution to happen, and that is why the Bill is important. That aspect has received less comment and controversy than the mechanism for election.

There seems to be the notion that the choice is between d'Hondt and a cross-community vote. I welcome the fact that we are moving away from d'Hondt, and I am glad that the SDLP has now accepted that d'Hondt is only a mechanism, not a principle, which is what it had argued initially. D'Hondt as a mechanism for proportionality is flawed. It delivers many anomalies, which I have explained in the past; and, in some circumstances, it is not proportionate, particularly when dealing with a fragmented society. The SDLP itself has recognised the limitations of d'Hondt and has recently argued against its use at local government level in Lisburn City Council. We support what it is doing and the logic of what it is saying. Therefore, the argument that d'Hondt is an important principle is already crumbling.

I fully accept the importance of proportionality in the way that we do business in the Chamber and elsewhere in society. However, there is more than one way of achieving that. By contrast, a cross-community vote brings many advantages. It will bring a unique sense of legitimacy to any new justice Minister that does not exist through the d'Hondt mechanism. Under d'Hondt, Ministers are picked through a random process to control a certain portfolio. However, to a certain extent, that means that the opinions of other sections of the Assembly and the Executive are excluded from contributing to that portfolio.

For example, earlier today, some Members expressed built-up frustrations about what they viewed as arbitrary decisions taken by Ministers who have been appointed under the d'Hondt process, while other Members have had little or no ability to influence the outcome. That is the danger of d'Hondt. Therefore, let us not pretend that it is a wonderful system that delivers harmony to how we do business here.

That said; my party is fully aware of the limitations of a cross-community vote. Some Members have said that a new justice Minister will be a puppet of the DUP and Sinn Féin. That cannot be said in relation to a potential Alliance justice Minister, and it applies to any potential Ulster Unionist or SDLP justice Minister. Indeed, as things stand, it could be said that the two Ulster Unionist Ministers and the SDLP Minister in the

Executive may be in office but not in power. Therefore, this is not a black and white issue.

It is important to recognise that there are ways in which the risks that Members have identified can be mitigated. First, since David Ford made his comments in the summer of 2008, one issue that has been clarified is that the new justice Minister will be a full member of the Executive, with the same powers as any other Executive member. That is clearly established in Westminster legislation.

Secondly, there is a clear need for any Programme for Government addendum to be agreed by the Executive and the Assembly in advance of devolution. That would give any Minister a degree of protection, based around the Programme for Government, from any arbitrary use of the power of removal. Frankly, any Minister who ended up in the situation of being removed from office merely for trying to implement a programme that had been agreed in advance by the selfsame parties that were trying to oust them would leave office with their head held high and their credibility intact. To some extent, a straw man is being built here. That is a problem that has been somewhat addressed and which can be further addressed in the future.

My party has clear ambitions for wider institutional reform of the Assembly and Executive. The current system is not working; the Assembly and Executive are not delivering the optimal outcomes in their policies. For many years, we have made no secret of our ambitions in that respect. Our agenda is not targeted against any one party, and that includes, notably, Sinn Féin. Our agenda is about making governance work better and about creating a system that can deliver on behalf of the people of Northern Ireland. Although an initial step has been taken in the legislation, it is not a Trojan Horse for wider reforms elsewhere in the system. That is a debate for another time and another place, and we accept that. Nonetheless, the Bill is a welcome step towards reform of the procedures for election.

In his lengthy intervention, Basil McCrea —

Mr B McCrea: I was making a speech.

Dr Farry: In his speech then — pre-packaged from above — Basil McCrea questioned the wisdom of any party wishing to join what is a dysfunctional Executive. If Basil McCrea believes that the Executive are as dysfunctional as he says, his party should leave, and should fight the Executive, unambiguously, in opposition, rather than being in and out at the same time.

Mr B McCrea: That is a two-edged sword. Does the Member believe that the Executive are dysfunctional, and, taking his argument, does he think it is right that the Alliance Party should take the Ministry for justice?

Dr Farry: I am just about to come to that very point. I took extensive notes during Basil McCrea's speech — something had to be done — and listened to the comments that his party made. The difference between our approach and that which was articulated by the Ulster Unionists is that although we recognise that, as things stand, the Executive are dysfunctional, we regard the successful devolution of policing and justice as part and parcel of efforts to make the Executive less dysfunctional. It is quite clear that the issue of devolution of policing and justice is one of many.

Mr B McCrea: Will the Member give way?

Dr Farry: I will in a second.

It is perhaps the primary issue that is poisoning relations between parties. To take it to another level, if the issue is not resolved in the near future, there is the very real prospect of the institutions being further destabilised. Indeed, we have potential threats or warnings, call them what one will, that may have dire implications for the institutions.

Mr McCrea: I appreciate Dr Farry's giving way.

For clarity, is the Member saying that the difference between our approaches is that although we agree that the Executive are dysfunctional, he believes that if policing and justice is devolved that will create stability? If, after there has been a justice Minister for some time, the Executive continue to be dysfunctional, should that Minister resign?

Dr Farry: At this stage, we are not talking about any potential personalities as Minister. The Member is getting a little ahead of himself. The essence of the difference is that the Ulster Unionists have identified a problem, and continue to point out the nature of that problem, but have no plan as to how to fix that problem. We recognise that the Executive are dysfunctional, but we believe that addressing the issue of policing and justice, and addressing it soon, will help to reduce the dysfunctionality.

That will by no means remove all the problems in the Executive, but it will make relations a little bit more harmonious and businesslike. *[Interruption.]*

Mr Speaker: Order.

Dr Farry: It is also useful to compare and consider the types of issues that are causing the greatest degree of dissent among the parties. There is a clear pattern: if an issue has been nailed down in the Programme for Government, its implementation has been relatively smooth; if issues have not been nailed down in the Programme for Government and have been left to chance, education being the primary example, there has been almost total anarchy and poor relations among the parties. The lessons that I draw from that are clear and point to the centrality of agreeing the programme for policing and justice in advance of the

powers' being devolved. If that is done, the dysfunctionality risk is reduced. Is the Member happy with that?

Mr B McCrea: Yes, I am.

Dr Farry: Good.

Mr B McCrea: I want to check something, because it seems that we are violently agreeing that the sorting out of all the issues in advance is what is important. We do not know what the Minister of justice and the Department of justice will do, and we have not heard of any plan on how the Minister will relate to the rest of the Executive. Until those issues are sorted out, it is our conjecture that it would be madness to appoint a Minister. I cannot understand how the Member's argument is different from the one that I put forward.

Dr Farry: I am grateful for the Member's comment. We need to return to the issue that we are discussing, which is one aspect of a process that is putting legislation in place to create a Department and the process for the election of a Minister. Before the appointment of a Minister, all the issues that Mr McCrea raised about a Minister's potential programme and his or her relationship with the Executive would have to be agreed. The process of putting a Minister in place is the last stage that that occurs, and it could even happen after powers have been devolved. We are at risk of having a straw man.

I welcome the indication earlier that the Ulster Unionist Party wants to engage with other parties on matters that relate to the programme. The Ulster Unionist Party already has the opportunity to do that through procedures that are not available to my party, but let us have those discussions.

I want to comment further on the theme that Mr McCrea introduced. I am concerned, as are the people whom I represent, about the way in which the process is being handled, particularly the recriminations that are building up between the DUP and Sinn Féin and the way in which threats are being met with counter-threats. We have a major communications problem, which we must overcome if we are to progress the issue. We cannot have zero-sum politics in which every win on one side is viewed, or presented, as a loss on the other.

Although I am critical of the way in which the DUP and Sinn Féin have handled the process, I reject the notion that the Ulster Unionists and the SDLP are paragons of virtue and have acted in a progressive way in contrast to the regressive behaviour of the DUP and Sinn Féin. My party judges every issue in the Chamber on its individual merits, and it will back any party that proposes a motion or an amendment that we believe to be in the interests of the people of Northern Ireland.

The Alliance Party is happy to support the legislation, because it recognises the fact that it will move the

process forward. The legislation may not be exactly to everyone's liking, but we have to recognise the fact that we live in a divided society, have a range of different opinions, and the only way to progress is through agreement. That means that some people will have to surrender some of their ideals on the way forward for a pragmatic consensus of what is achievable. I cite the example of the Government formed by the Ulster Unionists and the SDLP, which did not achieve much.

It is interesting that people complain about the lack of progress on the cohesion, sharing and integration (CSI) strategy. There is a lack of progress, for sure, but that represents an exact parallel with the first Executive, which, over a 12-month period, failed to produce a shared future strategy. It fell to direct rule to introduce such a strategy. Therefore, the issue of where the finger of blame should point is not exactly black and white.

2.45 pm

I am frustrated by the DUP's messages on confidence-building issues, the number of which seems to be growing, and its lack of certainty on how to reach a conclusion. However, within unionism, the DUP has been much clearer in saying that it wants devolution to happen and that it is committed to it happening as soon as possible on its own terms.

The Ulster Unionist Party has clearly stated that it is opposed to devolution. Even today, it will oppose the Bill that puts in place an important building block for the process. That contrasts with the stance of its sister party, the Conservative Party, and David Cameron.

Mr B McCrea: For the sake of clarity and completeness, I will repeat what I think that I said earlier. The Ulster Unionist Party is not, in principle, opposed to the devolution of policing and justice. In fact, we want the devolution of policing and justice to happen. I do not know how much clearer we can be on that point. Our concern is about the Bill, and we have outlined our problems with it. It does not help to move the process forward. I find it hard to believe that I agree with many of the Member's arguments. That is why we will oppose the Bill.

Dr Farry: The difference is, as the record will bear out, that the DUP made a positive statement that it wants devolution to happen. The Ulster Unionist Party produced a double negative by saying that it is not opposed to devolution. It cannot positively articulate that it wants devolution to happen, that it believes that it is in the interests of the people of Northern Ireland and that it is in their interests for it to happen as soon as possible. It also argued that confidence —

Mr B McCrea: Will the Member give way?

Dr Farry: I will give way in a minute. The UUP also argued that confidence does not exist at this stage. However, the UUP is not contributing to creating that

confidence. If anything, it undermines the confidence that we are trying to build to allow devolution to happen.

Mr B McCrea: For the purposes of clarity, I repeat yet again that we want the devolution of policing and justice to take place. That is not a double negative; it is an affirmative statement. We want that to happen as soon as possible. That is another pretty positive statement.

Our concern is that the Bill does not help, because we do not know what the justice Minister or justice Department will do, and there is no agreement on governance. The Bill contains nothing; it is a shell. We are being asked to vote for something that is so nebulous as to be almost unbelievable. However, in principle, if people can come forward with the so-called concrete or positive future, we will consider it, but we have not seen any evidence of that. That is why we oppose the Bill; we do not oppose the concept.

Dr Farry: OK. *[Laughter.]* We have made some progress. That is the first statement from the Ulster Unionist Party that it is in favour of devolution and that it wants it to happen as soon as possible. I welcome that, and I hope that Basil has cleared it with his party leader.

We will go round in circles on that point. We are talking today about a Bill that creates the Department and puts in place the mechanism for electing the Minister. It is one of many building blocks in a process.

Mrs D Kelly: Will the Member give way?

Dr Farry: I will give way in a second. We continue to put bricks in the wall, but we cannot see the wall until the bricks are in place.

Mrs D Kelly: Now that the Member has finally got round to speaking about the Bill, does he agree that the veto that was handed to the DUP means that no nationalist need apply for the position of justice Minister? Will he clarify that, if there is no agreement on a shared future and on cohesion, sharing and integration, the Alliance Party will not accept the position of justice Minister, as his party leader stated some time ago?

Dr Farry: That is a difficult one. I was about to mention the SDLP, so Mrs Kelly has given me the opportunity to move on.

The First Minister: Before the Member moves on, I should say that I think that we now have some clarity about the Ulster Unionist position. Is his understanding of that party's position that it supports the devolution of policing and justice powers in principle but is not prepared to support the Bill because the building blocks have not yet been put in place? Further to that, given that the Bill is one of the building blocks, is that party going to vote against it?

Dr Farry: In so far as it is possible to ever clearly identify any Ulster Unionist Party position, the First Minister's summary is probably a fair one. It is somewhat contradictory for the Ulster Unionist Party and the SDLP to say that they support devolution but to vote against what is, on the face of it, a simple piece of legislation that enables devolution and does not bind any party into any other part of the process. Many debates will have to take place in future; for example, the big debates on timing and on whether devolution occurs are still to take place. I am not entirely sure why there is opposition to the legislation, and it is for those parties to justify that to the wider audience.

Mr B McCrea: The issue that concerns us is that a precedent has been set by the way in which the debate on education has taken place. The Minister of Education has her own views, which is fair enough, but they are not shared by everyone in this Chamber. Our concern is that giving carte blanche to Ministers to act without any clearly defined role or responsibilities to the Assembly will set forth a train of events that we may have cause to regret. Does the Member not agree that it is entirely legitimate in any democratically elected Chamber that those issues be debated and that we put our points of view across?

Dr Farry: Basil McCrea has a mandate, and he is perfectly entitled to argue anything that he wishes to in the Chamber. Again, however, we are going round in circles. The point that I have stressed time after time is that the Bill is one stepping stone in the devolution process. Other issues still have to be addressed, including the relationship between the justice Minister and the Executive, as well as any potential programme. If, in turn, those issues are not agreed satisfactorily when we discuss them in the Assembly, devolution will not happen. The passage of the legislation today does not mean that any party commits itself irrevocably to a process that leads to a Minister's presiding over the nightmare scenario that Basil McCrea articulated. I still do not grasp what the problem is with the legislation.

I am happy for any party to put its name forward for ministerial office under a cross-community vote. My party's record on that issue is entirely clear: we believe in power sharing that potentially includes any section of society. The history of the Alliance Party is based on fairness. However, parties here, including the SDLP, have not always shown that fairness to the Alliance Party. I go back to the point that I have made on many occasions about the use of designations and the voting system, which institutionalises sectarian divisions in this society and works against the people whom I represent and who have tried to move beyond those divisions. My vote counts for less than those of others in the Chamber; that does not represent inclusivity and equality.

The SDLP must explain its position. I am slightly bewildered that Alban Maginness was not able to give a clear answer as to how his party will vote on the Bill. I appreciate the dilemma that the SDLP has put itself into, because there are only two logical steps forward. The first is that that party should recognise that the legislation is innocuous, that it is a building block and that there are other building blocks to come. Given the SDLP's articulated support for devolution, the logic is that it should support the Bill. However, it argued against the Bill at Second Stage, which is when the principles of a Bill are debated. It tabled amendments to change the Bill, which the House rejected, and it still has the same Bill that it voted against at Second Stage. For the sake of consistency, the SDLP should probably vote against the motion, but in doing so, it would be voting against an essential building block in the devolution process.

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

Whatever way the SDLP turns, it either blocks and frustrates the devolution of policing and justice or it performs a policy U-turn. I appreciate that it has to take a decision on the way forward over the next hours.

Mrs D Kelly: I am wondering whether the Member is going to answer my questions.

Dr Farry: I comprehensively addressed the points raised by the Member earlier. Question Time is coming up, so I will finish in the next couple of minutes.

There has been a lot of discussion about the Alliance Party's role in this matter. Let me make it perfectly clear that the Alliance Party has not been party to any deal, understanding or arrangement around the devolution of policing and justice. There is intense speculation around the party. We have made no decisions, and no offers or votes have been taken. We will judge what is in the best interests of the people of Northern Ireland.

Mr B McCrea: I understand the point that the Member is making, but what if he were asked whether he would be prepared, for the good of the country and for the sake of the process, to sacrifice himself on behalf of the Assembly to be the Minister of justice?
[Laughter.]

Dr Farry: Interestingly, during the discussions on the proposed amendments to the Bill, a member of the Ulster Unionist Party thought that saving Ulster was a bad idea. There goes the Ulster Unionist Party.
[Interruption.]

The Alliance Party is not interested in talking about personalities. We are interested in the process and in ensuring that the process is right. That means ensuring that the proper safeguards are in place, including the Programme for Government.

If the Alliance Party joins the Executive, it will not be surrendering any principles. We will not surrender any of our vision for a shared and integrated society. We will work to make this society better, in the circumstances in which we find it, and we will work constructively for the betterment of the whole community.

We may well continue to have a dysfunctional Executive after the devolution of policing and justice. However, I firmly believe that the process of devolution is critical to making things better in the initial stages. We will continue to argue for policy changes and for changes to the institutions so that we can work towards having a proper, normalised system of government. In that way, Northern Ireland can be just like any other part of western Europe and the people of Northern Ireland will have the best services and a shared, safe and prosperous society that we can all be proud of.

Mr Deputy Speaker: Question Time begins at 3.00 pm, so Members may take their ease until then. The debate will resume after Question Time, when the next Member to be called to speak will be Mr Jim Shannon.

The debate stood suspended.

3.00 pm

Oral Answers to Questions

ENTERPRISE, TRADE AND INVESTMENT

Mr Deputy Speaker: Question 1 has been withdrawn.

R&D/Innovation Grants

2. **Mr McNarry** asked the Minister of Enterprise, Trade and Investment to outline the total uptake of research and development and innovation grants by businesses over the past two years. (AQO 478/10)

The Minister of Enterprise, Trade and Investment (Mrs Foster): Invest Northern Ireland's 2008-2011 corporate plan contains a commitment to target more expenditure at research and development and innovation programmes. Its resources are, therefore, being refocused to increase the budget for R&D and innovation from £15 million to £42 million over the Programme for Government period. That has already intensified the focus in those areas over the past two years. The corporate plan also includes targets to increase the average annual growth in business expenditure on R&D by Invest Northern Ireland clients. A target of 8% growth by March 2011 has been set for companies with fewer than 250 employees, and a 5% target has been set for larger clients. The data needed to measure performance against those targets are expected to become available in 2012.

Invest Northern Ireland's support for R&D and innovation-based projects ranges from small grants to multimillion-pound interventions. In 2007-08, Invest Northern Ireland supported 245 projects of that type, which led to a total investment of £48.2 million in the Northern Ireland economy. In 2008-09, some 460 R&D innovation projects were approved, generating total investment of £70 million. In the first seven months of the current financial year, 248 projects have been approved with associated planned investment of £55.6 million. In the same period last year, 111 projects were approved with a total planned investment of £38.4 million. That represents a 45% increase in R&D investment over the same seven-month period between this year and last year.

Mr McNarry: I welcome the Minister's response, and I am sure that she is appreciative of the uptake of the grants. Invest NI's 2008-2011 corporate plan envisaged businesses investing some £150 million. Is

the Minister satisfied that that investment can, and will, happen?

The Minister of Enterprise, Trade and Investment: Yes. Given that R&D and innovation projects brought a total investment of £70 million in 2008-09 alone, I am satisfied that it will happen. The uptake of R&D and innovation grants is encouraging. More companies are becoming aware of the benefits associated with R&D and innovation programmes. Indeed, the independent review of economic policy (IREP) pointed out that we needed to place more emphasis on that area. I am happy to do that, and it will be one of the areas that I talk about when I present my response to the IREP report to the House in early January 2010.

Mr T Clarke: Will the Minister outline the other actions that are planned as a result of the IREP report's recommendations on innovation and research and development?

The Minister of Enterprise, Trade and Investment: The IREP report made a great play of R&D and innovation. As its corporate plan shows, Invest Northern Ireland is already doing work in that area. Invest Northern Ireland has moved into the area of research and development and wants companies of all sizes to become involved. Invest Northern Ireland has many programmes in place, from innovation vouchers for small companies right up to helping large multinationals.

As pointed out in the IREP report, one of the more concerning issues on the horizon is the fact that select financial assistance may end in 2013. If that happens, we must find moneys for research and development and innovation from other sources. In the meantime, and as the IREP report recommends, we must use select financial assistance to invest in research and development and innovation. Between now and 2013, we must draw up a new portfolio of policies to deal with matters post-2013.

The IREP report also refers to industry-led innovation communities. Members may be aware of the MATRIX report — members of the Committee for Enterprise, Trade and Investment are certainly aware of it — and the Government's recent response to that.

That is a very important issue, although it did not get the amount of coverage that I would have liked. Those industry-led innovation communities really take Northern Ireland to the next level. They make us more globally competitive, which the House should very much welcome. I know that I have all my Executive colleagues' support in progressing the recommendations in the MATRIX report, and I thank them for that support. It will make a real difference to the Northern Ireland economy.

Dr McDonnell: In light of the recommendations in the Barnett independent review of economic policy, how much further increase does the Minister anticipate

in the R&D and innovation budget as we go forward? Has it reached its peak, or does she anticipate further investment?

The Minister of Enterprise, Trade and Investment: We must recognise that all departmental budgets will be under pressure from next year and into the next comprehensive spending review period. I know that the Member recognises the fact that we have moved more money into R&D and innovation over the past number of years. We have moved from having a budget of £15 million to one of £42 million, which also allows us to lever some money from Europe. In fact, the total amount that has been invested is nearer to the £100 million mark. However, we need to look very carefully and strategically at our future budgets, and I hope that the Committee will be able to assist in that regard. I am not saying that that budget is at its peak yet, but we are moving into difficult financial times.

Single Electricity Market

3. **Mr A Maskey** asked the Minister of Enterprise, Trade and Investment what the impact will be on the future of the single electricity market if a feed-in tariff system is not the preferred option under the renewable obligations Order. (AQO 479/10)

The Minister of Enterprise, Trade and Investment: The Northern Ireland renewables obligation (NIRO) is the main renewable energy support mechanism in Northern Ireland. It compares favourably with the incentives that are available in the Republic of Ireland. Since its introduction in 2005, the NIRO has proved very successful in stimulating new renewables development. There are no plans at this stage to replace it with a feed-in tariff or other support measure.

A feed-in tariff system is not an option under the current renewables obligation Order. It is a separate support mechanism that would require new primary legislation if it were to be introduced. Nonetheless, the move to a feed-in tariff system for small-scale projects in Great Britain means that the time is right for Northern Ireland to increase its share of renewable electricity in order to provide greater security of supply and to reduce carbon emissions at an acceptable cost to consumers.

Therefore, my Department, working closely with the Utility Regulator, is commissioning an economic analysis of support mechanisms for renewable electricity. That will help us to determine the most appropriate and cost-effective means of ensuring that we continue to maximise the potential of renewable electricity in Northern Ireland while taking account of the operation of the single electricity market.

Mr A Maskey: Go raibh maith agat, a LeasCheann Comhairle. I thank the Minister for her response. Notwithstanding the detailed answer that she provided,

does it not make sense for us to continue to develop the single-island energy policy and market to ensure that we can use one of the better cost-effective mechanisms to deliver energy to industry and householders at a reasonable price?

The Minister of Enterprise, Trade and Investment: There are two issues: the industry level and the small-scale renewables. For industry, we have no plans to change from the NIRO to the feed-in tariff, because we need to give certainty to the industry. We are seeking a great deal of investment in renewable sources of energy into Northern Ireland. We want to give certainty so that, when they invest, people know what they will get on the back of it.

I have indicated that I want to do more work on small-scale renewables. At present, we do not have the legislative competence to decide simply to go down that route. We were not included in Great Britain's Energy Act 2008, so I am doing a piece of work with the Utility Regulator. That is currently with the Department of Finance and Personnel, and I hope to have the results of that work in March or April next year, after which we will move forward.

Mr I McCrea: I thank the Minister for her answer so far. Will she detail why her Department does not align Northern Ireland's renewables support measures with those of the Republic of Ireland?

The Minister of Enterprise, Trade and Investment: We do not have the legislative power to do what the Republic of Ireland is doing. The GB powers were included at the last stages of the Energy Act 2008. We did not have time to table a legislative consent motion in the House, and we could not be added to the legislation at the last moment because energy is a devolved matter. We cannot move ahead on this issue until we have primary legislation in place. Indeed, before taking the primary legislation route, we must decide whether it is a good idea to move ahead with feed-in tariff proposals like the ones in the Republic of Ireland, as opposed to continuing with the NIRO for domestic and industrial renewables. That is why we are carrying out work with the regulator, after which, hopefully, there will be greater clarity.

Mr Beggs: A fully working single electricity market (SEM) should lower consumer costs. Is the Minister satisfied that the single electricity market benefits large and small consumers, or does it largely benefit wholesalers?

The Minister of Enterprise, Trade and Investment: There is no doubt that the SEM has benefited the wholesale market, and the Member is right to point that out. I presume that the Member is alluding to the fact that many large-scale energy users are facing huge increases in their electricity bills, some close to 40% to 50%. According to figures from my Department, that

simply should not be the case. Given the huge price rises that some people have been facing, something has gone wrong.

Last week, the Committee for Enterprise, Trade and Investment heard compelling evidence from Northern Ireland Manufacturing that people doing business here have experienced an increase to their bottom line that is simply not tenable. There must be a real and meaningful look at the reasons for those huge increases in electricity prices, and I welcome the fact that the regulator has announced a review of them. On a number of occasions, I met the regulator to talk about those issues. I also welcome the fact that the Committee has decided to work on that subject. I hope that we will bring clarity, which is what businesses really need in order to know precisely the sort of costs with which they must deal. Presently, that is very difficult for them.

Mr Gallagher: Does the Minister agree that Northern Ireland consumers are still paying far too much for energy? One way to make the electricity market more competitive would be to allow for the exchange of renewables obligation certificates, to which she referred. In addition to its work with the regulator, what plans does her Department have to remove those barriers?

The Minister of Enterprise, Trade and Investment: I am sorry that Mr Gallagher did not listen to what I said earlier. Work on feed-in tariffs will start very soon; it is with the Department of Finance and Personnel for approval, after which consultants will be appointed. In March, it will come back to us, and we can establish whether what we are doing in respect of small-scale renewables is right for industry and the people who live in Northern Ireland, which will always be my guiding principle. If the NIRO is right for the people of Northern Ireland, we will continue with it. If we need to look at other mechanisms to incentivise renewables, we will do so. However, I will not prejudge the work before it comes to me. When it does, I will be happy to discuss it with any Members who have a specific interest in it. I will bring the matter to the House when I have clarity on it.

Tourism

4. **Mr Bresland** asked the Minister of Enterprise, Trade and Investment what work her Department is doing with its counterparts in Great Britain and the Republic of Ireland to increase the numbers of tourists from their areas visiting Northern Ireland.

(AQO 480/10)

The Minister of Enterprise, Trade and Investment: My Department does not work directly with its counterparts in Great Britain and the Republic of Ireland, because, in essence, those Departments are

competitors in seeking to maximise tourist numbers and revenue for their respective home markets. However, when it makes commercial sense to do so, Tourism Ireland works with Visit Britain in markets such as Canada and Australia and in emerging markets such as India. For example, in May, Destination Britain and Ireland held a workshop in Hong Kong that brought industry partners from Northern Ireland and the Republic of Ireland face to face with more than 90 key buyers from the Asia-Pacific region. The workshop was organised by Tourism Ireland in conjunction with Visit Britain.

3.15 pm

The Northern Ireland Tourist Board runs a year-round programme of marketing campaigns in the Republic of Ireland to attract visitors to Northern Ireland. Evaluation of the most recent campaign, which was run last summer, indicates that people from the Republic of Ireland taking a short break or day trip as a result of the campaign generated £10.6 million for the local economy.

Mr Bresland: I thank the Minister for her answer. Does she welcome the thousands of shoppers coming from the Irish Republic into Northern Ireland, and will she comment on the row over promoting Belfast in key parts of Dublin?

The Minister of Enterprise, Trade and Investment: Obviously, I welcome the number of shoppers coming to Northern Ireland, and I do so wearing a number of hats, not least as a Member for Fermanagh and South Tyrone. The current economic downturn, together with the strength of the euro and the emerging changing patterns of consumer demand suggest that we in the tourist industry have a window of opportunity to increase the level of demand from both parts of the island.

That is why the Northern Ireland Tourist Board is spending so much time and energy trying to make people in the Republic of Ireland aware of what they may not have been aware to date, and it is doing very well in that respect. We have seen a growth in the number of residents coming here to Northern Ireland not just to shop, but for short breaks. I very much welcome that. When they come, they will find quality accommodation and good food, and I hope that they will want to come back.

In respect of the small skirmish over promoting Belfast in key sites in Dublin, I am disappointed that the particular advertising agency has chosen not to put the Tourist Board displays at four key sites in the city. I understand that that is because there was a contractual obligation not to display materials that conflict with the commercial interests of one of its clients, a Dublin shop, or whatever. However, that does not take away from the fact that we have a very effective tourism

campaign in the Republic of Ireland, and I hope that we continue to see the fruits of that.

Mr P Maskey: Go raibh maith agat, a LeasCheann Comhairle. What is the Department doing to enhance visitor numbers to areas of social need and to support community tourism projects?

The Minister of Enterprise, Trade and Investment: As the Member knows, we work very hard with community tourism because we see culture as one of the growth areas for the tourism product here in Northern Ireland. The new tourism strategy will include culture as one of our action areas, and I hope to receive it before the end of the year.

As well as that, Belfast Visitor and Convention Bureau, which the Member will know is largely funded by the Tourist Board, is doing a lot of work in relation to getting visitors into the city of Belfast as a gateway, if you like, to Northern Ireland. It does a lot of work with all the different sectors, including the cultural sector, which the Member is involved in.

I very much hope that we will see more work in that area. When people come to Northern Ireland, they have a genuine sense of inquisitiveness — understandably, given the past 35 to 40 years — and they want to know about the culture of the place. I can only see it as an advantage to tell them about it.

Mr A Maginness: It is good to note that Northern Ireland is becoming a more popular destination for people from south of the border and Britain. What will the Minister do to deepen the tourism experience and strengthen the input from all parts of these islands? In particular, how would she give better value for money and time? If people have a good time here, they are likely to return.

The Minister of Enterprise, Trade and Investment: I could not agree with the Member more. That is absolutely the right message and it is the message that not only Tourism Ireland is trying to get across but which the Northern Ireland Tourist Board is encouraging with its “explore more” message, which is telling people to get out and about to places that they may not have been to heretofore.

In October, Tourism Ireland invested an additional £1.2 million to augment its autumn campaign in Great Britain. The reason is obvious: the economic recession and the fact that people are not looking to further shores for their short breaks offer us the opportunity to attract more visitors across that short stretch of water.

In the near future, I will receive from Tourism Ireland a major review of the Great Britain market, entitled Project Britain II. That project will identify the strategic actions that are needed to return the market to growth, because although we have seen an increase in the number of visitors from the Republic of Ireland,

there has been a decline in the Great Britain market, and we need to concentrate on that.

I commend Tourism Ireland for its work with the Department on the Great Britain market. It has recognised that there is a good deal of work to be done, and it has invested time and energy in that.

The 2012 London Olympics provide a huge opportunity for us. We are working with Visit Britain in that regard, and we hope to see some benefit from the London Olympics.

Mr McFarland: The Minister will be aware of large-scale advertisements at GB airports encouraging English tourists to visit Dublin and the expensive euro zone. Is the Minister content with Tourism Ireland steering our countrymen away from Northern Ireland?

The Minister of Enterprise, Trade and Investment: I am disappointed to hear the Member say that, because, in my time as Minister, my experience of Tourism Ireland has been that it has been more than willing to work with Northern Ireland. Sometimes, in fact, it comes under criticism from my Southern counterparts for the amount of time, effort and money that it puts into marketing Northern Ireland rather than the Republic of Ireland.

As I said earlier, Tourism Ireland put an additional £1.2 million into its autumn campaign for the promotion of Northern Ireland in Great Britain, and, soon, we will receive Project Britain II, which will identify the strategic actions that are required to increase the number of visitors from Great Britain. Although there may be advertisements inviting people to visit Dublin, we will continue to work with Tourism Ireland in selling Northern Ireland as a good place to visit for a variety of reasons, not least value for money, which should go down well at this time of economic recession.

Fuel Costs

5. **Mr Savage** asked the Minister of Enterprise, Trade and Investment what action she intends to take following calls from the Consumer Council for greater transparency in the fuel industry and for Government to encourage fuel suppliers to be more open about their costs. (AQO 481/10)

The Minister of Enterprise, Trade and Investment: The Consumer Council has called for suppliers of diesel and petrol to provide customers with more information on their costs. My Department has no powers in relation to transport or to direct the industry to produce information about its costs. However, I encourage the transport fuel industry to work with the Consumer Council on the issue.

Mr Savage: The Minister will be aware that the regulator has initiated an inquiry into how suppliers set

charges and communicate with their customers. Is the Minister aware that energy costs in Northern Ireland are 12.5% higher than those in GB and 55% higher than those in the United States?

The Minister of Enterprise, Trade and Investment: I am aware of that. I am sure that the Member is aware that we do not regulate the domestic oil industry, because it is felt that since it is such a competitive industry, there is no need to regulate it. That is the view not only of my Department but of the Department for Energy and Climate Change and the Department for Business, Innovation and Skills in Westminster. Therefore, there are no plans to regulate the domestic fuel industry.

The Member will be aware that the price of crude and wholesale product fluctuates daily. However, retailers typically change prices less frequently and respond only to sustained price movement. The regulator is trying to get more clarity on those prices, and I welcome that. However, energy costs are high in Northern Ireland, particularly for businesses. If the Member was in the Chamber for my answer to a previous question, he will know that I hope that we can help those businesses. I look forward to the regulator's review and its outcome.

Mr Spratt: What is the Department of Enterprise, Trade and Investment doing to reduce the cost of energy for businesses in Northern Ireland?

The Minister of Enterprise, Trade and Investment: I welcomed the 19% reduction in Phoenix Natural Gas prices for domestic and small business users from October 2009. Firmus Energy also reduced its gas prices by 17.7% for domestic customers and 11.5% for small business users from the same date. However, that does not take away from the fact that we are concerned about the cost of electricity for large energy users, and I hope that we can clarify that situation when the Utility Regulator brings us the findings from his review some time in the new year.

Mr Durkan: Beyond noting the aversion that the Minister's Department and others have to regulating the oil industry, will her Department work with the regulator and/or the Consumer Council to ensure that there is at least some credible monitor of the cost factors for that industry? It could track not only wholesale costs but, significantly, exchange rates, which also have an impact, ensuring that excise and tax issues are built in as well as any added transport or storage costs for Northern Ireland. If that monitor were in place, it would give people a better assurance that there is no rip-off.

The Minister of Enterprise, Trade and Investment: It is important to have all the information, because, when people do not have that, they start to fill in the boxes themselves. That leads to scare stories about what the price should be, which, inevitably, leads to

much confusion. I have no difficulty with the Consumer Council providing a price monitor. We were particularly concerned about the fact that regulation would add on additional burdens and costs, which would, inevitably, be passed on to the consumer. Therefore, although the Consumer Council will continue to do the good work that it does in that area, we have no plans to regulate. Of course, if national and European Union competition law were to decide that that should change, we would have to consider that. However, at present, the scrutiny that the Consumer Council provides will suffice, and it will no doubt do its usual good job on that issue.

Mr Deputy Speaker: Question 6 has been withdrawn.

Invest NI

7. **Mr Moutray** asked the Minister of Enterprise, Trade and Investment what progress Invest NI is making in meeting its public service agreement targets on inward investment jobs. (AQO 483/10)

The Minister of Enterprise, Trade and Investment: Despite the prevailing economic conditions, Invest Northern Ireland has continued to perform steadily during this financial year, building on the excellent progress that was made during 2008-09. The Programme for Government's halfway point was on 30 September 2009, by which time Invest Northern Ireland had delivered 66 inward investment projects against a three-year target of 90. The projects have promised 4,832 new jobs against a three-year target of 6,500.

Invest Northern Ireland has also continued the shift towards securing high-quality, high-value-added inward investment opportunities. Some 2,852 of the jobs offer salaries above the Northern Ireland private sector median, which is £18,314, and 1,659 of the jobs offer salaries that are 25% above the Northern Ireland private sector median. That is against three-year targets of 5,500 and 2,750 respectively.

One excellent example of that focus is the New York Stock Exchange's technologies project, in which all 400 of the jobs promoted will attract salaries of more than 25% above the Northern Ireland private sector median. Although there has been encouraging progress to date, it is important to acknowledge the fact that achieving the three-year targets will be challenging. Invest Northern Ireland has begun to see tentative signs of recovery, with a modest increase in the number of possible investment projects in the pipeline, but the global foreign direct investment market remains depressed and fragile.

Mr Moutray: I thank the Minister for her answer. What is Invest Northern Ireland's corporate plan commitment for research and development?

The Minister of Enterprise, Trade and Investment:

We hope to succeed in a competitive global environment and to give businesses ongoing access to help and support. The corporate plan for 2008-2011 places greater emphasis on providing hands-on support and advice to make it simpler for businesses to access the help that they need to succeed. With support from the innovation fund, Invest Northern Ireland appointed 11 innovation advisers to provide companies with tailored advice and funding options that could be made available to them. The corporate plan also promised that expenditure on research and development and innovation programmes would increase by one third.

In an answer to an earlier question, I said that spending on research and development has increased from £15 million to £42 million, and the Department is pleased with that project to date. However, the Department is not complacent. It is aware that it has much more to do on research and development, not least in meeting the challenge that has been given to it and to Invest Northern Ireland by the Barnett review.

EXECUTIVE COMMITTEE BUSINESS

Department of Justice Bill

Final Stage

Debate resumed:

Mr Deputy Speaker: We shall resume the debate on the Final Stage of the Department of Justice Bill.

3.30 pm

Mr Shannon: I support the motion. Just over two weeks ago, we debated the Further Consideration Stage of the Department of Justice Bill. At that time, I said that the debate reminded me of ‘Groundhog Day’; today, I feel like Bill Murray, one of the stars of that film. Nonetheless, it is important that we discuss the Final Stage of the Bill.

Thair’s naething new at A feel A can bring tae this Chammer at hasnae bein sayed afore. The Bill i the format at bes proponed bes, i mae notion, the bes grunwaark fer a Department o’ justice an’ polis, an’ instead o’ debatin’ foriver aboot amendments at dae naething tae gie security an’ protection tae the ordnar boadie oan the street — at hes simply fostered the graith o’ fear an’ the notion at this Semmelie isnae readie tae tak’ forrit polis an’ justice — we maun shew hoo we ir readie an fit tae dale wi’ thon noo.

There is nothing new that I can bring to the debate that has not already been said. The Bill is the best groundwork for a Department of justice. Instead of endlessly debating amendments that do nothing to give protection and security to the man on the street and which have simply fostered the growth of fear and the concept that the Assembly is not ready for policing and justice powers, we must show that we are ready and able to deal with the issue now.

The rise of dissident republican activity has been disheartening. However, equally encouraging was the fact that the PSNI and — reportedly — army special forces are on top of their game and are constantly on guard to ensure the safety of the public and of the armed forces. The victim of the recent dissident attack is understood to be a Catholic recruit to the PSNI, and the attack on him shows the depths to which some despicable men will sink in their attempts to bring instability and mayhem to the Province.

We do not underestimate their evil intentions, but neither do we focus entirely on their deeds. Instead, we must focus on the future and continue in our attempts to make Northern Ireland a prosperous country, and we must all work together to achieve that. We must also look to the future for our children and grandchildren to ensure that the disturbed minds of a minority do not dictate what we do.

At this time of economic uncertainty, we need a stable Northern Ireland, and in the same way that the PSNI has thus far shown itself able to stand up to dissident thugs, the Assembly must also show that it is equal to the task of devolving policing and justice powers. A strong message must be sent to those who use terrorism that the Assembly is getting ready to take over the reins of policing and justice and that it will use its localised knowledge and superior police force to ensure that any attempt to rule by terror will fail.

Ceasing the petty debates that do nothing to enhance the Department of Justice Bill would allow the Assembly to send a clear message to the Province that when the people are ready for policing and justice, the Assembly is ready, waiting and able to implement those powers.

All parties are united in the desire to have a superior policing and justice Department that will work on the streets and be accountable to the Assembly. Just this morning, I was made aware of proposals to make PSNI crime prevention officers a civilian role. Had we a direct say on policing, I would ensure that the policing Minister — whoever that may be — was aware that crime prevention is an integral and essential part of community policing for which people are crying out. As things stand, I will have to write to the Minister of State Paul Goggins and trust that he will take on board my concerns about the loss of crime prevention officers.

The benefits of a devolved policing and justice Department are obvious, and there is no doubt that the DUP fully supports the devolution of those powers, with a regional Government delivering regionally in partnership with the central Government. However, I must reiterate that that will not happen until we have shown that we are ready for it and until the people trust and believe that we are ready for it.

Confidence in the community is critical if we are to move the issue forward, and that confidence will come only as a result of the actions of those in the Chamber. The silly game playing of some Members must come to an end as we move forward towards a justice Department.

People must understand the positive difference that will, undoubtedly, come from devolving the powers in question into the right hands at the right time. All Members are tasked with achieving that outcome, even those who expressed some concern today. We must show that this is not a time for fear; rather it is a time for faith and for determination to see the matter brought to its proper conclusion.

I support the devolution of policing and justice powers, and I support the Department of Justice Bill, which would enable a Department of justice to be created effectively and efficiently at the appropriate time. I support fully the provisions that will create the

chance to close and reform the Department, if that is needed at any time.

I ask Members to put aside some of their petty arguments and small concerns that have no relevance or little substance. I also ask them to ensure that we have a system in which people can have confidence. I have confidence in the system, and many other Members share that confidence. I believe that the community is confident, and with that in mind, let us learn from our past as we head into the future. I support the Bill.

Mr McKay: Go raibh maith agat, a LeasCheann Comhairle. I declare an interest as a member of the Policing Board. I welcome the Final Stage of the Department of Justice Bill. The previous stages were quite exhaustive, and I hope that we do not see a repeat of that today, given that the Bill is one of the shortest to be introduced in the Assembly.

The devolution of policing and justice powers would represent real progress, and it would be a good news story. It is something that the public want to see. They want to see a positive development that would serve to undermine those who are opposed to the peace process and who seek to drag us back into conflict, including, unfortunately, some Members. The devolution of policing and justice powers will be good for all our communities, and it will bring real local accountability.

The problems in the legal system are being flagged up in the media day and daily. We heard more bad news stories this morning on ‘The Stephen Nolan Show’; indeed, bad news stories are seen and heard on television and radio every day. There are a lot of issues that the public want us, not part-time British Ministers, to tackle, and accountability is one of them. The public want us to get to grips with those issues now.

The devolution of policing and justice powers should happen without undue delay. That is what the Ministers in OFMDFM said last November. Given that, they have a duty to progress the issue without pandering to any of the political cavemen either outside or inside the Assembly. I do not think that the public would be impressed if the generous financial package offered were lost and squandered because of the TUV and the electoral fears of some parties. Equally, the people will not have been impressed by the SDLP’s efforts to frustrate the process in the Bill’s previous stages.

When it comes to crime, there is no excuse for elected representatives here to continue to neglect their duty to represent the most vulnerable in our society. Those elected representatives cannot speak for their constituencies on the issue without assuming policing and justice powers in this institution.

I listened earlier to Basil McCrea — for about five minutes — outline a number of problems and issues

that he wanted to be addressed, including matters to do with the Public Prosecution Service. He then talked about the need to get community confidence. I want to talk about community confidence, not as an excuse for not devolving policing and justice powers, but as a reason for giving those powers to local politicians. I referred already to this morning's edition of 'The Stephen Nolan Show', and from listening to the reports day and daily about crime in our communities, it is clear that there is a lack of community confidence in the way in which British Ministers are dealing with policing and justice. Thus, it is abundantly clear that the immediate devolution of policing and justice powers would lead to community confidence in policing and justice in the North.

In conclusion, the Bill is a key piece of legislation, and once it is passed, we must immediately move to complete the devolution of those powers. Tá muid réidh anois.

Mr Hamilton: It is probably a fair assessment of the time that we have spent on the Bill to say that never before has such a short, simple, straightforward piece of legislation taken so long to debate. I am not saying that that is, necessarily, a negative thing. Indeed, given the criticism sometimes levelled at the Assembly that it does not pass enough legislation or do enough of that type of work, it is positive that we take time to scrutinise in the fashion that we have. Whether it has always been productive is an entirely different matter, but it is, nonetheless, helpful that we take the time to pore over the issues, important as they are.

It is a piece of legislation with three clauses: one on commencement; one on the name of a Department, which I do not think anyone contends; and only one on which there has been any degree of discussion or debate. The issue has been well aired in the Chamber, and that airing is something that I will come to later.

I echo the comments made by colleagues in respect of the support that I and my party have for the devolution of policing and justice powers. I have said before at various stages in the debate, and will repeat again, that we see the merit in having those powers devolved to the Assembly at the appropriate time. I and others have previously cited the historical reasons for that: that unionism wanted to have those powers vested in the previous Parliament, and that that Parliament collapsed on the basis of those powers being taken away. Having policing and justice powers residing in this Building and administered by locally elected and accountable politicians is something that we aspire to. It is a unionist ideal; it always has been, and remains so.

That is an important historical reason for doing it, but there are also good reasons in the here and now and in the future as to why it would be beneficial for

everyone in Northern Ireland to have those powers devolved. Others have mentioned issues such as sentencing policy, and it is worth pointing out again that, even if the powers are devolved, no Minister is going to be able to interfere in specific cases. The House would have the power to set sentencing policy, if it decided that it wanted to do so, and to make the guidelines much more rigid than they are at present. For example, there could be mandatory minimum sentences for certain types of crime. There is merit in us having the power to do that.

I have mentioned before, in my role as Chairperson of the Committee for Social Development, that next year, we may be facing a second housing Bill, which will deal with, among other things, antisocial behaviour. It seems logical that we could be most effective in legislating on that if we also had the ability to establish a cross-cutting element involving the police and the justice sector with devolved powers, rather than the Assembly legislating on a policy for antisocial behaviour and then some element of the enforcement being dealt with by others.

The Assembly and Executive Review Committee has scrutinised every line of expenditure in the policing and justice sector, as other members of that Committee know, and has come across some major problems, including the habitual over-run of expenditure on legal aid every year. Even though that problem has existed for years, there does not seem to be much political imperative by direct rule Ministers to get to grips with it. Although the financial package seems to have dealt with the problem in the short term, the only way to deal with it in the long term is through reform. The impetus for that reform will only come from a devolved justice Minister, and from having those powers in this institution.

Therefore, there are many good reasons to devolve policing and justice powers. We would not support such devolution if there were not good reason for doing it. We do not support it because others say that it must happen, or because it seems like a good idea to get a bit more power. There are very good reasons for having those powers in this institution.

However, as all Members know, the DUP's position has always been that the conditions must be absolutely right and that calendars will not dictate when the powers are devolved. One key condition has been to do with elements in the Bill, primarily and particularly the method of electing a justice Minister.

3.45 pm

Although the SDLP and the Ulster Unionist Party may legitimately hold a position and are entitled to do so, at all the stages of the Bill's passage, I have found the fabricated and manufactured opposition of those parties difficult to understand.

Throughout the passage of the Bill, the SDLP has raised various issues, some of which are more meritorious than others, and it has the right to do that. It says that it supports the devolution of policing and justice, and it has yet to say how it will vote on the Bill's Final Stage. As others have said, the SDLP voted against the principle of the devolution of policing and justice by opposing the Bill at Second Stage. The SDLP lectures those of us on this side of the House who say that conditions must be right, but the SDLP wants devolution yesterday or as soon as possible, so it is difficult to understand its position of voting against the Bill at Second Stage and, perhaps, at Final Stage.

If, as Alban Maginness said, there is such a pressing need for devolution, why did the SDLP not support the passage of an essential building block? That party will have to wrestle with that issue when it comes to the vote on the Bill, and I will leave that in its hands, but it strikes the rest of us as being a rather strange and curious position to lecture others on getting on with the job of devolving policing and justice as soon as possible while opposing the Bill at Second Stage and, perhaps, at Final Stage.

Why does the SDLP adopt that position? It appears that some SDLP contributors to previous stages of the debate adopted that position simply because their party will be denied the position of Minister of justice, as if it were some right that the SDLP has, completely misunderstanding the point that d'Hondt would not simply be extended but rerun entirely.

The other reason that SDLP Members had for adopting that position was some slavish devotion or adherence to d'Hondt. Alban Maginness described d'Hondt as being the fairest way. In previous debates, Dr Farry pointed out that d'Hondt is not always the fairest way. It may not be the fairest way, and it is certainly not the only way in which we can achieve cross-community support and have fairness in that sense. I ask the SDLP to reflect on how much better, fairer and all-encompassing a way could be found of appointing a Minister to such a sensitive position as Minister of justice than by having a requirement that the proposed Minister pass a test of cross-community support in the Chamber.

Under the d'Hondt mechanism, based on the results of the most recent Assembly election, any Minister would have, at best, the support of 30% of the population in the case of a DUP Minister, or the support of 15% or 16% of the population in the case of an SDLP Minister. The individual who will be elected to be justice Minister by the House will have the support of the majority of the House, and no better way could be found to ensure confidence in the person who is to hold the sensitive position of policing and justice Minister than to have a cross-community vote.

Members from the SDLP said that they did not understand the need for a veto or for cross-community support. That shows that they simply do not understand the sensitivities, particularly in the unionist community, about who might hold the important position of justice Minister. To be quite frank, if, as was said earlier, the principle of d'Hondt is being damaged by the passage of the Bill, I do not care.

Rather than devote ourselves to one mechanism that is, in itself, not a principle, it is much better that the principle of cross-community support for this very sensitive position be adhered to.

All will be revealed later when there is a vote. If the SDLP opposes the Bill at Final Stage, they will have opposed at every stage the devolution of policing and justice, or, rather, the building blocks leading to that, which puts them into a strange and curious coalition with Jim Allister and dissident republicans, who are opposed to policing and justice powers being devolved. To be fair, though, Jim Allister has, perhaps, been more supportive, having endorsed my party's 2007 election manifesto, which clearly stated the DUP's support for the devolution of policing and justice powers.

A lot of the steps that the SDLP took at different stages in the Bill's passage have not helped to develop community confidence. The SDLP should accept that community confidence is an essential component of devolution. However, some of their behaviour, to which they are entitled, has not been helpful in building community confidence. Their reasons, as I have said, are more to do with an intra-nationalist battle and trying to out-green Sinn Féin than about seeing policing and justice powers devolved to the Northern Ireland Assembly.

Mrs Kelly criticised the Alliance Party and asked whether it would take the justice Ministry if a shared future and CSI strategy were not sorted out. It is clear from the contributions of SDLP Members to the debate, and to other debates on this issue, that they would take the position of justice Minister without any resolution to those issues. That sort of doubletalk is typical of some of the positions adopted by the SDLP throughout the debate.

The Ulster Unionist Party's position is equally curious. Even today it vacillated, forthrightly saying that it wanted to see policing and justice devolved with no undue delay, yet all the while adopting a position that said "absolutely no". I do not want to get into a history lesson about the position that the Ulster Unionist Party adopted when it was the lead unionist party, or how it committed itself to having policing and justice powers devolved by the mid-point of the last Assembly in about 2005, and into a scenario in which there was every likelihood that those powers would go to a Sinn Féin Minister.

In many respects, the UUP has had a total reversal of position, or a total reversal of positions, depending on who speaks for it. I ask them again to reflect on clause 2 of the Bill in particular, and the appointment of a justice Minister and why that new, additional mechanism was included. If the Ulster Unionist Party does not want a Sinn Féin Member holding the position of justice Minister, it would do well to reflect that that new cross-community vote method ensures that unionism has a say in who holds that important and sensitive position. Its current position of letting d'Hondt kick in perhaps guarantees that that does not happen at this stage. However, if that was the position in the future — and it seems to hold the view that it will always be d'Hondt — there is no guarantee that what it does not want to happen will not happen.

Mr B McCrea: The Ulster Unionist Party is not particularly enamoured with the d'Hondt process. However, it is the agreed process, and our position is that whatever is agreed by the Assembly is the method that should be used. Should we gain agreement to adopt a different method on all appointments to the Executive or wherever, that would be a completely different matter. We cannot understand why there is d'Hondt for one process but not for another; that is our concern. We are not supporting d'Hondt for d'Hondt's sake, but because that is what has been agreed by everyone at the moment.

Mr Hamilton: I thank the Member for his intervention because, if nothing else, it allowed me to take a drink and ease the problem that I have with my throat. Now that I have refuelled, I am ready to respond to the Minister — I mean Member.

Mr B McCrea: That is very kind of Mr Hamilton. *[Laughter.] [Interruption.]*

Mr Hamilton: Mr Weir has shortened my contribution considerably. *[Laughter.]* Perhaps, the Member's name could be put forward for that post. He would be subject to the same cross-community vote as anyone else.

I understand his point that his party is not enamoured with d'Hondt, but that it simply accepts it as the system that exists at present. However, he should accept that it is not the only show in town. There are ways other than d'Hondt to distribute ministries.

Mr Beggs: Will the Member give way?

Mr Hamilton: I wish to answer the point that was raised by Mr Begg's colleague.

He referred to whatever is agreed, by which I believe that he meant that if the legislation is passed, his party would be happy enough to take the justice position, if allowed to, under changes that would go through today, all being well.

The point that I make to the Member and his party is that if they are, as we are, concerned that the powers

of a justice Minister would fall into Sinn Féin's hands, I ask him to reflect on how d'Hondt would guarantee that that would not happen.

Mr Ross: Will the Member give way?

Mr Hamilton: I will if it relates to that point.

Mr Ross: I thank the Member for giving way. If nothing else, it gives him an opportunity to have another sip of water.

Does he agree that the Ulster Unionist Party, far from being clear, has been at its most confused on the question of who may be a future justice Minister? The leader of the Ulster Unionist Party, Sir Reg Empey, said that he would not want the justice Minister to be someone who is agnostic on the union. Therefore, he was saying that he would not support a nationalist. During earlier stages of the Bill, Basil McCrea stated that he would support the SDLP taking the position. Alan McFarland also said that he wanted d'Hondt to be run for the appointment of a justice Minister, which means that Sinn Féin could have that position. Therefore, as regards who a future justice Minister could be, the Ulster Unionist Party is all over the place.

Mr Hamilton: I agree with my colleague's analysis. The DUP has been clear as to who it does not want to get the position, just as, I am sure, and as I have pointed out during previous stages of the Bill, there are Members opposite who would be extremely unhappy if a member of my party had the position. That is why both parties have ruled themselves out in the initial stages.

Mr Ross is correct to say that the Ulster Unionist Party's position has vacillated on the matter. It has even stated that to have a cross-community vote on the position would be gerrymandering. Yet, as Mr Ross pointed out, Reg Empey is on record as having said that someone who is agnostic on the union would be ruled out. I believe that it was during debate at one stage about Mr Ford's theology in respect of the union. Therefore, in many respects, that party is guilty of the gerrymandering about which it has thrown accusations.

Mr B McCrea: I fear that quotations are being used selectively. People are entitled to their opinions. We will all form opinions on who is the most suitable person, for whatever reasons. Those are opinions.

As I said at the outset, although Mr Ross appeared not to hear it, when it comes to the process, my party has stated that whatever we think about d'Hondt — I am on record as saying that we are not particularly enamoured with it — it is the established system. It has a logical outworking. My party's preferred solution would be for it to work.

While we are on the subject of vacillation, I wonder whether the Member agrees with Mr Gregory Campbell, who, yesterday, when talking about a date for the devolution of policing and justice, said:

“It will take years, for not only my colleagues and myself, but for many in the unionist community to see Sinn Féin continuing to work the Northern Ireland Assembly and not using it as some sort of battering ram, because that’s where we are now.”

Does he agree with his colleague Gregory Campbell that devolution will take years, or is he vacillating?

Mr T Clarke: Will the Member give way?

Mr Hamilton: I was going to respond to that point, but yes.

Mr T Clarke: Perhaps, I can help you with that one, Simon. *[Laughter.]* Sorry, I meant to say that through the Chair.

4.00 pm

Mr Deputy Speaker: All remarks must be made through the Deputy Speaker.

Mr T Clarke: Basil McCrea is being very selective in his quotation of Gregory Campbell’s remarks. Had he read the whole quotation, he would have found that Gregory Campbell said that it might take six days, six weeks or six years. He did not stick merely to six years.

The Member is holding up a quotation or some sort of literature. If it is by the same person who wrote his speech earlier, I would be concerned about the author. *[Interruption.]*

Mr Deputy Speaker: Order.

Mr Hamilton: I feel that I am playing a bit part in this exchange.

At the risk of repeating Mr Clarke and myself, I will echo what I said at the start of my contribution: what has always been most important to the Democratic Unionist Party is not calendars but conditions. The conditions have to be adequately addressed. When they are, the devolution of policing and justice can occur. That is the DUP’s position, and it will remain so.

Mr Beggs: Will the Member give way?

Mr Hamilton: I said that I would give way, and I will do so in a second.

Mr McCrea said that his party has no adherence to and no real support for the d’Hondt system. I would have thought that he would then welcome any move away from it. Like me and others, he accepts that the d’Hondt system is far from perfect. This is a move away from d’Hondt and, crucially for him and for me and for unionists, it ensures that unionists have a say over who holds the very critical and sensitive position of policing and justice Minister. I will now give way.

Mr Beggs: I thank the Member for giving way.

Does the Member accept that there is not sufficient confidence not only within the unionist community on this issue but between the DUP and Sinn Féin, in that they cannot agree an arrangement for the appointment

of the Minister for justice beyond 2012? At that point, having agreed the devolution of policing and justice, one will be left with, potentially, powers devolved but no Minister in place.

Does the Member also agree that it is concerning when a senior member of Sinn Féin criticises the Serious Organised Crime Agency for visiting one of its members because he has come to the agency’s attention? That shows that Sinn Féin is not yet ready to be anywhere near such office.

Mr Hamilton: Does the Member think that this is some sort of cunning point with which I am going to disagree? I absolutely agree that, given that sort of comment and the sensitivities that we speak of as surrounding the office, Sinn Féin should not have its hands anywhere near it. That is precisely why the DUP has ensured that this clause is in the legislation. The effect of the clause is that unionists will have a say over who holds the position of justice Minister. *[Interruption.]* Hold on. Let me finish. We will have an absolute say, a guarantee, as to who holds that position. If the Member and his party have the same genuine concern as me and my party, he will surely see that the position outlined in the Bill and the mechanism for appointment outlined in it is infinitely preferable to the position that his party is now adopting, which is to throw the office out to the vagaries of d’Hondt and, potentially, to anybody, following an Assembly election. I give way.

Mr Beggs: The Member is ignoring the problem that will occur in 2012. How will a justice Minister be appointed after that date? Will the Member also acknowledge that, if policing and justice is not devolved, d’Hondt will not kick in?

Mr Hamilton: I will speak on the Member’s first point and try to work out what the second one means.

The Member is referring to the sunset clause, on which we had a lengthy debate at Consideration Stage. The importance of that, which I think is lost on the Member, is that unionists will have an absolute say, guarantee and veto on the mechanism put in place regarding the appointment of a justice Minister thereafter as well. That is the crucial point that the Member does not understand. The support of the Assembly will be required for the continuance of the interim arrangements or for the design of new or different arrangements. Crucially, unionists will have a say over that. It is not as if it collapses and everything goes down at that stage, rather than reverting to any other position. We had a lengthy discussion on that too at Consideration Stage. It is not as if that will collapse.

At Consideration Stage, we also had a lengthy discussion about whether everything would fall down in 2012 or whether we would revert to another position. However, it is not as if we would go back to

using d'Hondt and Sinn Féin would get its hands on the position, as some scaremongers have said. That is not what would happen. Crucially and importantly, unionists have a say on what will happen after May 2012.

The Ulster Unionist Party said that one of the reasons why it is unable to support the passage of the Bill is the lack of consultation — principally, consultation with it. I am baffled by that. In some ways, I think that the party has not cottoned on to the fact that it is no longer the biggest party and no longer in the lead in unionism. Despite that fact, consultation with the Ulster Unionist Party on that issue has been deep and widespread. The Prime Minister and the Secretary of State have spoken to the Ulster Unionist Party leader, Sir Reg Empey, on several occasions. In fact, I understand that the Secretary of State met and discussed the issue with the Ulster Unionist Party Assembly group. The First Minister has also spoken to Reg Empey about the issue. The First Minister and the deputy First Minister met the Ulster Unionist Party, as well as the other parties.

Dr Farry: On the point about consultation with the Ulster Unionist Party and the allegations of preferential treatment towards the Alliance Party, does the Member accept that the leader of the Ulster Unionist Party has had more meetings with the Prime Minister about the justice Department than the leader of the Alliance Party, despite all the speculation around our party? Does he find it a little bit strange that the Ulster Unionists are complaining about the lack of consultation, given the privileged access that they have had to the Prime Minister compared with ours?

Mr Hamilton: The Member has helpfully added to my point.

Mr B McCrea: Will the Member give way?

Mr Hamilton: I will let Mr McCrea make an intervention in a moment, when perhaps he will explain the disparity between what I outlined and the point that he made earlier.

As I said, the First Minister and the deputy First Minister met all the parties, including Dr Farry's party and Mr Durkan's party, and had lengthy discussions about the issue with them. If my understanding is correct, the First Minister and deputy First Minister offered to establish a cross-ministerial subgroup comprising all four parties in the Executive to discuss that and other issues. However, I do not think that Sir Reg Empey has replied positively to that invitation.

The Assembly and Executive Review Committee, as I know to my cost, has discussed the issue inside out and upside down and at excruciating length, and representatives of the Ulster Unionist Party have been present in the room at all times. Indeed, the detail of the Bill was included in a report of that Committee. I am not in any way trying to imply that Ulster Unionist

Party members supported that; however, they were there, they knew about the detail, and they were consulted on that.

The accusation that there has been no consultation and that the Ulster Unionist Party feels out in the cold or left out because of that is completely spurious and total nonsense. The level and extent of consultation and discussions, from the top of the United Kingdom Government down, has been extremely significant and makes a complete lie of the Ulster Unionist Party's argument that it has been excluded or kept in the wilderness.

Mr B McCrea: At this time of the afternoon, we can throw brickbats back and forward at one another, and we can accuse Members of saying this, that and the other. However, we must try to be helpful and move things on.

Our point was about making the Assembly and Executive work on a range of issues, not just on that issue. I am grateful to the Member for speaking on behalf of the Prime Minister, the Secretary of State and all the other people whom he is able to speak on behalf of. However, our point is that there is widespread disillusionment in the country with the way in which the Assembly is working.

Members to my right talked about the Executive being dysfunctional. We are trying to tell the House that we are interested in finding a way to make the Executive more productive in the way that we work together on things and that we would like to tackle all issues. We do not think that some form of pro forma arrangement or going through the motions is satisfactory.

The Member is absolutely at liberty to disagree or to think that it is not our place to ask for that. However, what I am saying, quite clearly, is that, if the Member wants our involvement and if he thinks it useful to take our opinion, that is where our concerns are. It is entirely up to the Member whether he and his party address those concerns. However, that is the problem that we face.

Mr Hamilton: I welcome the Member to the unionist ground hitherto adopted solely by ourselves in seeking to make the Executive and their decision-making much more effective. I would be keen to explore that issue with the Member at a future date.

The First Minister: As the Member for Lagan Valley is now in a constructive mode, perhaps I can make it clear to him that it was precisely for that purpose that the deputy First Minister and I proposed — personally to the leader of the Ulster Unionist Party and at an Executive meeting — that there be a further layer of ministerial contact to deal with issues, rather than have them dealt with in the more confrontational style that there is when issues end up on an agenda.

This is an opportunity for the Ulster Unionist Party and the SDLP to deal with issues that have not been coming forward to the Executive but are of public concern in a way that allows them to be dealt with before they become firm by way of a proposal. I think that that is constructive and positive and something that the Ulster Unionists would want to take up. That is why I cannot understand why it is taking so long for them to give us a positive response.

Mr B McCrea: Will the Member give way?

Mr Hamilton: Hold on a second.

I cannot understand why the helpful, constructive suggestion made by the First Minister and the deputy First Minister is not being welcomed with open arms by the Ulster Unionist Party. Despite having had a catalogue of consultation, with everyone from the Prime Minister down, the Ulster Unionist Party is feeling sore and left out. Therefore, the suggestion that was made to the Ulster Unionists strikes me as entirely reasonable and sensible. I find it difficult to believe that it has taken so long for them to accept it.

Mr B McCrea: There is no monopoly on helpful and constructive suggestions. However, sometimes there is a misunderstanding in the form or process of that suggestion. I hear what the First Minister has had to say, and I have heard him say it before, but there is obviously some logjam on that issue and something that is not being understood. We stand by our position: we are a constructive party, and we would like to have meaningful engagement with all parties in addressing such important issues. However, I am sad to say that that has not been our experience. If we could address those issues, that would be helpful.

Mr Hamilton: I am almost starting to feel sorry for Mr McCrea. He has obviously been dispatched as his party's point man on the issue, but I am not entirely sure that he has been fully briefed.

The First Minister: A point man without a point.

Mr Hamilton: How appropriate.

I am quickly coming to the conclusion that the problem is not consultation with the Ulster Unionist Party but consultation within the Ulster Unionist Party. In the spirit of being helpful and constructive and on the points that have been made about the openness and willingness of others to consult at an appropriate level through a subgroup of the Executive, which would allow those issues to be teased out and developed before they become problems, the Member, on behalf of the Ulster Unionists, should discuss the issue with the leadership of his party. He should suggest that they take up that idea very rapidly, as it would alleviate some of the concern that the Member purports to have in respect of a lack of consultation, a lack of consultation which the facts wholeheartedly dispute.

In conclusion, I reiterate my support for the Bill. As I said, it is fairly simple and straightforward legislation, and it is a necessary building block or staging post on the way to the devolution of policing and justice powers. Some issues and conditions need to be resolved. I acknowledge the fact that considerable progress has been made, particularly on the finances, which are a key element of having confidence in the institutions and in whomever holds the position of Minister of justice.

4.15 pm

My party colleagues and I make no apology for raising issues such as parading, not only because it is dear to our hearts and to our community, which, I hope, is a given, but because of its nature and importance to policing. As others acknowledged throughout the Bill's passage in the House, problems due to parading and the lack of a better mechanism for resolving parading disputes have the ability to unravel not only justice powers but the whole Assembly.

Mr McKay said that there was sufficient community confidence for an immediate devolution of policing and justice powers and that that would, somehow, be an instant panacea for all our policing and justice problems. We do ourselves and, most importantly, the public a disservice if we even hint that the devolution of policing and justice powers will result in a sudden end to crime and give us the ability to provide much better operational policing on the ground. That does not negate the value of having the powers devolved, because, as I said earlier, they will give us the ability to frame better the overarching policy direction of policing and justice in Northern Ireland. However, that must be done when the conditions are right. That is what will guide my party.

The legislation is an important staging post in moving towards the devolution of policing and justice powers. However, as other Members pointed out, the legislation does not hasten the date of devolution: it enables devolution when the conditions are right. The conditions, rather than a date on a calendar, are important in the devolution of policing and justice.

Mr Durkan: A number of Members have already made many references to the position of the SDLP and dwelt on that quite a bit. It is not insignificant that the DUP is spending much time criticising and misrepresenting the SDLP. Sinn Féin has also adopted that position, and it is not the first time that that has happened in the Bill's passage. At each stage of the Bill, there has been a pretence of sweet reasoned agreement between Sinn Féin and the DUP in the Chamber, only for them to then engage in various media ding-dongs and sabre-rattling with each other. All sorts of racy rhetoric have been used, such as the implication of "deep trouble" for the future of the institutions and the reference to a "train wreck". All

that language is being used outside between the DUP and Sinn Féin, yet in here it is like ‘Little House on the Prairie’: everything is wonderful, and Shangri-La is just around the corner. That is total hypocrisy.

It was not only Sinn Féin and DUP Members who dwelt on the SDLP’s position. Some Alliance Party Members spent much time misrepresenting our position and criticising it. Dr Farry was long on his criticism of and tortuous in his various questions to the Ulster Unionist Party and the SDLP, yet he made just passing reference to the fact that there are some other issues that people are unhelpfully raising as preconditions. He did not name those issues, and he did not name the DUP. He did not want to scare the DUP just before the vote on the big job.

Similarly, Dr Farry talked about threatening language. Again, he made no specific reference to what he was talking about and made no specific reference to Sinn Féin. He referred to neither of the parties by name when he referred in passing to the other issues as if they were outside and extraneous. Instead, he concentrated all his ire —

Dr Farry: Will the Member give way?

Mr Durkan: No, I will not. I assure the Member that I will not speak for too long.

The Member concentrated his entire ire and wrath on the SDLP and the Ulster Unionist Party.

Reference was made to our position at Second Stage. We made it clear that we voted against the Second Stage not because of an objection in principle to clauses 1 and 3 but because of an objection in principle to clause 2, which we sought to remove. We wanted to be consistent in seeking to remove that clause, so we said that we would vote against the Bill at Second Stage because it departed from the means of democratic inclusion according to mandate that is laid down in law and in the Good Friday Agreement.

Members may or may not like the d’Hondt method. They may prefer other variants, some of which we have discussed previously. However, d’Hondt is the method that is set down in law. We do not regard it as good practice, on an ad hoc basis, to depart from the solemn measure of democratic inclusion according to party mandate that is laid down in law and in an agreement that has been ratified by referendum. When we negotiated those principles in the run-up to the Good Friday Agreement, I remember that no less a person than the Member for Lagan Valley Jeffrey Donaldson negotiated for the Ulster Unionist Party on that subject. At the time, Jeffrey Donaldson agreed that the purpose of Ministers being appointed by d’Hondt was to prevent a situation in which any Minister’s appointment could be subject to vetting or veto by another party. It was agreed that it was desirable to avoid and prevent such a situation.

That is the point of principle. The issue is not the precise mechanism of d’Hondt itself; rather, it is inclusion according to democratic mandate. Of course, there is now to be a departure, early in the life of this Stormont regime, from the provision for proportional representation at Executive level. Similarly, in a previous Stormont regime, there was a departure from proportional representation for local government elections, which was followed by a departure from proportional representation for elections to the then Stormont Parliament. Therefore, that step should not be taken lightly. We have held absolutely to that point of principle, and we have no problem defending the position that we held at Second Stage.

At Consideration Stage and Further Consideration Stage, we tabled amendments to all three clauses to deal not only with the departure from d’Hondt but to address the potential crisis-in-waiting with the sunset clauses. The amendments would have created a sensible fallback position that, if nothing else is agreed by May 2012, the system reverts to d’Hondt, as provided for in law. During that debate, Sinn Féin said that it wanted a reversion to d’Hondt in 2012. However, it voted against an amendment that would have provided for that precise arrangement.

We have no problem defending the amendments that we tabled, because they were aimed not at impeding the prospect of the devolution of justice and policing powers but at improving the Bill. If the Bill is a necessary element in the devolution of justice and policing powers, it is better to do it on the best possible basis. We see flaws in the Bill. During the Bill’s passage, we tried to remedy some of those flaws and tried, through tabling amendments, to propose improvements. Moreover, we would have liked to deal with other aspects. However, the limited nature of the Bill meant that we could not deal with some of those issues, which remain to be addressed in the steps ahead.

None of our amendments aimed to impede or frustrate the Bill. Some Members from Sinn Féin used such language today and said that the SDLP has tried to frustrate the Bill at every turn. We have done nothing to frustrate the Bill. We did not contribute to the delay in introducing the Bill and to the delay in the introduction of the whole issue of the devolution of policing and justice powers. The concerns that we have set out are valid and have been backed up. Our concerns about the whole process and the lack of a timetable have been vindicated, much more so than the false confidence that many of our critics have expressed. After all, we were told that devolution by May 2008 was absolutely signed, sealed and delivered under the St Andrews Agreement. That was an entirely false promise and a complete misrepresentation.

Our concerns and criticisms were vindicated, and Sinn Féin’s false promise rings hollow and exposed.

Over a year ago, Sinn Féin told us that everything was all right because the DUP had agreed to no undue delay. However, regardless of what it says here, Sinn Féin's rhetoric outside the Chamber shows that there has been undue delay and that there is potential for more.

We are at the Final Stage of the Bill. I wish that our amendments had been accepted and that the Bill had been improved, but it has not. We never wished to impede the prospect of devolution, nor do we wish to impede the Bill's Final Stage. However, some of the issues that have not been resolved will have to be addressed. Having listened to some of the contributions from the Alliance Party, I am concerned about the emphasis that has been put on having to agree the addendum to the Programme for Government before devolution. That could become a difficulty and a precondition, and I worry about signing up to such an open-ended commitment. After all, the Programme for Government is worked out after all the other Ministers have been appointed. Voting for a Minister and for an agreed programme before an appointment comes very close to the thrust and logic of voluntary coalition, and we have serious concerns about taking that step and creating such a precedent in the present circumstances.

There could be other difficulties. Under the heading of community confidence, extraneous issues are being brought in and all sorts of elastic demands are being made, and there is a danger that that could happen when trying to agree an addendum to the Programme for Government before an appointment has been made. Many issues could be raised in that context: some valid, some, perhaps, invalid; some easy, some difficult.

At that stage, will the Programme for Government include commitments to legislate for the use of the Irish language in the courts in circumstances in which it is currently prevented and for which direct rule Ministers refused to legislate? Will it involve a commitment to move on the provisions for no-jury trials that under current law exist on the say-so of the PPS and can apply to trials for offences under criminal law that will be in the devolved remit, and not just a commitment to move on trials that would come under criminal law on national security issues that would not fall under the devolved remit? Some parties have legitimate concerns and have always opposed legislation on such provisions. It would be better if those issues were resolved in advance of devolution, but, unfortunately, they have not been addressed at that level. There is a range of issues that could be raised. I am wary that we will sleepwalk into casual agreement on an addendum to the Programme for Government, because that could become a difficult precondition that could raise other issues.

The SDLP believes that policing and justice powers should be devolved, and we believed that long before the Alliance Party advocated urgency on devolution.

We specifically mentioned the dissident threat and the fact that they were exploiting the uncertainty around the devolution of policing and justice powers and hiding behind language such as "British police forces" and "Crown forces" to justify their attacks on police personnel and their families and their intimidation of the wider community.

We have continually stressed that the legislative Assembly will not be worthy of the name until it legislates for criminal law. We also stressed the need for completion of the suite of devolution furniture so that policing and justice functions can come under the devolution roof and mesh with the other programmes, services and budgets.

We have been stressing and pushing the argument and rationale for the devolution of policing and justice throughout. That is what we want to see delivered. We make no apologies for that, and we are taking no lectures from anyone else about it.

4.30 pm

People know our misgivings about what has been agreed in the Bill for the election of a justice Minister. When the First Minister and deputy First Minister table a motion in the House for the devolution of policing and justice to take place, we will be voting for that motion. The sooner they table it, the better. If a vote is taken in Westminster to provide for the devolution of those powers, we will be voting for them. Let no one gainsay or misrepresent our position with respect to achieving the devolution of justice and policing.

We worked for the devolution of justice and policing under Patten, when the Policing Board was being set up, and towards ensuring that all of the Patten recommendations could be brought forward. During the stages of this Bill, Sinn Féin has constantly asked what the SDLP did to bring about the devolution of justice and policing when it held the office of deputy First Minister. First, the implementation of the Patten report began only in 2000, and the creation of the Policing Board was in 2001. We helped to set that up as the first stage of the devolution of policing and justice under the Patten plan.

Secondly, we had to ensure delivery of the Patten plan through those mechanisms prior to devolution, as set out in the Patten report. Patten clearly saw a number of issues being implemented and dealt with before the stage of devolution. Many people agreed with and understood that, knowing that devolution would come at a later stage because we had to deliver the Patten reforms. Devolution earlier than that would have led to gridlock, and to people being able to use the decision-making mechanisms here to prevent such issues as the recruitment of a 50:50 workforce.

It is entirely disingenuous of Sinn Féin to come up with a false accusation against us that we did not move

on the issue of devolution. That completely misrepresents our position on the implementation of the Patten reforms. It was only because some of us took steps to properly drive and deliver the implementation of Patten that we found ourselves in the position of having Sinn Féin coming to the Policing Board. All Sinn Féin delivered to that agenda was its arrival on the Policing Board. It did not deliver any of the Patten reforms. It simply delivered itself and its participation. We will not take any lectures from Sinn Féin on that issue.

The Final Stage of the Bill removes the excuse or pretence that the legislation itself is the big deal, and that it will give us the devolution of justice and policing. Many Members who have spoken in the debates recognise that other issues need to be addressed. Let us get on top of those issues properly and competently. If people want to do that on a cross-party basis, through the Office of the First Minister and deputy First Minister convening meetings of all parties, we are entirely up for that. If people want to do it in some other way on a cross-party basis, we will be entirely up for that as well.

Let us now proceed. The Justice Bill, with all the flaws and criticisms that many of us have raised, will achieve its Final Stage. We now have to make the most of making the devolution of justice and policing happen; not just delivering it by way of a transfer of powers, but by making it work. We must make it work in the Assembly, in the Committee structures of the Assembly and in the Executive.

Whoever takes on that responsibility will face a huge task and a challenge. Although various issues have rightly been raised about who the Minister might or should be and the form of their appointment, I will make it very clear that we will respect and give such support as we can to whomever takes on the responsibilities of that role. All parties should make that pledge.

Daithí McKay referred to some issues that were covered on 'The Stephen Nolan Show' today. If I could wish for something that we could legislate for, no matter who takes on the justice Ministry, it would be that we could indemnify them and protect them from having to go on 'The Stephen Nolan Show' during their first year in office. *[Laughter.]*

Mr Paisley Jnr: That was not within the limits of the Bill.

Mr Deputy Speaker: Order.

Mr O'Dowd: Go raibh maith agat, a LeasCheann Comhairle. We have reached the Final Stage of what has been a lengthy and sometimes turbulent debate. The Justice Bill is an enabling power.

Contrary to what Mr Durkan said, no one on these Benches either promoted the Bill as being the be-all

and end-all in the devolution of policing and justice powers or said that it was the biggest deal. We have always said that the legislation is a technical measure that will be required when we reach agreement on a date for the devolution of policing and justice powers. My speech will not concentrate on the SDLP in the way that Mark Durkan's concentrated on Sinn Féin, but I will correct a few inaccuracies for the record.

If the SDLP's mandate had carried at the First Stage of the Bill, the Bill would have fallen. The SDLP voted against the Bill at its First Stage and asked the House to do likewise. Regardless of what it puts on the record now, the SDLP voted against the transfer of policing and justice powers. Since then, the SDLP has tabled several amendments, although, in my opinion, those were alibis and not amendments.

Those amendments were the SDLP's attempt to become relevant to the debate, and it hoped that the public would forget that it had already voted against the Bill. Several of the amendments were unworkable, including the proposal to remove the sunset clause. Alex Attwood spent a considerable time in the Chamber telling us that we would not reach agreement within 30 months. He said that that was impossible and that we did not have the capability, power or influence to do it. However, his proposal to do in 21 days what we apparently could not do in 30 months seemed somewhat contradictory.

I welcome the fact that the SDLP has had a conversion, that it will now support the legislation and that it realises that all parties must compromise on this journey. Sinn Féin has stated that it will not take the policing and justice Ministry in this Assembly mandate, and the DUP has done likewise. Why did we in Sinn Féin say that? We said that because we understand the need to instil community confidence in the justice Ministry. We accept that the unionist community would have concerns about a Sinn Féin justice Minister. I assume that the DUP accepts that a DUP justice Minister would cause concern in the nationalist and republican community and that that is why it decided to step away from taking the post.

Why does the SDLP believe that its narrow party interests are more important than this process? I have not heard a valid argument as to why the entire process should be shelved because the SDLP's feelings have been hurt or infringed. As all Members are aware, peace building is a very difficult process. On that journey, people have to take turns in the road and travel in directions that, at one stage in their lives, they would never have thought they would have travelled. The two major parties in the Chamber have taken those turns. The SDLP needs to do the same, and, hopefully, it has now decided to do so.

The SDLP has come up with the strapline “no nationalist need apply”. However, the fact is that it has not even applied for the post. The SDLP has spent so much time telling anyone who is prepared to listen that Sinn Féin is barring it from the justice Ministry that it has forgotten to apply for the job. The SDLP has not presented a CV or attempted to convince any party that its candidate, whoever that may be, is the best person for the policing and justice Ministry.

Perhaps now that the SDLP has decided to support the Bill at its Final Stage — I think that I am reflecting Mr Durkan’s speech correctly — it will spend its energies trying to convince the other parties that its candidate is the right person for the job. Sinn Féin is on record as saying that it will support an SDLP candidate, but we cannot convince the DUP on the SDLP’s behalf. The SDLP must fill in a CV, present it to the DUP and have discussions on the matter. We wish the SDLP a fair wind in those discussions.

With regard to how we move on from this point, I listened carefully to the contributions of Members on the Benches opposite about the need for confidence in the unionist community.

I broadly accept that statement. As I have said already, Sinn Féin withdrew its policing and justice Ministry nomination for that very reason. We accept that, in broad terms, the confidence of the unionist community needs to be built, as does confidence in the nationalist and republican community. It often concerns me when I hear contributors from the Benches opposite talking about community confidence. What they really mean is unionist community confidence, so they should define that.

I accept also that if there are measures that we, as a political party, can take to enhance that confidence, we are duty bound to take them. However, when members of the parties opposite make statements about an issue as important as unionist community confidence, they must be conscious of the fact that while Sinn Féin is prepared to work on those issues with them, presenting us with conditions that have to be met, or roadblocks, does not help that process. If people consciously come up with issues on which they know that Sinn Féin cannot deliver, it is a fair assessment for us to say that those people are not serious about resolving the issues or allowing Sinn Féin and other political parties to assist in the process of building confidence in the unionist community.

I will use the parading issue as an example. I want that matter to be resolved, as does my party. I represent a constituency that has been blighted by the issue for many years. However, forcing an Orange march down the Garvaghy Road will not give confidence to the nationalist and Catholic community who live there. It will not give confidence to the peace process. I accept

that I speak as an observer, but I certainly do not believe that the vast majority of the unionist community wants to see a march being forced through an area where it is not wanted. That is not resolving the parades issue; it is only throwing petrol on the fire.

Removing the Parades Commission will not resolve the parades issue either. For the foreseeable future, we will require an adjudicating body to make decisions about parades. I am no fan of the Parades Commission. The current commission is probably the most inept that we have ever had, and that is a difficult challenge for anyone to achieve. However, I am certainly of the view that anyone who demands the removal of the Parades Commission is not serious about resolving the parades issue. Therefore, I move to the next step of the equation: if they present that challenge to us, are they serious about creating the community confidence to devolve policing and justice? If they are not serious about that, are they serious about devolving policing and justice? There are certain people on the Benches opposite who are not serious about moving forward with this process.

A number of Members have reflected on the role of a policing and justice Ministry. The policing and justice Minister would allow this Assembly to become a true legislator. Mark Durkan touched on that point. We would become legislators in the true sense of the word. Criminal justice Bills would come through this Chamber. Instead of presenting ourselves to the media and concerned members of the public and talking about what should be done about criminality in our communities, and about the inability of the criminal justice system to recognise the concerns of our community, we would, as an Assembly, pass legislation through this House. We would have a justice Committee that would establish inquiries and reports, gather evidence and statements, and produce reports that could be debated further in this House.

For the first time in a generation or, from the perspective of nationalists and republicans, for the first time since the establishment of the state, we will have a justice system that is capable of meeting the needs of all the communities that politicians here serve. Yet some parties continue to block that process. That is a political mistake because they are letting down the communities that we all serve.

4.45 pm

It is time to move on with the devolution of policing and justice, so that we can be known as true legislators. Rather than Members’ seeking confidence in the community, it is time for them to search their souls to find the confidence in themselves that will enable them to move forward as political leaders in this society. Go raibh maith agat, a LeasCheann Comhairle.

Mrs D Kelly: I was somewhat relieved to hear that Mr O'Dowd was not going to spend much time addressing the faults and failings of the SDLP, although the Hansard report may show something different. It is interesting that the party that screamed from the heights that people should respect its electoral mandate has no respect for the SDLP's mandate. By casually handing a veto to the DUP at St Andrews, Sinn Féin showed no respect for the principles of the Good Friday Agreement.

Mr O'Dowd: I am sorry to disturb you at the start of your speech, but let me assure you that —

Mr Deputy Speaker: You should address the Member through the Chair.

Mr O'Dowd: Let me assure the Member that at no stage in the process did Sinn Féin casually hand anything away. At every stage, we made moves and came up with initiatives that, whether the Member agrees with them or not, we believed were for the betterment of the peace process. That includes our position that cross-community voting should apply to the appointment of a justice Minister.

Mrs D Kelly: When one examines the First Minister and deputy First Minister's record of delaying the review of public administration, the Boundary Commission's review and the introduction of the education skills authority, one wonders what concessions Sinn Féin wrought from the DUP.

It was also telling — perhaps Mr O'Dowd did not mean to tell us — that a prospective justice Minister should present his or her CV to the First Minister and not to the First Minister and the deputy First Minister who act jointly. That is the implication of what Mr O'Dowd said. He said that the CV must be sent to the First Minister. It would have been interesting to see how well Caitríona Ruane would have done in a selection procedure and interview had she given her CV to the DUP.

The SDLP has always been precious about ensuring that no political party, whether at local government level, in the Assembly or at Westminster, has a veto at any stage. No political party should have a right of access to another political party's selection conventions, but that is what Sinn Féin's John O'Dowd has said.

Mr O'Dowd: Go raibh maith agat, a LeasCheann Comhairle. The Member and the SDLP in general are great at this, and they will run off and perform media stunts later. I made it perfectly clear that the SDLP has convinced Sinn Féin to vote for it. However, the SDLP needs to convince the DUP to vote for it. We cannot convince the DUP to do so on the SDLP's behalf. I shall clarify the position again: Sinn Féin will vote for a SDLP justice Minister. However, the SDLP must convince the party opposite to do likewise. Therefore,

instead of running around telling everyone that nationalists need not apply, the SDLP should be talking to the DUP. The fact is that the SDLP has not applied for the position.

Mrs D Kelly: One wonders why the appointment of that particular Minister — one of eleven Ministers — requires a different selection process. Although not totally confident, I am somewhat warmed by the fact that Mr O'Dowd stated in public and on the record that Sinn Féin will support an SDLP candidate for the post of justice Minister.

What is going to happen? If the Alliance Party is prepared to put forward a candidate only when the issue of a cohesion, sharing and integration policy has been resolved to the satisfaction of its party leader, Mr Ford, will there ever be a justice Minister? Dr Farry failed to answer that question when I put it to him.

We are all in a muddle here. As Mr Durkan said, the great fantasy being played out in the Chamber is that everything is hunky-dory between Sinn Féin and the DUP. However, outside the Chamber, the chairperson of Sinn Féin talks about a political train wreck. The press, the media and members of the public are speculating on whether the Assembly will last beyond Christmas. That is a measure of the confidence that the Assembly, particularly Sinn Féin and the DUP, has instilled in the wider public through squabbling outside the House about the devolution of policing and justice.

For five whole months last year, as we all clearly remember, Sinn Féin held out for a date for the devolution of policing and justice. What happened? It still has no date. Instead, the DUP presents a Christmas wish list that outlines when that date may become visible to everyone.

Mr O'Dowd and Mr McKay, as well as Members from the Bench opposite, referred to the precondition of resolving the parades issue. The SDLP has long said that the issue of parades must be resolved, and it will be resolved through dialogue between the Orders who wish to march through particular areas and the residents of those areas. Mr McKay and Mr O'Dowd will forgive me for not being confident that Sinn Féin will not be hoodwinked by the DUP and sell out the people of the Garvaghy Road and Dunloy for its own political expediency to gain a date for the devolution of policing and justice.

Mr Hamilton also talked about parading and how it is such a big issue for the unionist people. As I understand it, and according to statistics that were recently presented by former high-ranking members of the Orange Order, membership of the Loyal Orders has fallen considerably over recent years. In fact, Loyal Orders represent less than 10% of the total population of the North. Are we seriously saying that 10% of the

people of the North could potentially hold back the devolution of policing and justice?

This morning, we all heard the pleas of the family in response to the suspended sentence given to the person responsible for the death of their daughter by dangerous driving. That is one of the reasons why people want the devolution of justice, and that is the kind of issue that concerns ordinary men, women and families across the North.

Mr Hamilton: Will the Member give way?

Mrs D Kelly: Who wants to intervene? Sorry, I did not hear you, Mr Hamilton.

Mr Hamilton: Sorry, it must be my voice again.

The Member said that the Orange Order is representative of only about 10% of the population according to her figures, which are probably inaccurate. However, that percentage is similar to her party's support at the polls.

Does the Member not accept that when unionists raise the parades issue, they are not solely concerned about the parades? They are also concerned about the potential of parading to have a detrimental effect not only on justice issues, but on all the institutions here. Given the constituency that the Member represents, she should know that.

Does the Member accept the need for an agreed mechanism to resolve disputed parades to ensure that the problems of the past do not reoccur? If and when policing and justice powers are devolved to the Assembly, does she agree that it must be as part of a framework in which parading does not have the power to undermine the institutions as it did in the past and could do again?

Mrs D Kelly: Mr Hamilton remarked on the level of support for the SDLP. However, in contrast to his party and Sinn Féin, the SDLP was one of the parties that increased its support at the European election.

The resolution of the parades issue lies in the hands of the Grand Lodge. Its policy should be to allow each local branch to hold discussions with the local residents to reach a resolution. That is how parading will be resolved.

Mr Simpson: The Member has said that in order to resolve parades, there has to be community dialogue. How can there be such dialogue in her constituency, when one side of the community will not sit round a table and discuss the issues? That has been the case for the past five years, at least, and we cannot move forward. There are no preconditions, but they will not sit round the table to talk about the issue.

Mrs D Kelly: The Member will know that, from the outset of the Drumcree conflict, my party has called for direct dialogue between the Loyal Orders and the

local residents. SDLP will use whatever influence it has to try to ensure that there are talks across the community to resolve such matters.

Mr O'Dowd alerted us to yet another turnaround from Sinn Féin; it now supports the Parades Commission. Perhaps someone might want to tell that to Mr Sean Murray, the Sinn Féin nine-county Ulster chairman, who is also a member of the Ashdown review group, which said to do away with the Parades Commission and hand decision-making authority back to local councils. Will Sinn Féin be clear to me and to the members of the community? What is its view on the Parades Commission? How should parades be resolved? Is Sinn Féin prepared to sacrifice contentious parades across the North on the altar of expediency, for a date from the DUP? I am sure that Peter Robinson has many admirers, and I am sure that many people have sought a date from him, but there are none so earnest as the Members in Sinn Féin.

Mr O'Dowd: Will the Member give way?

Mrs D Kelly: Mr O'Dowd, I hope that I am not interrupting some sort of liaison.

Mr O'Dowd: I assure Mrs Kelly that there will be no Sinn Féin Ministers arriving on the Garvaghy Road in ministerial cars to tell the residents to allow an Orange Order march down the road, as happened with an SDLP Minister during the previous mandate.

What Ashdown report is the Member referring to? There is no agreed Ashdown report, as was stated to the Assembly and Executive Review Committee as recently as last week.

Mrs D Kelly: I seem to have rattled the cage of Mr O'Dowd this afternoon.

The First Minister: Will the Member give way?

Mrs D Kelly: I will give way once I have answered Mr O'Dowd. He is clear in his view that the Ashdown report has not been agreed. My point is that a member of his party, who is the nine-county Ulster chairman, is a member of the group.

The First Minister: The Member was talking about the published interim report on the Parades Commission, to which all the commissioners of the parades review body signed up. However, if I may correct the Member, there is no proposal in the interim report, or in any worked-up report published since then, that suggests that decision-making powers will be left with local government. That is an administrative step for non-contentious parades.

Mrs D Kelly: The SDLP is on record as having concerns about that very point. In the current climate, the SDLP does not want to see the fingerprints of local government on any decision-making in relation to the resolution of parades.

Mr Deputy Speaker: Order. I have allowed a great deal of latitude in the discussion about parades, but the Member has moved to another subject altogether. Will the Member revert to the subject in hand, which is the Department of Justice Bill?

Mrs D Kelly: I will, Mr Deputy Speaker. I was merely replying to comments that were made by other Members on the matter of community confidence for the devolution of policing and justice. That is how we strayed into the territory of parades.

I note that the deputy First Minister is responding this afternoon, unless the First Minister can manage ventriloquism as one of his added skills. I presume that the deputy First Minister will be commenting on behalf of both of them and not on his own behalf. Perhaps, however, he can make clear to the nationalist community and to us whether he agrees that, under this legislation, Sinn Féin has handed a veto to the DUP over who should be the justice Minister, not only this year but every year. Perhaps he will deal specifically with the sunset clause.

Sinn Féin well knows that in the Assembly and Executive Review Committee and during the Bill's Consideration Stage, the SDLP sought to put down amendments to ensure that rights were upheld, the principles of d'Hondt and the Good Friday Agreement were upheld, and confidence could be given to all in relation to the devolution of policing and justice. After all, most policing powers have already been devolved, and the Chief Constable and the Policing Board already look after most policing matters. It took Sinn Féin seven years to consider that, after almost 87% of the Patten recommendations had been implemented. They were johnny-come-latelys and behind the community on that matter.

5.00 pm

Will the deputy First Minister also agree that, by refusing to appoint the justice Minister using the d'Hondt system, his office is gerrymandering and denying the SDLP the second Ministry that it would be entitled to under that system?

Mr Ford: Having just listened to Mrs Kelly, I am glad that I heard Mr Durkan say earlier that the SDLP supports the Bill.

This is the fourth substantive discussion that we have had on the Bill, and we are all noticing that certain arguments occur time after time. There has been much attention in the media on justice issues, but, although people may not be demanding that justice be devolved, they are demanding that we deal with the issues of justice that concern them. Devolution is needed so that we can make the criminal justice system work better and ensure that there is a link-up between the criminal justice system and the aspects of devolved government that relate to it.

Criminal justice is the key to carrying through on issues that Departments already deal with, yet there is a distraction between the work of the Northern Ireland Office and the Executive. Devolution is necessary to show that the Assembly and the Executive can tackle the difficult issues that face us and reach agreement. Most of all, the devolution of justice powers would send out a powerful message to those on either side of the community who seek to bring down institutions that those of us inside the Assembly should be seeking to build up to ensure that they deliver for the people of Northern Ireland. That is why my party has placed so much emphasis on agreement on policies.

As Stephen Farry said, devolution will not happen on one day when something is announced, a Minister elected, a Department set up and that is it; devolution must deliver for the people of Northern Ireland. The previous Environment Minister went against the wishes of the majority of the Assembly on the matter of an independent environment agency, and there are difficulties between the Education Minister and her Committee on education matters — we saw that in the Assembly this morning — but justice is too important to have that happen. That is why there must be the widest possible agreement on the policies that will be implemented so that if devolution happens soon, as I trust it will, it will deliver for all the people of Northern Ireland, it will contribute to stability in society, and it will not merely create difficulties and show the kind of problems that have occurred elsewhere.

As Mark Durkan highlighted earlier, there may be an issue around agreeing the programme, between the constitutional position as to when a Programme for Government, or an addendum to it, is agreed and the political negotiations. However, if we cannot agree on the widest possible cross-party basis and on the policies that will be implemented by a Department of justice, there is no point in seeking devolution, as we would be even worse off. That is why, in August, I wrote to the other four parties on behalf of my group seeking discussions about the policies that might apply. Since then, we have had engagement with the DUP and Sinn Féin; we have had no engagement whatsoever with the Ulster Unionist Party or the SDLP.

The SDLP, as an Executive party, may not wish to discuss a matter that might become a responsibility of the Executive with a party that is currently outside the Executive. That may be a logical view, and we heard from Mrs Kelly the SDLP's belief that the almighty d'Hondt prescribes that it should have such responsibility. However, it ill becomes Ulster Unionist Members, every time we have a debate on the subject, to complain about non-engagement, although they send their party leader to meet the Prime Minister regularly.

Members from that party say that they are keen to discuss matters with everyone, and yet they do not

actually engage when they are asked to do so. That makes me wonder whether there is any sense at all in what is being said about that; whether there is a disconnect between the Ulster Unionist Party's leader, who does not reply to letters, and its Back-Benchers or "Middle-Benchers", who sit in the Chamber and say that they want to engage; or whether it is an example of what I gather is now the parliamentary term of "hypocrisy" on their part.

Mr I McCrea: Will the Member give way?

Mr B McCrea: Will the Member give way?

Mr Ford: I think that Mr McCrea was just beaten to it by Mr McCrea, but I will give way to both Members.

Mr B McCrea: Since you are having a go at me and my party —

Mr Ford: I am giving way to Mr Ian McCrea.

Mr I McCrea: If I understood him correctly, the Member said that no engagement has taken place between his party and the SDLP and the Ulster Unionist Party. Has he requested any meetings with those two parties to try to engage with them?

Mr Ford: Mr Ian McCrea must not have heard what I said earlier. I said that I wrote to the other four parties in August and have had engagements with two but not with the other two.

I will now give way to Mr Basil McCrea. There are too many McCreas around here.

Mr B McCrea: Since I have the opportunity and we are talking about August, I ask Mr David Ford to clarify whether, on 4 August 2008, he stated:

"The Alliance Party will not be taking the Policing and Justice Ministry. This Executive is failing in its duties".

Does he resile from that position?

Secondly, on the matter of engagement, I made it clear in my contribution to this debate that the language that is used in the Assembly and in other forums has a material impact on whether we can establish good relations. Frankly, Mr Ford, you are not encouraging me very much.

Mr Deputy Speaker: Order. Mr McCrea, all remarks should be made through the Chair.

Mr Ford: I must say that merely pointing out the facts and getting that kind of response does not suggest that the intemperate language is coming from this corner of the Chamber.

Mrs D Kelly: Given Mr Basil McCrea's intervention, I would be grateful if Mr Ford would clarify the Alliance Party's position. Mr McCrea has just quoted Mr Ford's view that the Executive are dysfunctional. What has Mr Ford said to deny that the Alliance Party will not take the justice Ministry?

Dr Farry: Give him a chance.

Mrs D Kelly: You got a chance and did not answer that question.

Mr Ford: The answer to the point that was made just now by Mr Basil McCrea was given about four hours ago by my colleague Stephen Farry. In his contribution to the debate, Dr Farry pointed out the total difference between the proposal made in the summer of 2008 of having a part-time Minister with no real powers and the subsequent legislative change that was made at Westminster that ensures that the Minister of justice will be a full Minister in the Executive. Mr McCrea can read Dr Farry's and my comments on that in the Hansard report tomorrow and perhaps that might enlighten him.

I do believe that the issue of confidence —

Mr B McCrea: Will the Member give way?

Mr Ford: No. Give me a chance.

The issue of confidence is not an issue of what may be seen as the situation on the ground; it is an issue that relates to whether those in the Assembly and the Executive can work together, show constructive engagement, deal with the problems that affect our constituents and show a degree of leadership. Cheap sniping may be satisfactory in the kind of debating society debates that we have on Private Members' motions, but there are far more serious things to be addressed in our society. There is a vital need to show that the Assembly can work, that people can engage constructively and that those who are seeking to bring down the institutions, with all that that would mean for every part of this society, are defeated.

Mr Hamilton: Does the Member agree with me that government in Northern Ireland in any way, shape or form will never be an easy proposition given our recent history? Furthermore, at Second Stage, the First Minister stated that the current Executive have reached 451 decisions compared to the 320 that were reached by the Executive headed by the Ulster Unionist Party and the SDLP and have done so in a shorter period. Does the Member recognise that by that barometer the Executive are not dysfunctional? Does he also agree, despite declaring regularly, like a stuck record, that the Executive are dysfunctional, that Mrs Kelly's party seems to have no hesitation whatsoever in seeking a second place on the Executive?

Mr Ford: I thank the Member for his statistics. In the first Assembly, when he was far too young to be there, I had one of my staff assess the success of the then Executive, who were comparing the number of Bills that they had passed with those of the Scottish Parliament. The number of Bills was relatively close, although the number of clauses was about one third of those in Scotland. Scotland had managed to abolish

feudal land tenure while we were changing the name of the Department of Higher and Further Education, Training and Employment to the Department for Employment and Learning. I would not go with numbers alone unless we know the quality of those decisions.

There is a fundamental issue about whether people who complain about the difficulties of the Executive — the Alliance Party has certainly complained about that — are doing so in the spirit of seeking to make matters better or to make matters worse. Confidence will come only when we show that we can agree and implement policies at Executive level on the important issue of justice and that we can then see the legislature passing Bills that will change the law to improve the circumstances of the people of Northern Ireland, who expect us to do that for them. The Bill is merely one stage in that process. It is not agreement on a programme or an addendum to the Programme for Government; it is not the resolution that seeks the transfer of powers; it is not the election of a Minister; and it is not the financial deal that has already had a degree of success. It is just another stage. As was said earlier, it is simply a brick in the wall that needs to be built.

The devolution of justice will not constitute an instant solution to all our problems. Despite the financial package, it deals largely with the past, and money will remain tight for the institutions of the justice system as for every other Department in Northern Ireland and elsewhere in the UK. Devolution will not be a solution, and resources will not flow rapidly from it. We will not have the sort of money that will put a police officer on every street corner, as some people seem to believe. Changes will take time, and the difficulties that are being experienced in dealing with issues such as antisocial behaviour will not be changed instantly. Crime will still exist, and all criminals in Northern Ireland will not hang up their masks and their jemmies on the day that devolution happens. However, devolution will give us the opportunity to make the necessary reforms: reforms to the institutions; improvements to the speed of justice; and the ability to get institutions of justice relating to, for example, the institutions of the mental-health system or the Youth Service, where there is much crossover. However, we are not yet making the changes that are needed for those reforms.

Devolution will be a major opportunity for this society, and we must take it. If we do not, we will be pedalling backwards and telling those who seek to bring us down that we cannot achieve anything in this place. That is the fundamental difference between those who criticise the Executive from an entirely negative point of view and those of us who seek to make things better.

The Alliance Party feels that an addendum to the Programme for Government must be put in place. That

would provide the stability to ensure delivery and would subsequently ensure success for all the people of Northern Ireland.

As we move towards the vote, the House is facing the question of whether the Bill is better than doing nothing, because that is our option today. The Ulster Unionist Party is so opposed to the Bill that, although it supports the principle of devolution, it has said that it will oppose it. The SDLP opposed the Bill at its earlier stages, and it still has its reservations. It tabled amendments that it had a right to debate and which I accept entirely as someone who has similarly proposed unsuccessful amendments to other Bills. However, the House made its decision.

We now need to see whether that means that there is a collective moving forward, because there are also lessons for the DUP and Sinn Féin. I welcome the fact that some progress has been made in today's debate about the devolution of justice as, indeed, appears to happen when the First Minister and the deputy First Minister are together. However, it really is time that Back-Benchers and people in different sections of those two parties stopped dragging in all kinds of extraneous issues. The agreement that we have witnessed between the DUP and Sinn Féin on the four occasions on which we have debated the matter in the Chamber is in marked contrast to what happens when television cameras are pointed at Members and microphones are stuck in their face. That is when all the additional issues come in, whether those be parading, the RPA or education reforms. If we wish these institutions to be successful, we simply cannot afford to see that kind of tit-for-tat catcalling.

5.15 pm

It is time the leaderships of the DUP and Sinn Féin put their parties in line. It is time they sat down and engaged seriously with each other and with the other parties in this place on what the policies would be and show that the kind of negative attack that has come from other parts of this end of the Chamber was not justified. We are now at the point that we should be moving forward to devolution. The Bill gives us the opportunity to do that, and now is the time for leadership to be shown by the Department that has put the Bill forward — the Office of the First Minister and deputy First Minister.

Mr Attwood: I declare my membership of the Policing Board. I concur with the comments made by a lot of Members during this long debate, including John O'Dowd, Martina Anderson, Stephen Farry, Dolores Kelly and, latterly, David Ford. I concur that there is a common thread running through the debate. It is that, when and if the devolution of justice comes, its impact must be meaningful, substantial and immediate from

the perspective of the communities that we all represent.

As members of the Assembly and Executive Review Committee know, the SDLP was asked to present a paper to the Committee on the future of the Public Prosecution Service. Although the Committee at that time did not wish to take that paper forward, it has been taken forward by other people. The Director of Public Prosecutions thinks that it has at least sufficient merit for him to have a conversation with the Attorney General.

The current Justice Minister in Northern Ireland, Paul Goggins, is now in conversations with Criminal Justice Inspection (CJI) about how to take forward strategic recommendations from the CJI that impact upon members of the criminal justice family in Northern Ireland. Therefore, we have a situation in which a lot of members of parties in the Chamber have issues about the management of cases through the Public Prosecution Service and into court, and at this very moment it is a British Attorney General who is having a conversation with the Director of Public Prosecutions in the North, and it is a British Justice Minister who is having conversations with the CJI in the North about recommendations that impact upon members of the criminal justice family. In my view, that concentrates our minds because, in addition to issues involving prisons, the single biggest area of reform that is needed in the North is the PPS, yet we have no substantial, meaningful way of taking that forward in the absence of devolution.

That is compounded by the fact that the paper that the SDLP produced was, in substantial ways, informed by the bitter experience of families such as the Devlin, Holland and McDaniel families — constituents of ours in West Belfast. On this day of all days, when, as Alex Maskey, Sue Ramsey and my other colleagues from West Belfast know well, Harry Holland's mother was buried, after the campaign that she and her children have waged in respect of how that case was handled by the courts and the PPS, is there not a deep irony and relevance to the fact that we do not have within our grasp, never mind in reality, the ability to take forward the issues that the Holland family and other families identify? That captures the critical issue of devolution of justice and what the absence of devolution of justice means to the quality of the lives that our people lead in all our constituencies.

The fact that Jack Straw has proposed new penalties for knife crime in Britain and the fact that it costs £80,000 a year to keep a prisoner in the North in jail compared with £50,000 a year in Britain should, in the next number of days, galvanise people into advancing the issues around the devolution of justice powers.

I listened closely to the speech that the Ulster Unionist Party Member Basil McCrea made. Although I have much sympathy with some of the issues that he raised, his speech caused me some concern. I think that it also caused the First Minister some concern, because, on his feet and from his seat, he has been robust in trying to address the position that Mr McCrea outlined.

In a prepared speech, Mr McCrea said that he was speaking on behalf of the Ulster Unionist Party and was expressing the collective view of its Members on matters concerning the devolution of justice powers. Therefore, it must be treated as a considered position, and I think that that is why the First Minister was somewhat anxious about what he was hearing. The Ulster Unionist Party's view is that the Assembly and the Executive are not fit and ready to assume the powers. For reasons that I shall outline later, the SDLP disagrees.

The Ulster Unionist Party has made some good points and behaved properly and honourably in debating the amendments at Consideration Stage and Further Consideration Stage. If that is the Ulster Unionist Party's view, the First Minister has some reason to be a little anxious, because, on 9 April 2009, he said that one measure of unionist confidence that is required in order for the devolution of policing and justice powers to get over the line is that Reg Empey must go over the line with him.

I have to presume that what we heard from the Ulster Unionist Party today is its considered position that the Assembly and the Executive are not fit and ready to take on the responsibility of a Department of justice. In a situation of much anxiety, turbulence, fallout, claim and counterclaim, the Ulster Unionist Party is making a substantial point in the debate.

For reasons that I shall explain, the SDLP thinks that it is time, whatever our reservations about the Bill, to take the matter forward. Therefore, I ask the Ulster Unionist Party to think further about the matter. Conversations among the five main party leaders must take place, and those must not be put off for a day longer. In doing that, the Ulster Unionist Party may reflect on its position.

Lone Rangers in the DUP may or may not have had implicit authority from their leadership, but let us accept that Peter Robinson is benign and has positive intentions and ambitions on the devolution of policing and justice powers. Jeffrey Donaldson's comments on the full-time Reserve and Mr Campbell's comments yesterday on timing put Mr Robinson in a corner, and the UUP position that was outlined today may push him further into that corner. We must consider all of that.

Mr B McCrea: I listened to what Mr Attwood has said, and we will reflect on the many excellent points that he and his party have made. I confirm that my comments were part of a considered and prepared

speech in which we asked the question — *[Interruption.]* Mr Deputy Speaker, some Members are trying to have a serious debate, and then there are other Members.

In response to the point that was quite properly put forward, yes, my speech gave the party's considered position. However, we did not make a judgement on the question that we asked. I think that the Hansard report will show clearly that we asked whether we — I mean all of us — are ready to take that onerous position and whether we can tackle the issues.

We outlined some of the issues. Indeed, I think that the challenge was directed at the Alliance Party. We mentioned the problems with the Department of Education, such as the transfer debacle, the ESA and other matters, and we said that it was hard to escape the conclusion that, when faced with the many failings that exist in those areas, we have a problem. I think that Mr Attwood will agree that, in my conclusions, I quoted statistics about what the population at large thinks about us. My remarks were made in that context. However, we stand firm. Our key point was that we are not timeline-led, but condition-led. If the Assembly can address the matters in question collectively, we will look at the issue. That is the substantive point.

Mr Attwood: I noted that, in the last words of his speech, the Member said that he did not want to be unhelpful. I took that comment positively.

The Member is quite right to ask about the nature and character of devolution. Although it is up, it is not up and running. In many instances, it is letting our people down. We have to address that matter over and above the devolution of policing and justice powers. If devolution is up but not up and running and if all the evidence confirms that, the worst outcome would be to have the devolution of policing and justice powers up but not up and running. Mr Ford made that point. However, I assure that Member that I will deal with the Alliance Party later in my speech. I gave one compliment, Mr Ford, so I am taking it back.

In his many interventions and in response to Mr McCrea, the First Minister reiterated — a little gratuitously, perhaps — what he had agreed with the deputy First Minister in November 2008. It is one thing to have the matter agreed, but it is another to rely on it as evidence in the presence of the deputy First Minister. However, it was the First Minister's choice to do that. He said that the DUP would assess community confidence when a package was in place. The First Minister used those terms about the assessment of community confidence.

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

We know from comments that have been made elsewhere that a Christmas deadline has been set for

the passage of the Bill and for the devolution of policing and justice powers generally. The countdown is on, because Christmas is 24 days away. The First Minister is saying very publicly and in front of his colleague in the Office of the First Minister and deputy First Minister that the DUP hopes to assess community confidence when a package is in place.

I do not understand how assessing community confidence at that time can be reconciled with agreeing a date before Christmas. I hope that I am wrong. Therefore, I ask the deputy First Minister to say in his response whether he, on behalf of the Office of the First Minister and deputy First Minister, can reconcile in his mind the First Minister's assertion about assessing community confidence once a package is in place, given that 24 days are left until the deadline that Sinn Féin set. I do not think that the First Minister's comment was particularly helpful, but it has consequences for all of us as we try to move this issue over the line.

The second point is probably more fundamental.

Whether we agree with comments that Sinn Féin members have made during recent days — I will comment on that later — the Democratic Unionist Party and the First Minister must understand that doubt is beginning to swirl about in nationalism and that when there is doubt, certainty must be created.

5.30 pm

The DUP has set false tests for community confidence. If that party wants to assess confidence to determine a time for the devolution of policing and justice powers, the wise and measured approach — the best test — would have been for policing functions. That test has been passed, far beyond any doubt in many instances.

Why should there not be devolution of policing powers when nationalist parties, including Sinn Féin, already share responsibility on the Policing Board? When nationalism and unionism share the burden in the face of terror and threat, does that not create a sufficient threshold of confidence for the transfer of policing and justice powers? When all the North's community, apart from a small number of people, sign up to the rule of law, does that not — if the DUP wants to create a test for community confidence — fulfil the threshold?

Therefore, I must say to the DUP that — over and above the fact that it might have produced wrong tests or even false tests for community confidence — if one stands back and looks at the choices and decisions that have been taken by Sinn Féin, the SDLP, the communities that those parties represent and the collective community in the North, and the work that they have done individually and collectively on policing, any test for the transfer of policing and justice powers has been fulfilled.

Mr McCrea was right that testing confidence for devolution more generally might create more doubt. However, there is no doubt about where the North is at this stage in its history when it comes to policing. When measured against any possible policing test, nationalists crossed that line long ago. We have risen to the task, just as unionists did during the difficult first days of the Policing Board when, given the consequences of the Patten report, it was hard for them to operate in that architecture.

Therefore, I suggest that unionists reframe much of the conversation that they are having among themselves and with their community and look at what all of us have done, including Sinn Féin — in my view, belatedly, although that debate is for another time and place.

Mr McCrea was perhaps correct to say that if the threshold were devolution working, there may be a few more doubts. Members know that at least six DFP papers, two DETI papers, four DCAL papers, three DOE papers, two DHSSPS papers, three DRD papers, one DE paper, one OFMDFM paper, and four DSD papers are stuck in a logjam in the Office of the First Minister and deputy First Minister. Perhaps some people believe that against that threshold, devolution should not continue or be developed. My party disagrees.

Measured against the policing test, everyone has proven themselves. Although I do not agree how community confidence has been handled, if confidence is wanted, there are great grounds from which to draw positive conclusions.

The worry is that Peter Robinson has lost his best moment with respect to the Bill and the consequences about the timing —

Mr Deputy Speaker: Order. Is the Member still speaking on the Bill?

Mr Attwood: Yes, Mr Deputy Speaker.

[Interruption.]

Mr Deputy Speaker: Has the Member something to say?

Mr A Maskey: Thank you for the invitation.

[Laughter.]

I voiced my concern, as I tried to do earlier, that although I have heard a long contribution, I have heard no reference to the Bill.

Mr Deputy Speaker: Allow me to chair the meeting, please.

Mr Attwood: Thank you for that ruling, Mr Deputy Speaker.

The First Minister has presented the Bill as a brick in the wall or as the next step in delivering the devolution of policing and justice. Ultimately, however, the Bill, whether one likes it or not, can be measured only

against whether there is devolution of policing and justice functions. Otherwise, it is a Bill that will become an Act that will sit on a shelf and mean nothing.

A short while ago, the First Minister might have considered himself to be in a position of strength. However, that position of strength is being unpicked by elements in and outside his organisation. If there was a moment when the First Minister might have moved, it was when he called the negotiations on the financial package with Gordon Brown right and Sinn Féin called them wrong. The DUP, in trying to make the Bill more meaningful — into the devolution of policing and justice powers — has to assess whether a position of strength has been squandered and whether it is now subject to the vagaries of people inside and outside that party.

On behalf of the SDLP, I say to the DUP that there are ways of managing even those issues that, it claims, are issues of community confidence. Human resources are best managed by the Policing Board and the PSNI leadership, and they are doing that. I do not know what all that might mean and I reserve my position in respect of what some of it might mean. However, it can be managed through that mechanism.

As John O'Dowd said earlier, Lord Ashdown submitted a letter to the Assembly and Executive Review Committee that appears to reframe his report. The British Government said that they will fund and support the findings of the report, but Lord Ashdown now says that there is no final agreed report. In the absence of an agreed report, parading can best — and only — be addressed after devolution. In that regard, there were encouraging words from John O'Dowd to which I will come back.

The tests that the DUP has set are not real tests, compared with the level of policing confidence that now exists in the wider community. There are ways, and they are not difficult ways, of resolving matters of concern quickly.

I want to comment on some of the points raised by the Alliance Party. I understand Stephen Farry when he says that he has a view on d'Hondt and that there are other models for partnership government. Dr Farry is not here, but we agree with him on that. Mark Durkan said at a previous stage of the Bill that the SDLP, in the Good Friday negotiations, outlined a number of models to bring about partnership and inclusion in government. Ours is the party that made most arguments for the various models that can bring that about. Ultimately, the d'Hondt model, which has flaws on which Members have commented, was adopted.

However, it is unhelpful for Dr Farry to call the Department of Justice Bill innocuous: there is nothing innocuous about clause 2, which unpicks d'Hondt. To

claim that something so fundamental is innocuous is contradictory.

Nonetheless, questions have been asked, and I will ask the Alliance Party some more. That party endorses clauses 2 and 3 and, whether or not the speculation is correct, some consider an Alliance Member the preferred candidate for Minister of justice.

In a statement issued on 5 November, Anna Lo said:

“It would be nearly impossible for progress to be made on issues such as policing and justice if we don’t have a shared future strategy agreed urgently.”

Dolores Kelly asked Dr Farry whether the Alliance Party would go into government even if a shared future strategy was not issued. He said that if the Alliance Party goes into government, it will not sacrifice its vision of a shared society and that it will argue for policing and institutional changes.

That is very different from what Ms Lo said. Dr Farry avoided the question and talked in generalities and warm phrases about not sacrificing the vision of a shared society and about arguing for policy and institutional changes. Given what Ms Lo said in November, I think that the Alliance Party has an obligation to say whether the publication of a cohesion, sharing and integration strategy is a requirement that must be met before it will enter into government. The party fudged that issue today. I will take an intervention from the Alliance Party if its Members wish to enlighten us further on that. It appears that they do not wish to, so I will move on.

Mr B McCrea: Was the Member asking the Alliance Party to make an intervention to clarify whether a shared future strategy is a precondition for taking the justice Ministry? Is that what the Member was asking the Alliance Party?

Mr Attwood: The Member can take it that way. I suspect that the reason why there has not been an intervention from the party is because Mr Ford answered the question in an interview with Henry McDonald in ‘The Observer’ on Sunday past. He said:

“his only precondition for becoming minister was that all four main parties in the coalition agree to a set departmental programme.”

There is nothing in that about a shared future strategy or about Ms Lo saying that it was virtually impossible to move forward on the devolution of justice and policing without a shared strategy document being issued. There was silence.

Mr Ford’s only precondition — this is relevant to our amendments, which I will return to — for becoming Minister was that all four main parties in the coalition agree to set a departmental programme. He is right about the need to set a departmental programme. That is what I was arguing for in my opening comments, which reflected the views of many Members in the

Chamber. However, Mr Ford said that that was his only precondition.

Mr Deputy Speaker: I know that this is fascinating stuff, but I ask the Member to return to speaking about the Bill, please.

Mr Attwood: I will now turn to the Bill, Mr Deputy Speaker.

The Alliance Party did not endorse the amendments that the SDLP tabled at Further Consideration Stage, which asked the First Minister and deputy First Minister to share information in the Chamber about a number of relevant matters. The deputy leader of the Alliance Party described the amendments as neutral in that they do not achieve anything and that they are not a meaningful way of dealing with such serious matters. Those matters include SOCA, MI5, the independence of the Public Prosecution Service and of the judiciary. How ironic is it that, within days of the Alliance Party refusing to endorse those amendments, Mr Ford — in my view, rightly — returned to them and to the issue of a justice Department being set up under the Bill?

5.45 pm

However, what did Mr Ford say in the newspapers at the weekend? Referring to the Omagh bomb investigation, which revealed that MI5 had not shared intelligence on dissidents, he said:

“There is clearly the need, as Omagh showed, to ensure that intelligence is joined up. I would expect the justice minister to be informed in a general sense but on specific security details . . . I will be the champion of that principle if I become justice Minister. In the context of Omagh, there are significant concerns about . . . MI5 . . . That should not have happened, regardless of whether justice powers are devolved or not. But the Minister in a devolved department should be the champion of that principle of sharing intelligence.”

Mrs D Kelly: I take it that that is the same self-styled champion of the opposition?

Mr Attwood: That is self-evident.

When the SDLP tabled its amendments, and as I said in the speech that I made when proposing those amendments, the importance of the national security protocol and the sharing of relevant and appropriate intelligence with a justice Minister was partly informed by the Omagh bomb experience. The Alliance Party could not find its way to endorse that. Yet, within days, it is relying on that very argument when it comes to the integrity and authority of the justice Minister, be that Minister from the Alliance Party or any other party. I rest my case on the Alliance Party.

Mr Neeson: I appreciate the Member for giving way, and I appreciate the very sanctimonious stance that he is taking on behalf of the SDLP. However, during the Troubles, the SDLP refused to take its seat on the Police Authority and left it to parties such as the Alliance Party and the Ulster Unionist Party, and even the DUP —

Mr Deputy Speaker: Order. Will the Member be seated? The debate is getting totally off the content of the Bill and must return to it.

Mr Attwood: I want to make some comments on the approach that Sinn Féin has adopted during the debate and in other comments in recent times. The most revealing comment was that of Mr O'Dowd. Democracy in this part of Ireland has now been reconfigured to require a nationalist to go cap in hand to a unionist, and, to use Mr O'Dowd's word, "convince" the First Minister as to why a nationalist should be in government.

Mr O'Dowd: Will the Member give way?

Mr Attwood: I will give way in a minute.

Mr O'Dowd said that there was a need to "convince". He said that we had convinced Sinn Féin, and we know why Sinn Féin has changed ground on that matter, but that we needed to convince a unionist that a nationalist would be fit and qualified to sit in the Government of Northern Ireland. *[Interruption.]*

As Dolores Kelly has said from a sedentary position, we will have to send a CV to the DUP for approval.

There is an argument that I will come back to, although we do not accept it, around the issue of a justice Minister and cross-community consent. However, to portray this issue in such a way — to ask the nationalist community to send in its CV and convince the DUP of the SDLP's fitness to go into government — is an appalling characterisation of the Irish democracy that people struggled for and worked towards for 30 and 40 years and an appalling indictment of anybody who makes that point.

Mr O'Dowd: First, the Member does not represent the nationalist community. The SDLP is a minority party in the nationalist community. I know that that is difficult for the Member to accept, but he needs to remember that.

Secondly, if the Member is going to quote me, he should do so correctly. At no time did I ask any nationalist to go to the DUP with a cap in their hand to seek employment. It was Mr Attwood who brought the phrase "no nationalist need apply" into the debate. I was responding to that comment.

SDLP Members should spent less time gurning to the media about no one listening to them and no one treating them with respect and use the mechanism of cross-community support, which the majority of Members will support this evening, to gain the justice Ministry. That may make their task easier.

My party and I support the cross-community dimension to the vote. If the SDLP is serious about holding the justice Ministry, it will have to convince unionists about that. The SDLP has convinced Sinn

Féin: we will vote for an SDLP candidate, but it is up to the SDLP to convince others.

Mr Attwood: I do not know who is gurning to the media that nobody is listening to us. The First Minister thinks that Sinn Féin is looking over its shoulder at the SDLP on a lot of issues.

[Interruption.]

That is what he said.

[Interruption.]

Mr Deputy Speaker: Order, order. I ask all Members who are participating in the debate to remember that we are debating a Bill.

Mr Attwood: It is a strange irony that although nobody may be listening to us, the First Minister certainly appears to be.

I used the term "cap in hand", and I only speak on behalf of the SDLP constituency. However, I think that I have a sense of what democratic nationalism on the rest of the island thinks, because we stood with democratic nationalists on the rest of the island during the years of the conflict when others did not.

Mr O'Dowd: So the electorate is wrong?

Mr Attwood: No, the electorate is absolutely right and always is, but the Member's party did not accept that for 40 years.

The First Minister has said that he will veto our application when we submit it. Therefore, Sinn Féin is inviting us to do something with a predetermined outcome. That is not a serious process and is a way for Sinn Féin to cover its tracks for conceding the veto in the first place.

The First Minister said outside the Chamber that there will have to be a consultation after a package is agreed, but Mr Martin McGuinness said that a date has to be agreed by 24 December. Twenty-four days is not a long time in which to agree a package and consult with the people. I hope that that can be done, and we will help if we can, but it seems to be a very narrow window of opportunity. However, where there is a will, there is a way.

The process, and the way that it has been managed by the DUP, has been characterised as a train wreck political strategy. There is supporting documentation around the Bill, in particular the November 2008 letter from the First Minister and the deputy First Minister. I hope that the political strategy is not a train wreck, but I can understand the sentiment that leads people to that conclusion. However, if that is the case, people are missing the point, because Sinn Féin helped to build the train. It was Sinn Féin that put the 35 carriages in place, namely the 35 steps that were annexed to the letter from the First Minister and the deputy First Minister in November 2008. It was Sinn Féin that named

one of the 35 carriages “community confidence”. Therefore, regardless of whether Peter Robinson has overplayed his hand and whether he has set false tests for community confidence, the community confidence carriage was built and put on the tracks by Sinn Féin and the DUP, and the DUP has driven the train in its current direction.

The frenzy of criticism and comment that has emanated from Sinn Féin in recent days, not to mention all the tough words, is to cover its tracks over the fact that Martin McGuinness signed a letter that gave Peter Robinson, as he mentioned in an intervention during Basil McCrea’s speech, the power to check community confidence when an agreed package is in place. That act has come back to haunt Sinn Féin. We warned and advised against that, but people carried on regardless.

I will return to the Bill and to our amendments, which, at Consideration Stage, tried to reintroduce d’Hondt and to delete clause 2. At the weekend, Martin McGuinness referred to the DUP’s comments about the Parades Commission and to the First Minister’s ill-judged view —

Mr Deputy Speaker: Order. The Member promised to return to the Bill.

Mr Attwood: The point is absolutely relevant to clause 2 and to the Bill’s passage this evening.

In response to the DUP’s comments that three of four parties around the Executive table could manage business, and its comments on the Parades Commission, Mr McGuinness said:

“I see these attacks as a very clear example of the failure on the part of the DUP to embrace the equality, partnership and power sharing arrangements which lie at the heart of these agreements.”

The agreements in question are the Good Friday Agreement and the St Andrews Agreement.

As I have tried to say, I understand some of the sentiment behind those comments, even though Sinn Féin is living with the consequences of its strategic errors of the past. When the deputy First Minister excludes a nationalist from government, is that not a very clear example of the failure of Sinn Féin to embrace the equality, partnership and power-sharing arrangements that lie at the heart of the Good Friday Agreement? When the deputy First Minister decides to jettison d’Hondt, is that not a clear example of the failure of Sinn Féin to embrace the equality, partnership and power-sharing arrangements that lie at the heart of the Good Friday Agreement?

If those are the standards, they must apply equally to all citizens and all parties in our society. The deputy First Minister cannot berate the DUP for its failure, as he sees it, to embrace the equality, partnership and power-sharing arrangements and, at the same time, sit

comfortably while jettisoning d’Hondt, excluding a nationalist from government and reducing democratic inclusion to a tactic rather than a principle. That is what the Bill does. That is the point that Mr McGuinness, as deputy First Minister, will respond to soon.

I have outlined how we can address the issue of the Parades Commission. Lord Ashdown has begun, undoubtedly with the assistance of the British Government, to try to reconfigure whatever commitment was given to the DUP in the letter that Shaun Woodward sent to the Assembly and Executive Review Committee that agreed to endorse and fund the recommendations. The DUP must live with that letter and with the fact that there is no agreed report, and address it after the devolution of justice and policing powers. It will be unforgivable if that one issue — it could come down to that — trips up the Assembly and the devolution of justice powers.

I want to make it clear that, despite all its recent failures, we defend the Parades Commission. Sinn Féin needs to clear its head and decide whether it does or does not. At the weekend, Martin McGuinness repeated the failed approach that the abolition of the Parades Commission could not be a precondition of the devolution of justice powers. That implied that it could be a condition thereafter. Sinn Féin needs to clear its head on that matter, perhaps in the way in which Mr O’Dowd usefully remarked in an intervention. Taken at face value, what he said appears to contradict Mr McGuinness’s comments.

Mark Durkan indicated how the SDLP will vote on the motion. We will not impede the progress of the Bill, nor should anyone impede progress towards the devolution of policing and justice powers.

6.00 pm

The deputy First Minister (Mr M McGuinness): Go raibh maith agat, a LeasCheann Comhairle. I thank all those who contributed to the debate.

As I said in my opening remarks, it is a measure of the importance attached to the devolution of policing and justice powers that the legislative stages of the Bill have generated so much debate in the Chamber. My speech is described as a closing speech, but in Civil Service parlance it is described as a wind-up speech. However, during many arduous hours of debate on the various stages of the Bill, we have had far too many wind-up speeches, including some today.

The Bill represents a significant step towards devolution. It establishes the architecture needed for the Administration to support policing and justice, and it enables us to activate it quickly once the Assembly resolves to seek the transfer of powers. Our sponsorship of the Bill and its speedy passage through the Assembly is a reflection of our commitment to making progress towards devolution without undue delay. We are

determined to work through the remaining steps in the process on which we embarked in November 2008.

In case anyone has lost the thread of the Bill, let me remind Members that its purpose is simple. It provides for the establishment of a Department of justice and makes arrangements for appointing its Minister. It puts into effect arrangements agreed earlier in the year by the Assembly when it endorsed the report of the Assembly and Executive Review Committee on devolution of policing and justice matters. The broad support of the Assembly for that report was re-emphasised in votes at each stage of the Bill's passage. We are grateful for the strength of that support, and we acknowledge its cross-community nature. It is an example of the legislature working at its best.

I do not intend to speak at length again about the objectives and detail of the Bill, or, indeed, about the importance of devolution of policing and justice to the Administration and the people whom we represent. However, I would like to respond to some points that were raised during today's debate.

The issue of the d'Hondt principle was raised by a number of Members, mostly from the SDLP, including Alban Maginness, Alex Attwood and Dolores Kelly. At every opportunity during the earlier debates on the Bill, the SDLP, with the support of the Ulster Unionist Party, questioned the proposed ministerial appointment arrangements in clause 2. Those arrangements clearly differ from those for appointing other Executive Ministers. However, cross-community buy-in is of the utmost importance for that key and sensitive post. The Assembly and Executive Review Committee recognised the need for that buy-in in the ministerial model that it recommended in its January 2009 report, and the Assembly recognised that when it endorsed the Committee's report. That is the basis of the model that is set out in clause 2.

The person appointed to the post of justice Minister must have the support of the majority of Members voting, the majority of designated nationalists voting and the majority of designated unionists voting. At this point in our history, that strikes me as an entirely balanced and sensible model for such a sensitive post. Those will, of course, be interim arrangements, and the Assembly will have a chance to review them in due course and finalise a permanent model that will apply from May 2012.

Several Members raised other issues. Martina Anderson spoke about the issue of the date of commencement of the Act. The Bill provides for the First Minister and me to bring the Act into operation on a day that we may determine. In effect, that will create the Department as an essential step in the devolution process. It will be necessary for the Department to be established slightly in advance of

devolution so that it is in place to take receipt of the powers that are being transferred.

Basil McCrea made several points in his wide-ranging prepared speech that, I feel, have to be addressed. His central argument, as it appeared to me, was the Ulster Unionist Party's view that the Executive were entirely dysfunctional. The First Minister has previously outlined the experiences of this Executive in decisions taken and agreements reached, and has pitched those experiences against those of the previous Administration that existed from the winter of 1999 until October 2002.

Since the establishment of this Executive, it is almost as if the words of Liz O'Donnell have come back to haunt us. Liz O'Donnell was a junior Minister involved in the Good Friday negotiations and returned to Dublin after that success. In the aftermath of the 2003 elections, when Sinn Féin and the DUP emerged as the largest parties on the nationalist and unionist sides, she made a very revealing comment that she believed that the Ulster Unionist Party and the SDLP were in denial about that result. That has conditioned the approach of the Ulster Unionist Party and the SDLP as they moved into an Executive in which they were not the largest parties.

It was quite clear to me from the beginning that the approach of both parties was, yes, to be in the Government and take up ministerial positions, but to reserve the right to be critical of that Government whenever they so chose. By God, did the Ulster Unionist Party and the SDLP exercise that right. That is reality, and contrasts with the conversations we had when I was Minister of Education in the previous Administration, when Seamus Mallon, as deputy First Minister, reminded us that we had to be a united Executive; we had to stick together and stand by any decisions taken. A fundamental change occurred in the intervening period that can be explained only by the fact that the electoral results changed the mindset of the Ulster Unionist Party and the SDLP.

Mr Deputy Speaker: Order, Minister. Is this about the Bill?

The deputy First Minister: It is absolutely about the Bill. Many Members had considerable leeway during the debate today to attack the Administration that we are part of. I think that I am entitled to the right to defend the Administration that I am part of. It is incumbent upon the SDLP and the Ulster Unionist Party to reflect on that, and to recognise that the allegation of dysfunctionality might be as applicable to those parties as to anybody within the Executive.

Some genuine efforts were made in the course of the debate to try to recognise that we are now in a new place: we have come to the Final Stage of the Bill. Although I have criticisms about some of the things

that Basil McCrea said, he clearly indicated that the Ulster Unionist Party is coming to terms with the fact that we are in a new place.

Alex Attwood started well. Someone told me earlier that they heard at the Assembly and Executive Review Committee meeting this morning that he intended to speak for 35 minutes. He kept close enough to that time, considering the number of interruptions. He started in a very positive vein that carried on from Mark Durkan's assertion that the SDLP would not impede the progress of the Bill. He then took the opportunity to launch into outright attacks, mostly on Sinn Féin. That is his right.

What Basil said struck a chord with me. He talked about the need to recognise that much unites us in the House, and that we must tackle the issues that unite us. He talked about important issues: elderly people being attacked by hooligans and thuggish or criminal elements within society; young women who have been raped; people who have been subjected to antisocial behaviour; and the fact that that happens across the community. It does not just affect the nationalist and republican community; it affects loyalists and unionists also.

We all recognise the importance of moving forward. Some telling comments were made about whether Sinn Féin is ready. Indeed, the question was asked a number of times: is Sinn Féin ready? I have said to Matt Baggott, whom I met yesterday, and others that, when we took the decision to move forward on policing two years ago, we effectively engaged in one of the biggest-ever debates within Irish republicanism.

Many people thought that we would never reach that point in the same way that they asserted that we would never go into the institutions with the DUP. Indeed, the SDLP was foremost in saying that there would never be a deal between the DUP and Sinn Féin. However, we confounded many in the media and in the SDLP when we finally reached a deal and went into government with the DUP.

The debates on policing were of critical importance to us — it was not a charade or a sham. More than 1,400 people went to the Millennium Forum in Derry city to be addressed by the Sinn Féin leadership. At that meeting, we nailed our colours to the mast as regards how we intended to take forward our participation in policing. That meeting was replicated in every part of the North. I attended two huge meetings in Belfast on the same Saturday, and they were both packed to the doors. We nailed our colours to the mast at those meetings. We did not tell people that we were in this 40%, 50%, 70%, 85%, 95% or 99.5%. We told them that we were in this 100%. We took the decision to make the institutions work, to build a better future for the people whom we represent and to support the

police, which would have been heretical a number of years prior to those meetings.

Nobody should accuse us of not being ready. When I go home at night, I do not look over my shoulder at the SDLP. I do not look over my shoulder at people who have threatened my life and who are doing their damndest to destroy a process that many of us have put our heart and soul into for the past 15 years. I live in the heart of the Bogside, and I am not afraid of any of those people. This is big stuff that we are talking about. The transfer of power is of critical importance to our entire community, and I believe that it will make life better for all the people whom we represent. I ask people, particularly on the unionist side, to recognise Sinn Féin's contribution in addressing those town hall meetings.

Basil McCrea also talked about not knowing specifically what powers will be devolved to the justice Minister and the justice Department. The powers that will be devolved to the Department of justice were clearly set out in the Assembly and Executive Review Committee's report of March 2008. That Committee has done much work in respect of the responsibilities that will be devolved to the justice Department. I say that without prejudice to the discussions that will clearly have to follow, involving all parties, on how we move forward. I hope that we will move forward in a united way to ensure that we can all sign up to whatever programme is put in place for the new Department and the new Minister. I do not believe that that is beyond us, and there has clearly been progress already.

The biggest debate on this side of the House concerns the difference of opinion between Sinn Féin and the SDLP on how to take the process forward. We all heard the allegations of Dolores Kelly, Mark Durkan and Alex Attwood regarding the appointment of the justice Minister. The SDLP said that it supports the immediate transfer of power, but the *realpolitik* is that its suggested approach would prevent the transfer of policing and justice powers.

Of course, the SDLP knows that as well as any other party in the House. It knows that at this stage of our political process there is no possibility of the approach that it has suggested gaining cross-community support. The inevitable consequence is that we would be condemned to live with the policing and justice system being presided over by British direct rule Ministers for evermore. That is a serious misjudgement on the part of the SDLP. The indication today that it is not prepared to impede further the progress of the Bill is a welcome development. I do not know whether that means abstention or support, but I urge the SDLP to support this position as we move forward because that is the positive thing to do.

6.15 pm

The sunset clause was also mentioned. I suppose that when people are on a roll against the way in which the institutions are moving forward, or, in their view, are not moving forward, it is understandable that they will try to seek political advantage by portraying the advance towards 2012 in a negative way. However, I choose to advance towards 2012 in a positive way by ensuring that the Assembly maintains its united approach against criminality and violent forces who believe that it is sensible to plunge our society back into a conflict that nobody wants to see revisited on any of us ever again. I move forward in the spirit of hope and optimism. I hope that, as we get to know one another, and look at one another and not see ten heads on one another's shoulders, we can come to a new place and forge agreements that will make life better for the people whom we represent. I go positively, not negatively, towards 2012.

Simon Hamilton posed a question in relation to the accusation that there was little dialogue or consultation with the other parties. The fact is that the Ulster Unionist Party has been involved in discussions with Gordon Brown, Shaun Woodward, the First Minister and deputy First Minister, and the US Secretary of State, Hillary Clinton, who was here not so long ago. The party also has its representatives on the Assembly and Executive Review Committee. Furthermore, according to my information, it has been involved in conversations with the Irish Government, so there has been extensive dialogue and discussion about the way forward.

Mr Kennedy: I am grateful to the deputy First Minister for giving way. Does he accept that there is a difference between discussions and negotiations?

The deputy First Minister: Yes. I am also very conscious of the fact that people have to take views on board whenever they are negotiating a way forward. However, at the end of that process, leadership has to be given and decisions made. There was considerable dialogue.

I do not know the last time when anybody from the SDLP rang me to ask for a meeting. That is the reality. When I was the Minister of Education in the first Administration from 1999 to 2002, I do not think that I ever received a phone call from either Séamus Mallon or Mark Durkan. Any engagement was initiated because I asked for a meeting with them or I rang them. It has been the same during this Administration. If there is a fault, it might be on both sides.

Mr B McCrea: I have listened intently to what the deputy First Minister has said. A central message is coming through, and I hope that it is being sent and received. We have used the analogy of phone calls, but phones work in both directions.

Sometimes, the mark of leadership is to make the first call. Of course, when that call is made, it is appropriate, in certain circumstances, for it to be answered and responded to. If I heard the deputy First Minister correctly when he was talking about the advances that have been made, it seems that we need to reflect maturely on whether we treat one another with respect and whether we respect one another's mandates and points of view. If we can find a way to do that, that in itself will build confidence in all our communities.

The deputy First Minister: I absolutely agree with the Member's final remarks. I would like to think that I am one of the people who has treated everybody in the House with respect. I absolutely respect every Member's mandate.

Members raised a number of concerns. Alex Attwood questioned the main roles of the DPP and the Attorney General in the context of devolution. When policing and justice powers have been devolved, an Attorney General must be appointed to undertake a wide range of statutory functions, including legislative and legal functions. For example, the Attorney General will challenge the legislative competence of Assembly Bills and defend the public interest in civil law matters. He or she will have functions in respect of the DPP, such as appointing the director and arranging for the DPP's annual report to be laid in the Assembly. In addition, there will be a consultative advisory role, including issuing guidance on human rights standards and being consulted on the Criminal Justice Inspection programme. Furthermore, for Members' information, the First Minister and I are minded to invite the Attorney General to be the chief legal adviser to the Executive. I should also correct my announcement that there will be a DPP. There will not be; it will be a PPS. I made a mistake, for which I apologise.

Mr Attwood: I have been listening intently about the, hopefully, more positive conversations that we will have. Does the deputy First Minister agree that the incoming Attorney General should come to the Assembly and Executive Review Committee as soon as possible to discuss the role that the deputy First Minister has just outlined, because he appears to be hesitant about doing so?

The deputy First Minister: I will speak to the, hopefully, incoming Attorney General.

Alex Attwood also said that it is time to take the legislation forward, and I agree. I am leaning more towards Alex's positive remarks. Indeed, I am leaning towards all Members' positive remarks, because sometimes we are good at winding one another up and point scoring.

We are at an important stage in the Administration's history. As someone who is absolutely committed to the

success of the Assembly, the North/South institutions and the east-west institutions, I passionately want all of them to work. However, those institutions have to work on the basis of the agreements that we made — the Good Friday Agreement and the St Andrews Agreement — and in line with equality and partnership, which is how we show respect to one another.

Last week, Ian Paisley Snr was in County Sligo and, during an RTÉ interview, he said that, whatever might be said about Sinn Féin, when it gives its word, it keeps it. We have given our word, and we intend to keep it. It is right to expect others to do the same.

I want us to move forward. In the past two years, the process that we have been through has been fairly extraordinary.

There is a passionate belief in the community that, in spite of all our problems and difficulties, we can move on and be judged for important matters, such as how we uphold the rights of the most disadvantaged in our society; how we eradicate poverty; how we put in place a better Health Service and a better education system; how we care for our farmers and rural communities; and how we deal with the everyday lives of the people whom we represent. I believe absolutely that all Members of the Assembly are here because they want to make life better for the people whom they represent. We are up for it, and we are hoping that everybody else is up for it, as we move forward.

I thank the Members who contributed to the Final Stage of the Department of Justice Bill for raising the issues that they did. Devolution of policing and justice functions will have significant implications for the Assembly and beyond, and it is vital that we get the preparations right. The Bill lays the groundwork for the establishment of a Department of justice and will facilitate a swift response once the Assembly has agreed that policing and justice functions should be transferred. I commend the Bill to the House.

Question put and agreed to.

Resolved:

That the Department of Justice Bill [NIA 1/09] do now pass.

Adjourned at 6.26 pm.